

BEFORE THE MONTANA DEPARTMENT OF ADMINISTRATION,
DIVISION OF BANKING AND FINANCIAL INSTITUTIONS

In the matter of Montana mortgage loan originator license applicant, RICHIE JAMES HIGHTOWER, NMLS # 216125,

Respondent.

Case No. M2022-26

**NOTICE OF PROPOSED
DENIAL OF LICENSE AND
OPPORTUNITY FOR
ADMINISTRATIVE HEARING**

The Montana Division of Banking and Financial Institutions (Division) pursuant to the authority granted by the Montana Mortgage Act (Act), Mont. Code Ann. § 32-9-101 et seq., hereby issues this Notice of Proposed Denial of License and Opportunity for Administrative Hearing.

PARTIES, JURISDICTION, AND VENUE

1. The Division is the agency charged with licensing, examining, and regulating mortgage brokers, mortgage lenders, mortgage servicers, and mortgage loan originators.
2. Richie James Hightower (Respondent) has applied for a mortgage loan originator (MLO) license in Montana. Respondent's Nationwide Multistate Licensing System (NMLS) number is 216125.
3. Pursuant to Mont. Code Ann. § 32-9-133, this administrative tribunal has personal jurisdiction over the Respondent because the Respondent has applied for a license in this state.
4. Pursuant to Mont. Code Ann. §§ 32-9-102, 32-9-120 and 32-9-133, the Division has jurisdiction over the subject matter of this action and is authorized to deny Respondent's application for failing to meet the requirements of the Act.
5. Venue is appropriate at the location set by the Division pursuant to Mont. Code Ann. § 2-4-611. Hearings are typically held in Helena, Lewis and Clark County, Montana, where the Division's main office is located.

FACT ASSERTIONS

1. The facts asserted herein describe grounds for denying Respondent's application under the Act.

2. On April 8, 2022, Respondent filed an application for a Montana MLO license with the Division and electronically signed the following statement to conclude the application:

I Richie James Hightower (216125), (Applicant) on this date Friday, April 8, 2022 swear (or affirm) that I executed this application on my own behalf, and agree to and represent the following:

(1) That 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;

(3) That the jurisdiction(s) to which an application is being submitted may conduct any investigation into my background, in accordance with all laws and regulations;

(4) To keep the information contained in this form current and to file accurate supplementary information on a timely basis; and

(5) To comply with the provisions of law, including the maintenance of accurate books and records, pertaining to the conduct of business for which I am applying.

If an Applicant has made a false statement of a material fact in this application or in any documentation provided to support the foregoing application, then the foregoing application may be denied.

I verify that I am the named person above and agree to the language as stated.

3. As part of the MLO license application, applicants are required to answer financial, criminal, civil judicial, regulatory action, customer arbitration/civil litigation, and termination disclosure questions and provide disclosure explanations.

4. Financial disclosure question (D) asks, "Do you have any unsatisfied judgments or liens against you?"

5. Respondent answered "yes" to this question on September 3, 2013, attached a copy of the judgment for case number [REDACTED] dated [REDACTED], and provided the following explanation.

"To Whom This May Concern, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] *Thank you,"*

6. Also, as part of the application, Respondent authorized a background check and credit report through the NMLS.

7. On April 16, 2022, the Division performed a search for liens, judgments, and bankruptcies using CLEAR, a service available to government agencies through Thomson Reuters.

8. Reflected in the background checks, pertinent to this action, were the following [REDACTED].

Creditor	Account Type	Filing Office/Court	Case/Filing Number	Date	Amount
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

9. While the explanation for financial disclosure question (D) from September 3, 2013, did accurately reflect the judgment granted to [REDACTED], it did not include the [REDACTED].

10. On April 16, 2022, the Division emailed Respondent notifying him of the findings of the background check and requested he update the explanation to financial disclosure question (D) by April 29, 2022.

11. On April 19, 2022, Respondent submitted an application withdrawal request to the Division through the NMLS.

12. On April 21, 2022, the Division emailed Respondent stating that before the application withdrawal request will be accepted, the disclosure question explanation must be updated or, if paid, a [REDACTED] must be provided to the Division.

13. Respondent did not respond to the Division or update the explanation.

14. On May 4, 2022, the Division emailed Respondent again extending the due date to May 11, 2022, to update disclosure question or provide a [REDACTED].

15. Respondent did not respond to the Division or update the explanation.

16. On May 18, 2022, the Division left a voicemail and emailed Respondent again issuing a final extension to May 25, 2022, to update disclosure question or provide a [REDACTED].

17. Respondent did not respond to the Division or update the explanation.

CONCLUSIONS OF LAW

The Division concludes that:

1. Because Respondent applied for a license as a mortgage loan originator, the Division has jurisdiction over this matter and over Respondent pursuant to Mont. Code Ann. § 32-9-133.

