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**BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE
OF THE STATE OF IDAHO**

In re Mortgage Loan Originator
License Renewal Application of:

NICHOLAS NIELSEN,
NMLS ID No. 2084332,

Applicant.

Docket No. 2021-16-82

**ORDER DENYING MORTGAGE LOAN
ORIGINATOR LICENSE APPLICATION AND
NOTICE OF THE OPPORTUNITY TO
REQUEST A HEARING**

The Director of the State of Idaho, Department of Finance (Director), pursuant to the Idaho Residential Mortgage Practices Act, Idaho Code § 26-31-101 et seq. (the Act), and in particular §§ 26-31-306(1)(d) and (h) and 26-31-313(1)(a) and (b) of the Act, hereby issues the following Findings of Fact, Conclusions of Law, and Order Denying Mortgage Loan Originator License Application, and Notice of the Opportunity for a Hearing (Order).

FINDINGS OF FACT

1. The Applicant, NICHOLAS NIELSEN, a resident of the state of Utah, holds NMLS number 2084332 and applied for an Idaho Mortgage Loan Originator (MLO) license by filing an individual Form MU4 through the online Nationwide Mortgage Licensing System (NMLSR or NMLS). This application was attested to and submitted by the Applicant on July 7, 2021.

2. The application Form MU4 seeks information about an individual applicant's qualifications to be licensed as a mortgage loan originator. A section of the application is entitled "Disclosure Questions" and consists of a series of questions that inquire into an applicant's history regarding financial, criminal, civil, judicial and regulatory matters.

3. Pertinent to the Applicant's qualifications is question (D): "Do you have any unsatisfied judgments or liens against you?" The applicant responded, "yes" to this question.

4. For his affirmative answer to question (D), the Applicant provided the following in the Disclosure Explanations/Event Explanation Detail section of his application (quoted as written): "Back in 2008 I financed a car for a business partner. The economic events of 2008/2009 happened and my partner had to shut down his business. The consulting work I was doing came to minimal as well causing financial distress. As a result he couldn't pay on the vehicle and [n]either could I. I rented the vehicle to someone to cover payments for a while then they stopped paying. That's when I had no other choice but to give it back to the bank. I am in the process of negotiating a settlement for the debt." There were no supporting documents for this disclosure uploaded to the Applicant's NMLS record.

5. Consistent with normal practice, a Department examiner conducted an assessment of the Applicant using various sources of public information to determine if the Applicant demonstrates sufficient financial responsibility, character, and general fitness in order to be licensed as a mortgage loan originator.¹

¹ Conducted pursuant to Part 3 of the Act titled "The Idaho Secure and Fair Enforcement for Mortgage Licensing Act" (Idaho S.A.F.E. Mortgage Licensing Act), Idaho Code § 26-31-306.

6. The examiner obtained a public record background information report through LexisNexis, which showed that the Applicant had two outstanding judgments and a state tax lien entered against him. Copies of these judgments and a printout of the lien were obtained as follows:

- a. Default Judgment – entered on June 27, 2014, in the Fourth District Court, Utah County, State of Utah, American Fork Department, Civil No. 149102147, in favor of Unifund CCR, LLC for the amount of \$17,494.69;
- b. Default Judgment – entered on April 21, 2014, in the Fourth District Court, Utah County, State of Utah, American Fork Department, Civil No. 149101112, in favor of Second Round LP Assignee of US Bank National Association ND for the amount of \$1,990.93; and
- c. Tax lien filed on July 18, 2016, in the Third District Court, Salt Lake County, State of Utah in favor of the Utah State Tax Commission, Case Number 166918495, in the amount of \$5,296.25 for tax year 2012 (income tax).

7. The Department has no evidence indicating that the judgments or tax liens described above have been satisfied and/or released.

8. The Applicant's failure to provide details of the Utah tax lien and the judgments described above constitutes a material omission.

9. On November 8, 2021, the Department provided the Applicant notice of an intent to deny the application within approximately one month based on the information set forth above unless the Applicant was able to provide documentation to satisfy the Department that the noted item had been resolved and that disclosure was not required. The notice alternatively provided

the Applicant the opportunity to withdraw the application. The Applicant failed to provide the requisite documentation or withdraw the application by the stated deadline.

FINDINGS AND CONCLUSIONS OF LAW

10. The allegations set forth in paragraphs 1 through 9 above are fully incorporated herein by this reference.

11. Idaho Code § 26-31-304 provides that an individual shall not engage in the business of a mortgage loan originator without first obtaining, and maintaining annually, a license.

12. Idaho Code § 26-31-305(1) provides that an applicant for a mortgage loan originator license must apply through the NMLSR in a form required by the Director of the Idaho Department of Finance (Director), and further that the application form shall be updated as necessary to keep the information current.

