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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:

STEVEN PAUL NIETO,
NMLS ID No. 956896,

Applicant.

Docket No. 2019-16-43

**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. Steven Paul Nieto (the Applicant), a resident of the state of California, holds NMLS number 956896 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 August 12, 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 the following questions:

(A)(3): "Have you been the subject of a foreclosure action within the past 10 years?"

(D): "Do you have any unsatisfied judgments or liens against you?"

(L): "Have you ever had an authorization to act as an attorney, accountant, or State or federal contractor that was revoked or suspended?"

3. The Applicant responded with a "no" to questions (A)(3) and (D), and responded with a "yes" to question (L). The Applicant provided a response to this affirmative answer in the Disclosure Explanations section of the application.

4. Regarding question (L), the Applicant indicated that his state bar license had been *suspended*. The Applicant wrote the following:

I was a practicing at[t]orney for over 30 years. In the year 2011 [] my license was suspended for vio[l]ations of the Business and Professions code. One allegation was concerning a Trust Fund vio[l]a[t]ion. The client was not paid at the time of settlement of her personal injury case. However, she was ultimately paid prior to the State Bar court order of suspension. The other allegations centered around not perfo[r]mi[n]g services for 3 clients and did not deal with Trust Fund violations.

5. The Applicant did not provide any supporting documentation regarding this bar license suspension.

6. 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

7. The examiner obtained a public record background information report through LexisNexis, from which the examiner learned that the Applicant failed to disclose he had been the subject of a foreclosure action within the last ten years and has three outstanding tax liens against him for the State of California.

8. Regarding the foreclosure action, the examiner noted a Notice of Default recorded for the Applicant's property located at 1010 North Ross Street, Suite 200, in Santa Ana, California. The Notice of Default was recorded on April 21, 2011.

9. Regarding the tax liens, the examiner contacted the Los Angeles County Treasurer and Tax Collector to verify the tax lien information and confirmed that the three liens are not satisfied. The examiner was then referred to the Los Angeles County Register-Recorder's Office and was informed that the Applicant has four other outstanding State of California tax liens with no satisfaction or release documents recorded. The following is a list of the outstanding State of California tax liens:

- a. File #20160007365 for \$225.78 and recorded on January 5, 2016;
- b. File #20160007366 for \$234.69 and recorded on January 5, 2016;
- c. File #20160007367 for \$235.46 and recorded on January 5, 2016;
- d. File #20160249102 for \$239.98 and recorded on March 8, 2016;
- e. File #20160249103 for \$248.48 and recorded on March 8, 2016;
- f. File #20160403145 for \$236.72 and recorded on April 12, 2016; and
- g. File #20161123880 for \$234.37 and recorded on September 16, 2016.

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.

10. Regarding the Applicant's disclosure of his bar license suspension, a Department examiner reviewed the Applicant's license record on the State Bar of California's website at: [www.http://members.calbar.ca.gov/fal/Licensee/Detail/80474](http://members.calbar.ca.gov/fal/Licensee/Detail/80474). This review revealed that the Applicant gave a misleading and incomplete answer in his disclosure explanation regarding his bar license being suspended.

11. The Applicant's bar license record reflects the following:

a. On October 20, 2002, the Applicant was suspended from the practice of law for ninety days, which was stayed, placed on probation for two years and ordered to make restitution. He was also required to take the Multistate Professional Responsibility Examination (MPRE). The Applicant stipulated that he "failed to perform legal services competently, communicate with a client, refund an unearned fee, return client property or pay out client funds."

b. On May 9, 2009, the Applicant was suspended for one year from the practice of law, which was stayed, placed on probation for two years, and ordered to take the MPRE again. The Applicant stipulated that he committed misconduct while representing three automobile accident clients, including failing to communicate with these clients and failing to obtain their written consent to represent each of them in the same matter when potential conflicts of interest between them existed.

c. On November 24, 2011, the Applicant was disbarred and ordered to make restitution to four of his clients. The State Bar Court found that the Applicant committed twenty-four counts of misconduct in eight matters, which included similar misconduct found in 2002 and 2009. The Court also found that the Applicant failed to comply with previous probation conditions.