2. Based on the preceding facts, the Division cannot conclude that Respondent has demonstrated financial responsibility, character, and general fitness to command the confidence of the community and to warrant a determination that, as an MLO, he will operate honestly, fairly, and efficiently pursuant to Mont. Code Ann. § 32-9-120(1)(c).

3. On April 8, 2022, when Respondent's application for a Montana mortgage loan originator license was submitted, Respondent made a material misstatement of fact and provided false and incomplete information to the Division in his application by not disclosing all [REDACTED]

██████████ in violation of Mont. Code Ann. § 32-9-120(1)(g).

4. Admin. R. Mont. 2.59.1742(4)(a) and (b) states, ". . . the [Division] may consider the following factors, or a combination thereof, in determining whether to deny. . . a license.

The individual:

(a) has failed to fully provide any documentation required by the [Division];

(b) has made a false attestation associated with a filing related to an application for a license . . ."

5. Respondent violated Admin. R. Mont. 2.59.1742(4)(a) by failing to respond to the Division's emails dated April 16, 2022, April 21, 2022, May 4, 2022, and May 18, 2022, regarding the findings of the background check and request that the explanation be amended for financial disclosure question (D) to include the ██████████
██████████.

6. Respondent violated Admin. R. Mont. 2.59.1742(4)(b) by making a false attestation when filing the application for a MLO license on April 8, 2022, by attesting that "*That 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 [emphasis added] and are made under the penalty of perjury, or unsworn falsification to authorities, or similar provisions as provided by law*".

7. The NMLS Guidebook dated May 10, 2022 provides, in relevant part, "Individuals are required to update their Disclosure Explanations when circumstances change in accordance with state law or within 30 days, whichever is shorter. This includes adding a new explanation for each new event, even if the disclosure question response hasn't changed."

8. Mont. Code Ann. § 32-9-166(3)(f) states, "A licensee shall file a written report with the department through the NMLS within 15 business days after the licensee has reason to know of the occurrence of . . . any . . . civil . . . action initiated against the licensee . . ."

9. Respondent violated Mont. Code Ann. § 32-9-166(3)(f) by not updating the explanation for financial disclosure question (D) NMLS within 15 business days of being made aware of the [REDACTED].

10. Under Mont. Code Ann. § 32-9-120(1)(c), Mont. Code Ann. § 32-9-120(1)(g), Mont. Code Ann. § 32-9-166(3)(f), Admin. R. Mont. 2.59.1740(2)(a) and (b), and Admin. R. Mont. 2.59.1742(4)(a) and (b), the Respondent's MLO application should be denied.

11. The Division may require reimbursement of the cost of bringing this action. Mont. Code Ann. § 32-9-133(2)(b).

PROPOSED AGENCY ACTION

Based on the foregoing Fact Assertions and Conclusions of Law, the Division proposes that Respondent's mortgage loan originator license application be denied.

If Respondent requests a hearing as provided in the Montana Administrative Procedures Act (Title 2, Chapter 4, Part 6 of the Montana Code Annotated), the final order will be determined by the facts and conclusions established during the contested case proceeding, and the fines, penalties, restitution, costs, and other provisions of the final order may not be identical to the Division's proposal above.

NOTICE OF OPPORTUNITY FOR HEARING

Notice is hereby given that pursuant to Mont. Code Ann. § 32-9-133, the Respondent has a right to an administrative hearing as provided in the Montana Administrative Procedures Act (Title 2, Chapter 4, Part 6 of the Montana Code Annotated) to contest the Division's proposed agency action. Respondent has the right to be represented by counsel at the hearing and related proceedings. To exercise the right to a hearing Respondent must make a timely written request for hearing within **14 days** of receipt of this Notice and mail or deliver the request to:

Banking and Financial Institutions Division
301 South Park, Suite 316
P.O. Box 200546
Helena, MT 59620-0546

POSSIBILITY OF DEFAULT

Failure to make a written request for hearing within 14 days of receipt of this Notice or to otherwise timely defend as provided by law may result in entry of Respondent's default without further prior notice and a final order shall thereafter issue providing for such relief and imposing such penalties as are appropriate and authorized by Mont. Code Ann. §§ 32-9-120 and 32-9-133.

The Division will post a copy of any final order or decision in this matter to the NMLS under regulatory actions which will be viewable by regulators and the public.

DATED 3rd day of June, 2022.

By: /s/ Terri Hogan
Terri Hogan, Legal Counsel

CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2022, the undersigned caused a true and accurate copy of the foregoing Notice of Proposed Denial of License and Opportunity for Administrative Hearing to be mailed by U.S. certified mail number [REDACTED] to:

RICHIE JAMES HIGHTOWER

[REDACTED]
[REDACTED]

[REDACTED]

Heather K. Hardman, Paralegal