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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:

RACUSEN, ROBERT MARK,
NMLS ID No. 217948,

Applicant.

Docket No. 2020-16-15

**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. ROBERT MARK RACUSEN (the Applicant) is a resident of the state of Illinois, holds NMLS number 217948 and applied for an Idaho Mortgage Loan Originator (MLO) license by filing

an individual Form MU4 through the online Nationwide Mortgage Licensing System and Registry (NMLSR or NMLS) attested to by the Applicant on March 2, 2020, and submitted on the Applicant's behalf by Kia Thompson of Synergy One Lending, Inc. on March 2, 2020.

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 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 under section (K) "Has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization (SRO) ever:"

- a. "(2) found you to have been involved in a violation of a financial services-related business regulation(s) or statute(s)?"
- b. "(4) entered an order against you in connection with a financial services-related activity?"
- c. "(5) revoked your registration or license?"
- d. "(6) denied or suspended your registration or license or application for licensure, disciplined you, or otherwise by order, prevented you from associating with a financial services-related business or restricted your activities?"
- e. "(7) barred you from association with an entity regulated by such commissions, authority, agency, or officer, or from engaging in a financial services-related business?"
- f. "(8) issued a final order against you based on violations of any law or regulations that prohibit fraudulent, manipulative, or deceptive conduct?"
- g. "(9) entered an order concerning you in connection with any license or registration?"

3. The Applicant responded with a “no” response to questions (K)(2), (4), (5), (6), (7), (8), and (9).

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

5. The examiner obtained a public record background information report through LexisNexis, which showed that the Applicant had several regulatory actions. These include:

- a. May 19, 2005, Illinois Secretary of State Securities Department, Consent Order of Revocation, File No.0400778, Robert M. Racusen CRD No. 1601853, revocation of Illinois registration as a salesperson effective August 11, 2004;
- b. October 12, 2005, NASD Letter of Acceptance, Waiver, and Consent Disbarment, Case No. E8A2004089001, Robert M. Racusen CRD No. 1601853, consent to bar from association with any NASD member in any capacity;
- c. On information and belief, June 9, 1999, Indiana Securities Order of Restrictive Agreement, Case No. 99-0147 OP;
- d. November 1, 2004, NASD Suspension, Case No. C8A040089.

Entry of the foregoing orders and documents reflect a history or pattern of improper conduct by the Applicant.

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. In addition to the above, there may be additional concerns regarding the Applicant's application that would serve as a separate basis to deny the license application.

FINDINGS AND LEGAL CONCLUSIONS

7. Paragraphs 1 through 6 above are fully incorporated herein by this reference.

8. 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.

9. 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 of the Idaho Department of Finance (Director).

10. 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.

11. 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.

12. 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.

13. The Applicant made a material misstatement of fact in his application, which is grounds to deny his application for licensure. He failed to disclose the existence of several regulatory orders or actions as noted above. The misstatement in response to disclosure question (K) and subparts (2), (4), (5), (6), (7), (8), and (9) and the failure to disclose the prior regulatory actions prohibit the Director from issuing a license to the Applicant pursuant to Idaho Code § 26-31-306(1)(h).

14. The Director finds it appropriate to deny the application because the Applicant's failure to disclose on the Form MU4 the various regulatory actions 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 Applicant 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 MARCH 2, 2020, BY ROBERT MARK RACUSEN, NMLS # 217948 IS HEREBY DENIED.

NOTICE

15. 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.

16. If the Applicant timely files a request for hearing, the Director or a Hearing Officer 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.

17. 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.*

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

IT IS SO ORDERED.

DATED this 20th day of April, 2020.



STATE OF IDAHO
DEPARTMENT OF FINANCE

A handwritten signature in cursive script, appearing to read "Patricia R. Perkins".

Patricia R. Perkins, Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of April, 2020, I caused a true and correct fully-executed copy of the foregoing ORDER DENYING MORTGAGE LOAN ORIGINATOR LICENSE APPLICATION AND NOTICE OF THE OPPORTUNITY TO REQUEST A HEARING to be served on the following by the designated means:

Robert Mark Racusen
6 Newtown Ct. W
Buffalo Grove, IL 60089

- U.S. mail, postage prepaid
- certified mail
- facsimile _____
- email: rracusen@mutualmortgage.com

A handwritten signature in cursive script, appearing to be a name starting with "A".

Paralegal