12. Subsequent to the examiner's assessment, on September 19, 2019, the Applicant submitted a supplemental disclosure explanation regarding question (L) and, along with it, uploaded a four page document. In this supplemental explanation regarding his disbarment, the Applicant wrote:

Factual events that led to my license being suspended. The factual events that led to my license suspension are well documented in the Suspension notice downloaded into the

system. I did not oppose the complaint that was filed against me as I was told by the State Bar Attorney my license would be suspended even had I contested the allegations. Contesting the allegations would have cost me substantial amount of money and I therefore chose not to dispute the allegations. 1) Circumstances / reasons for said suspensions. During the period of time that I was alleged to violate the State Bar rules and statutes my in-laws were quite ill and required help from all the family. They lived in San Marcos California (1[1/2] Hr. drive one way) from my home in Huntington Beach California. My wife and I devoted a lot of time assisting them with their failing health concerns. This went on for several months and took me away from my practice. As a result I neglected to devote my time and efforts to my client's needs. I was without a legal secretary or paralegal at said time. Both of my in-laws died in 2006 and 2008 from their debilitating illnesses. Not having an assistant was spread really thin and contributed to my nonperformance. I mis[]appropriated trust fund money that w[ere] the funds of my clients. The clients were all paid and made whole either by me or the State Bar's fund which I have been paying back. 2) Rehabilitation- Losing my license and not being able to practice after 33 years of practice was a severe blow to me and my family both emotional and financial. I not only lost all that I had accomplished, lost my relationships with colleagues and Judges. I have accepted responsibility for my actions and continue to grow every day from said experience...

13. The document that the Applicant submitted with this supplemental explanation included three pages of a recommendation for disbarment by the Judge of the State Bar Court, dated June 10, 2011, and a copy of an order issued by the Supreme Court of California several months later disbaring the Applicant from the practice of law in California.

14. The failure to disclose the 2011 foreclosure and the additional tax liens are relevant omissions in the Applicant's responses to the Form MU4 application disclosure questions (A)(3) and (D).

15. The Applicant's failure to disclose and provide details regarding the 2002 bar license suspension is a relevant omission to question (L) of his Form MU4 licensing application, and the extent of Applicant's conduct leading to his disbarment in California demonstrate that the Applicant does not have the character and fitness sufficient to warrant belief that the 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

16. The allegations set forth in paragraphs 1 through 15 above are fully incorporated herein by this reference.

17. 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.

18. 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.

19. 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.

20. 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.

21. The Applicant made a material misstatement of fact in his application, which is grounds to deny his application for licensure. He failed to disclose that he has numerous tax liens

recorded in California and failed to disclose the 2011 foreclosure action that was taken against him. Additionally, the Applicant made a material misstatement of fact when he only disclosed that his California bar license had been suspended once, when in fact he had had two orders of suspension. The failure to disclose these tax liens, the foreclosure action, and his complete disciplinary history, prohibits the Director from issuing a license to the Applicant pursuant to Idaho Code § 26-31-306(1)(d) and (h).

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

23. Further, the pattern of conduct that the Applicant has shown by disregarding and failing to communicate with his legal clients and violating the terms of stipulated probation conditions and improperly accessing or withholding client funds in California does not demonstrate the character and general fitness sufficient to command the confidence of the community and to warrant a determination that the Applicant will operate honestly, fairly, and efficiently with Idaho consumers. This pattern of conduct by the Applicant establishes a separate basis for the Director to deny the Applicant's request for an Idaho mortgage loan originator license pursuant to Idaho Code § 26-31-306(1)(d).

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 AUGUST 12, 2019, BY STEVEN PAUL NIETO, NMLS #956896 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.

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.

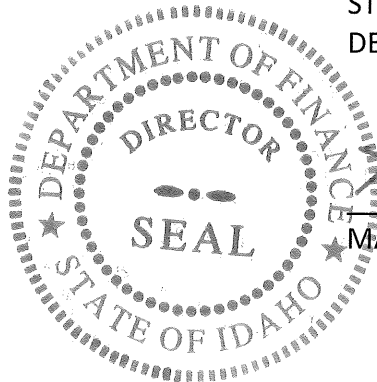
22. Any hearing and subsequent proceedings in this matter will be conducted in accordance with the Idaho Administrative Procedure Act, Idaho Code § 67-5201 *et seq.* and the Idaho Rules of Administrative Procedure of the Attorney General (IRAP), IDAPA 04.11.01.000 *et seq.*

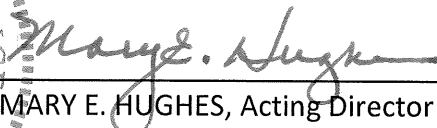
23. Pursuant to Idaho Code § 26-31-305(6), if a hearing is held, the Applicant shall reimburse, pro rata, the Director for his reasonable and necessary expenses incurred as a result of the hearing.

IT IS SO ORDERED.

DATED this 23rd day of September, 2019.

STATE OF IDAHO
DEPARTMENT OF FINANCE





MARY E. HUGHES, Acting Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of September, 2019, 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:

Steven Paul Nieto
17521 Beckwall Lane
Huntington Beach, CA 92649

- U.S. mail, postage prepaid
- certified mail
- facsimile _____
- email: steven.nieto@lenoxhomeloans.com

