

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 Renewal Application of:

ROBERT MICHAEL TAMES,
NMLS ID No. 158439,

Applicant.

Docket No. 2020-16-01

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

AND

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

The Idaho Department of Finance, Consumer Finance Bureau (Department), 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 Seek Order of Denial of Mortgage Loan Originator License Renewal Application and Notice of the Opportunity to Request a Hearing (Notice).

Because the Applicant has applied for renewal and although the Department disputes his fitness for continued licensure, pursuant to Idaho Code §§ 26-31-309(1) and (2), 67-5254, and IDAPA 04.11.1.270.01, the Department is affording ROBERT MICHAEL TAMES, NMLS ID No. 158439 (the Applicant) the right to a hearing on the question of his qualifications for license renewal, but to do so he must make a written request for a hearing within twenty-one (21) days after the date of mailing of this Notice. If the written request is not timely made, the Department intends to present the Director with a Final Order of Denial of Mortgage Loan Originator License Renewal Application.

The Notice is based on the following:

MATTERS ASSERTED

1. The Applicant, a resident of the state of Arizona, has held Idaho Mortgage Loan Originator License No. MLO-20741 (NMLS No. 158439) to conduct business in the state of Idaho as a mortgage loan originator since approximately January 2017. He renewed the license for 2018 and 2019.

2. On December 27, 2019, the Applicant applied for a renewal of his Idaho Mortgage Loan Originator license through the Nationwide Mortgage Licensing System and Registry (NMLSR). In his renewal application form MU4, the Applicant answered "No" in response to disclosure question (D), which asks: "Do you have any unsatisfied judgments or liens against you?" This representation is inaccurate.

3. The loan originator license renewal process also requires applicants to submit an affirmation stating whether there have been any changes to their originally filed Form MU4, and if so to update the relevant information. The renewal process affirmation contains the following

language: "...to the best of my knowledge and belief the information contained in my online record, including jurisdiction specific requirements where I am licensed or registered, is true, accurate and complete in accordance with the appropriate jurisdiction's law. Additionally, I acknowledge that I have a duty and agree to expediently update and correct the information as it changes." The affirmation further states that "I understand that submitting any false or misleading information, or omitting pertinent or material information, may be grounds for administrative action and/or criminal action."

4. Specifically, for item #5 of the affirmation, the Applicant must attest that he has "updated the documents on file with the jurisdiction(s) to disclose any new event or proceeding requiring an affirmative answer to any disclosure question which has occurred since submission of [her] license/registration application or renewal application to the applicable jurisdiction(s)."

5. On the MU4 renewal application, the Applicant indicated that he had paid a Georgia tax lien. No other information or supporting documentation was provided.

6. The examiner obtained a public record background information report through LexisNexis. Following this, the examiner obtained evidence indicating that the Applicant's response to disclosure question (D) was not accurate and that the disclosure information was not complete. Specifically it appears that the Applicant:

- a. Still has a tax lien obligation to the State of Georgia in the amount of approximately \$1,173.51 recorded in Fulton County, Georgia, State Execution Number 09085834; and
- b. Has an unsatisfied judgment against him in the favor of Hamid Eslampour c/o AZ Residential Management LLC in the amount of \$2,874.19 in Case Number CC2019-148263 Maricopa County, Arizona on July 30, 2019.

7. The examiner determined that the Applicant had failed, as required, to respond accurately to Disclosure Question (D) and to update/correct his online record in the NMLSR to reflect the outstanding tax lien and unsatisfied judgment referenced above, thus rendering the Applicant's affirmation on this renewal application false.

8. The inaccurate response and failure to disclose the above-described tax lien and judgment are relevant, pertinent, or material misrepresentations and omissions in the Applicant's responses to the Form MU4 application disclosure question (D).

9. There may be additional concerns with the Applicant's fitness for licensure.

LEGAL CONCLUSIONS

10. 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. The renewal form provides that applicants agree to and represent that: "(1) ...the information and statements contained herein, including exhibits attached hereto, and other information filed herewith, all of which are made a part of this application, are current, true, accurate and complete and are made under the penalty of perjury, or un-sworn falsification to authorities, or similar provisions as provided by law; (2) To the extent any information previously submitted is not amended and hereby, such information remains accurate and complete;" and "(4) ...keep the information contained in this form current and to file accurate supplementary information on a timely basis;..."

13. Idaho Code § 26-31-309(1)(c) provides that a licensee shall file through the NMLSR, on or before December 31 of each year, a renewal application containing such information as the

director may require. Idaho Code § 26-31-309(1)(a) requires that an applicant for renewal of a mortgage loan originator license continue to meet the minimum standards pursuant to Idaho Code § 26-31-306.

14. 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.

15. 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.

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

17. 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 an unsatisfied judgment against him entered in 2019 in Maricopa County, Arizona, and he represented that he had paid a Georgia State tax lien, which was later determined to be unsatisfied. The false answer to disclosure question (D) and the failure to disclose the unsatisfied judgment and tax lien prohibit the Director from issuing a license to the Applicant pursuant to Idaho Code § 26-31-306(1)(h).

18. The Department intends to present this Notice as a basis for the Director to find it appropriate to deny the renewal application because the Applicant's failure to disclose on the Form MU4 the unsatisfied judgment and tax lien 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. Therefore, the Director cannot make the requisite findings under Idaho Code § 26-31-306(1)(d), and it is appropriate to decline the Applicant's request for renewal of his Idaho mortgage loan originator license, pursuant to Idaho Code § 26-31-313(1).

19. The Applicant did not update his Form MU4 information to show an affirmative response to disclosure question (D) to reflect the July 2019 judgment and Georgia tax lien, and he submitted a false affirmation in his renewal application. Both of these prohibit the Director from issuing a renewed license to the Applicant pursuant to Idaho Code § 26-31-306(1)(h).

NOTICE OF THE OPPORTUNITY TO REQUEST A HEARING

The Applicant is HEREBY NOTIFIED that the foregoing NOTICE OF INTENT TO SEEK ORDER OF DENIAL OF MORTGAGE LOAN ORIGINATOR LICENSE RENEWAL APPLICATION will result in the Department presenting and requesting a final order of the Director, unless the Applicant timely submits a request for hearing as provided for in Idaho Code § 67-5254. Such request for a hearing must be in writing and submitted to the Department within twenty-one (21) days after the service of this NOTICE. A copy of the request for contested case and hearing shall 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.

20. 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.

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

DATED this 14th day of January, 2020.

STATE OF IDAHO
DEPARTMENT OF FINANCE



MARY E. HUGHES, Deputy Director

DATED this 14th day of January, 2020.

OFFICE OF ATTORNEY GENERAL



Thomas A. Donovan, Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of January, 2020, I caused a true and correct fully-executed copy of the foregoing NOTICE OF INTENT TO SEEK ORDER OF DENIAL OF MORTGAGE LOAN ORIGINATOR LICENSE RENEWAL APPLICATION AND NOTICE OF THE OPPORTUNITY TO REQUEST A HEARING to be served on the following by the designated means:

Robert M. Tames
4502 N. 36th St., Unit 111
Phoenix, AZ 85018

- U.S. mail, postage prepaid
- certified mail
- facsimile _____
- email: rtames@genevafi.com



Paralegal