

LAWRENCE WASDEN  
Attorney General

Thomas A. Donovan – I.S.B. #4377  
Deputy Attorney General  
State of Idaho  
Department of Finance  
P.O. Box 83720  
Boise, Idaho 83720-0031  
Telephone: (208) 332-8091  
Facsimile: (208) 332-8016  
Tom.donovan@finance.idaho.gov

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

In re Mortgage Loan Originator  
License Application of:

RICHARD ROBERT MARTINEZ,  
NMLS ID No. 6527,

Applicant.

Docket No. 2019-16-57

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

The Acting 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. RICHARD ROBERT MARTINEZ (the Applicant), a resident of the state of Idaho, holds NMLS number 6527 and applied for an Idaho Mortgage Loan Originator (MLO) license by

filing a Form MU4 through the online Nationwide Mortgage Licensing System and Registry (NMLSR) on October 28, 2019.

2. The Applicant was previously licensed as an MLO from February 21, 2008, to December 31, 2009. During that time, criminal background checks were not required as part of the licensure process.

3. 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 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 is the following question: (F)(1): "Have you ever been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to any felony?"

4. The Applicant responded with a "no" to question (F)(1).

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.<sup>1</sup>

6. The examiner obtained a public record background information from which the examiner learned that the Applicant failed to disclose he had been convicted of the felony of aid/abet grand theft in Canyon County, Idaho in 1991.

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<sup>1</sup> 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.

7. In response to the examiner's questioning of the Applicant about this conviction and failure to disclose, on December 5, 2019, the Applicant submitted a supplemental response explanation indicating that this 1991 conviction had not been reflected on a prior "police report" listing of various charges that he had sent to the Department on November 21, 2019, in response to an earlier question from the examiner.

8. The negative response to disclosure question (F)(1) and failure to disclose the 1991 felony aid/abet grand theft conviction constitute a material misrepresentation and a relevant omission in the Applicant's responses to the Form MU4 application disclosure question (F)(1). These also demonstrate that the Applicant does not have the character and fitness sufficient to warrant belief that he will operate honestly and fairly within the purposes of the Act. These bases justify the denial of his Idaho mortgage lender license application.

#### **FINDINGS AND CONCLUSIONS OF LAW**

9. The allegations set forth in paragraphs 1 through 8 above are fully incorporated herein by this reference.

10. 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.

11. 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.

12. 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.

13. 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 or fails to meet the requirements of Idaho Code § 26-31-306.

14. The Applicant made a material misstatement of fact in his application, which is grounds to deny his application for licensure. He failed to disclose a 1991 felony conviction. The failure to disclose this felony conviction prohibits the Director from issuing a license to the Applicant pursuant to Idaho Code § 26-31-306(1)(d) and (h).

15. The Director finds it appropriate to deny the application because the Applicant's failure to disclose on the Form MU4 the felony conviction 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) AND THE IDAHO**

**ADMINISTRATIVE PROCEDURE ACT, IDAHO CODE § 67-5201 *et seq.*, IT IS HEREBY ORDERED THAT THE APPLICATION FOR A MORTGAGE LOAN ORIGINATOR LICENSE SUBMITTED TO THE DEPARTMENT ON OCTOBER 28, 2019, BY RICHARD ROBERT MARTINEZ, NMLS #6527 IS HEREBY DENIED.**

**NOTICE**

20. The Applicant is HEREBY NOTIFIED that the foregoing ORDER DENYING MORTGAGE LOAN ORIGINATOR LICENSE APPLICATION is a final order of the Director, 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:

Anthony Polidori  
Consumer Finance Bureau Chief  
Idaho Department of Finance  
P.O. Box 83720  
Boise, Idaho 83720-0031

A copy of the request for 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](mailto:CFLegal@finance.idaho.gov).

21. If the Applicant timely files a request for 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.

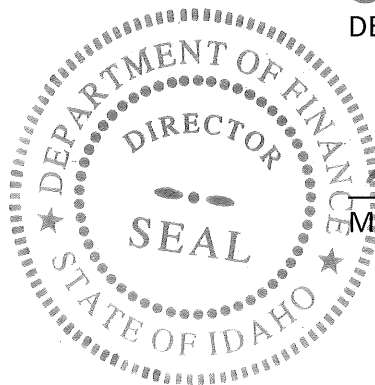
22. Any hearing and subsequent proceedings in this matter will be conducted in accordance with the Idaho Administrative Procedure Act, Idaho Code § 67-5201 *et seq.* and the Idaho Rules of Administrative Procedure of the Attorney General (IRAP), IDAPA 04.11.01.000 *et seq.*

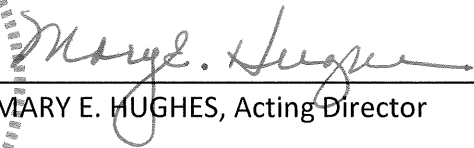
23. Pursuant to Idaho Code § 26-31-305(6), if a hearing is held, the Applicant shall reimburse, pro rata, the Director for his reasonable and necessary expenses incurred as a result of the hearing.

**IT IS SO ORDERED.**

DATED this 10th day of January, 2020.

STATE OF IDAHO  
DEPARTMENT OF FINANCE



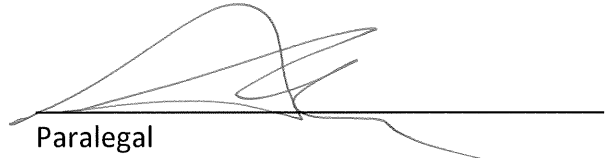
  
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MARY E. HUGHES, Acting Director

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 10<sup>th</sup> day of January, 2020, I caused a true and correct 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:

Richard Robert Martinez  
5041 N. Chimney Peak Ave  
Meridian, ID 83646

- U.S. mail, postage prepaid
- certified mail
- facsimile \_\_\_\_\_
- email: tatdaddy@outlook.com

  
Paralegal