13. Pursuant to Idaho Code § 26-31-306(1)(h), before an application for license can be approved, an applicant must provide all information on the application as required per Idaho Code § 26-31-305. Idaho Code § 26-31-305(10) further provides that an applicant shall make complete disclosure of all information as set forth in the application.

14. Idaho Code § 26-31-306(1)(d) provides that the Director shall not issue a mortgage loan originator license under the Act unless the Director makes a finding that an applicant has demonstrated financial responsibility, character and general fitness sufficient to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of the Act.

15. Pursuant to Idaho Code § 26-31-313(1)(b), the Director may deny a license if an applicant withholds information or makes a material misstatement in an application for a license.

16. The Applicant made a material misstatement of fact by omission in his application, which is grounds to deny his application for licensure. He failed to provide information regarding the Utah tax lien and the judgments (or at least one of them) that were entered against him. The failure to disclose the tax lien and judgments prohibits the Director from issuing a license to the Applicant pursuant to Idaho Code § 26-31-306(1)(h).

17. The Director finds it appropriate to deny the application because the Applicant's failure to provide complete information on the Form MU4 regarding the tax lien and judgments demonstrates that the Applicant lacks the appropriate character and fitness sufficient to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of the Act. Because the Director cannot make the requisite findings under Idaho Code § 26-31-306(1)(d), it is appropriate to deny the Applicant's request for an Idaho mortgage loan originator license, pursuant to Idaho Code § 26-31-313(1).

ORDER

NOW, THEREFORE, BASED ON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND PURSUANT TO IDAHO CODE §§ 26-31-313(1)(a) and (b), IT IS HEREBY ORDERED THAT THE APPLICATION FOR A MORTGAGE LOAN ORIGINATOR LICENSE APPLICATION ATTESTED TO AND SUBMITTED BY NICHOLAS NIELSEN, NMLS #2084332, ON JULY 7, 2021, IS DENIED.

NOTICE OF THE OPPORTUNITY TO REQUEST A HEARING

18. The Applicant is HEREBY NOTIFIED that the foregoing ORDER DENYING MORTGAGE LOAN ORIGINATOR LICENSE APPLICATION is a final order of the Director denying the license application,

subject to the Applicant's right to timely file a request for a hearing on the question of his qualifications for a mortgage loan originator license under the Act, pursuant to Idaho Code § 26-31-305(6)(a). Such request for a hearing must be in writing and submitted to the Department within fifteen (15) days after the service of this Order. A copy of the request for hearing shall be served on the following:

Attn: Lisa Baker
Assistant to the Director
Idaho Department of Finance
P.O. Box 83720
Boise, Idaho 83720-0031

A copy of the request for contested case and hearing shall also be served on the Department's counsel in this matter:

Thomas A. Donovan
Deputy Attorney General
Idaho Department of Finance
P.O. Box 83720
Boise, Idaho 83720-0031

Alternatively, the Applicant may email the request for hearing to: CFLegal@finance.idaho.gov.

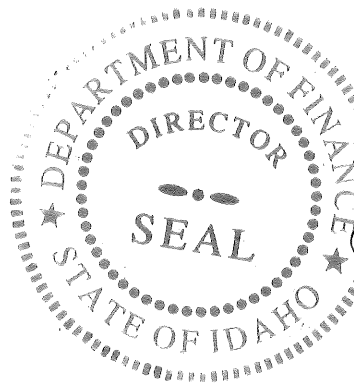
19. If the Applicant timely requests a hearing, the Director of the Department, or a Hearing Officer acting on the Director's behalf, will notify the Applicant of the date, time and place of the hearing, as well as the name and contact information of the presiding officer.

20. Any hearing and subsequent proceedings in this matter will be conducted in accordance with the Idaho Administrative Procedure Act, Idaho Code § 67-5201 *et seq.* and the Idaho Rules of Administrative Procedure (IDAPA 04.11.01).

21. Pursuant to Idaho Code § 26-31-305(6), if a hearing is held, the Applicant shall reimburse, pro rata, the Director for her reasonable and necessary expenses incurred as a result of the hearing.

IT IS SO ORDERED.

DATED this 28th day of December 2021.



STATE OF IDAHO
DEPARTMENT OF FINANCE



PATRICIA R. PERKINS, Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of December 2021, I caused a true and correct fully-executed copy of the foregoing ORDER DENYING MORTGAGE LOAN ORIGINATOR LICENSE APPLICATION AND NOTICE OF THE OPPORTUNITY FOR A HEARING to be served on the following by the designated means:

Nicholas Nielsen
5551 W Bugle Ridge Ct
Herriman, UT 84096

- U.S. mail, postage prepaid
- certified mail
- facsimile _____
- email: nnielsen@boxhomeloans.com



Paralegal