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

In re Mortgage Loan Originator
License Application of:

RICHARD KHRAICH,
NMLS ID No. 1671015,

Applicant.

Docket No. 2019-16-35

**NOTICE OF INTENT TO ISSUE ORDER OF
DENIAL OF MORTGAGE LOAN
ORIGINATOR LICENSE APPLICATION**

AND

**NOTICE OF THE OPPORTUNITY TO
REQUEST A HEARING**

The Director of the 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 Notice of Intent to Issue Order of Denial of Mortgage Loan Originator License Application and Notice of the Opportunity to Request a Hearing (Notice).

Pursuant to Idaho Code § 26-31-305(6), RICHARD KHRAICH (the Applicant) has the right to a hearing on the question of his qualifications, but to do so he must make a written request

for a hearing within fifteen (15) days after the date of mailing of this Notice. If the written request is not timely made, the Director shall issue a Final Order of Denial of Mortgage Loan Originator License Application.

The Notice is based on the following:

MATTERS ASSERTED

1. The Applicant, a resident of the state of California, holds NMLS number 1671015 and applied for an Idaho Mortgage Loan Originator license by filing a Form MU4 through the online Nationwide Mortgage Licensing System and Registry (NMLSR) on June 17, 2019.

2. The application Form MU4, seeks information about an applicant's qualifications to be licensed as a mortgage loan originator. Section 6 of the application form is entitled "Disclosure Questions" and it consists of a series of questions that inquire into an applicant's history regarding financial, criminal, civil, judicial and regulatory matters. Pertinent to the Applicant's qualifications are questions: (A)(3) inquiring: "Have you been the subject of a foreclosure action within the past 10 years?" and (D) inquiring: "Do you have any unsatisfied liens or judgments against you?"

3. The Applicant responded with a "no" response to both questions (A)(3) and (D).

4. 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 § 26-31-305.

5. The examiner obtained a public record background information report through LexisNexis. This report reflected a Notice of Default recorded October 23, 2012, identifying the Applicant as an owner. The report also noted a Notice of Trustee's Sale recorded February 5, 2013.

6. Following the background report, the examiner also obtained a copy of a judgment filed June 25, 2014, in the Superior Court of California, County of Riverside, in the case of Wells Fargo Bank, N.A. v. R.A.K. Enterprises and Richard Khraich, Case No. RIC 1310749 in the amount of \$49,677.56. No evidence of satisfaction or release of the judgment was located.

7. The Applicant filed a bankruptcy in December 2014, which was disclosed in his application, and the Applicant represents that a Chapter 7 discharge was entered in July 2015. The bankruptcy court (Central District of California – Riverside Division) granted the Applicant's Motion to Reopen Case and For Extension of Time to File Motion to Avoid Judicial Lien on Real Property on February 21, 2018, in Case No. 6:14-bk-25221-SC. On May 28, 2019, the Applicant filed a Notice of Motion and Motion to Avoid Lien Under 11 USC § 522(f) (Real Property) concerning the Wells Fargo judgment in the amount of \$50,000. No disposition of this motion has been entered as of July 3, 2019.

8. The failure to disclose the above-described foreclosure and judgment is a relevant omission in the Applicant's responses to the Form MU4 application disclosure questions (A)(3) and (D).

LEGAL CONCLUSIONS

9. Paragraphs 1 through 8 above are fully incorporated herein by this reference.

10. 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.

11. Idaho Code § 26-31-305(1) provides that an applicant for a mortgage loan originator license must apply through the Nationwide Mortgage Licensing System and Registry (NMLSR), in a form required by the Director.

12. 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.

13. 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.

14. 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.

15. The Applicant made material misstatements of fact in his application, which is grounds to deny his application for licensure. He failed to disclose the judgment filed and entered against him in the Superior Court of Riverside County, State of California, and that he had a foreclosure action in 2012 and into 2013. The failure to disclose the foreclosure and the

judgment prohibits the Director from issuing a license to the Applicant pursuant to Idaho Code § 26-31-306(1)(h).

16. The Director finds it appropriate to deny the application because the Applicant's failure to disclose on the Form MU4 the foreclosure and judgment 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).

NOTICE OF THE OPPORTUNITY TO REQUEST A HEARING

17. The Applicant is HEREBY NOTIFIED that the foregoing NOTICE OF INTENT TO ISSUE ORDER OF DENIAL OF MORTGAGE LOAN ORIGINATOR LICENSE APPLICATION will become a final order of the Director, unless the Applicant timely submits a request for hearing 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 NOTICE. A copy of the request for contested case and hearing shall be served on Anthony Polidori, Consumer Finance Bureau Chief, at the following address:

Anthony Polidori
Consumer Finance Bureau Chief
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.

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

18. If the Applicant timely requests a hearing, the Department 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.

19. 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).

20. Alternatively, the Applicant can withdraw the application he submitted on June 17, 2019. If the Applicant withdraws the application before the deadline to submit a request for a hearing, the Department will not issue a Final Order of Denial of Mortgage Loan Originator License Application. The Applicant can then submit a new complete application, which will be reviewed by the Department.

DATED this 9th day of July, 2019.

STATE OF IDAHO
DEPARTMENT OF FINANCE

Mary E. Hughes
MARY E. HUGHES, Acting Director




CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of July, 2019, I caused a true and correct fully-executed copy of the foregoing NOTICE OF INTENT TO ISSUE ORDER OF DENIAL OF MORTGAGE LOAN ORIGINATOR LICENSE APPLICATION AND NOTICE OF THE OPPORTUNITY TO REQUEST A HEARING to be served on the following by the designated means:

Richard Khraich
28082 Paseo Ventura
San Juan Capistrano, CA 92675

- U.S. mail, postage prepaid
- certified mail
- facsimile _____
- email: rkhraich@clearpathlending.com



Paralegal