

STATE OF MICHIGAN  
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Gerald Keith Sitko  
NMLS No. 1012413,

Enforcement Case No. 13-11753

Applicant.

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Issued and Entered,  
This 29 day of May, 2013,  
By Stephen R. Hilker,  
Senior Deputy Director

ORDER OF DENIAL  
OF MORTGAGE LOAN ORIGINATOR LICENSE APPLICATION

I.  
STATEMENT OF LAW

1. The Director of the Department of Insurance and Financial Services (DIFS) regulates and licenses Mortgage Loan Originators in Michigan pursuant to the Mortgage Loan Originator Licensing Act, 2009 P.A. 75, as amended, MCL 493.131 *et seq.* (the Act).
2. Section 9(1)(d) of the Act prohibits the Director from issuing a license unless the Director finds that, "[t]he applicant has demonstrated financial responsibility, character, and general fitness that commands the confidence of the community and warrants a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of this act." MCL 493.139(1)(d).
3. Section 33(1)(a) of the Act empowers the Director to investigate an applicant for licensing to determine compliance with the Act. MCL 493.163(1)(a).

II.  
FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. On or about January 9, 2013, DIFS received a mortgage loan originator application from Mr. Gerald Keith Sitko (Applicant), National Mortgage Licensing System (NMLS) No. 1012413, for a license to originate mortgage loans under the Act.

Order of Denial  
Enforcement Case No. 13-11753

2. Pursuant to Section 33(1)(a) of the Act, MCL 493.163(1)(a), DIFS' Consumer Finance Section conducted a background investigation of Applicant to determine whether Applicant satisfied the conditions of Section 9(1) of the Act, MCL 493.139(1).
3. The background investigation revealed the following:
  - a. The Applicant upon completing the MU4 Form, the Uniform Individual Mortgage License/Registration Consent Form's Regulatory Action Disclosure Questionnaire, responded "No" to the following questions on the application:
    - (1) Has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory authority (SRO) ever:
      - ii. Found you to have made a false statement or omission or been dishonest, unfair or unethical?
      - iii. Found you to have been involved in a violation of a financial services-related business regulation(s) or statute(s)?
      - iv. Entered an Order against you in connection with a financial services-related activity?
      - v. Revoked your registration or license?
      - vi. Issued a Final order against you based on violations of any law or regulations that prohibit fraudulent, manipulative, or deceptive conduct?
      - vii. Entered an order concerning you in connection with any license or registration?
  - b. According to the NMLS Policy Guidebook financial services or financial related services means, "Pertaining to securities, commodities, banking, insurance, consumer lending, money services businesses, consumer debt management or real estate (including, but not limited to; acting as or being associated with a bank or savings association, credit union, Farm Credit System institution, mortgage lender, mortgage broker, real estate salesperson or agent, appraiser, closing agent, title company, escrow agent, payday lender, money transmitter, check casher, pawnbroker, collection agent, debt management company or title lender)."
  - c. However, on or about August 2, 2012, the Director of DIFS revoked Applicant's insurance producer license for failing to remit premiums he collected from insureds to an insurer in violation of MCL 500.1207 and MCL 500.1239(1)(d) and (h).
  - d. MCL 500.1207 states in pertinent part, "An agent shall be a fiduciary for all money received or held by the agent in his or her capacity as an agent. Failure by an agent in a timely manner to turn over the money which he or she holds in a

Order of Denial  
Enforcement Case No. 13-11753

fiduciary capacity to the persons to whom they are owed is prima facie evidence of violation of the agent's fiduciary responsibility.”

- e. MCL 500.1239(1)(d) states in pertinent part, “the commissioner may place on probation, suspend, or revoke an insurance producer's license or may levy a civil fine under section 1244 or any combination of actions for ... [i]mproperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business.”
  - f. MCL 500.1239(1)(d) states in pertinent part, “the commissioner may place on probation, suspend, or revoke an insurance producer's license or may levy a civil fine under section 1244 or any combination of actions for ... [u]sing fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.”
4. Subsequent to discovering the revocation of Applicant’s insurance producer license in 2012, DIFS’ staff advised Applicant of the disciplinary action taken against his insurance producer license, and requested that Applicant provide DIFS with a written explanation concerning the administrative action taken against him. The Applicant responded that he left the insurance industry in order to care for his ailing mother and forgot to complete the required continuing education in order to maintain his insurance producer license. At no time did the Applicant admit that his insurance producer license was revoked.
  5. Applicant signed the Form MU4 attesting that the information and statements contained in his application, including information that accompanied the application, were current, true, accurate and complete and were made under penalty of perjury, or unsworn falsification to authorities, or similar provision of law.
  6. It is clear from the information above that Applicant was required to answer “Yes” to the questions in paragraph 3(a) above. Applicant knew or should have known that he was required to answer “Yes” to the questions in paragraph 3(a) above. However, he failed to disclose the disciplinary action taken against his insurance producer license. The attestation section of the application also advised the Applicant that, “If an applicant 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.”
  7. Based on the foregoing facts, the Director finds and concludes that Applicant’s failure to disclose that his insurance producer license was revoked, plus the underlying facts that led to the revocation of his license, indicate that Applicant has not demonstrated the financial responsibility, character and general fitness that commands the confidence of the community and warrants a determination that the Applicant will operate honestly, fairly and efficiently as required to satisfy Section 9(1)(d) of the Act, MCL 493.139(1)(d).

Order of Denial  
Enforcement Case No. 13-11753

8. Based on the foregoing facts, the Director finds and concludes that Applicant has failed to meet the minimum licensing requirements of Section 9(1) of the Act, MCL 493.139(1), and is therefore ineligible for licensure under the Act.

**III.  
ORDER**

Based on the Statement of Law, Findings of Fact, and Conclusions of Law above, it is **ORDERED** that:

1. The application of **Gerald Keith Sitko** for licensure as a Mortgage Loan Originator under the Act shall be and hereby is **DENIED**.
2. **Gerald Keith Sitko** shall immediately cease and desist from conducting any activities that require licensure under the Act.

**DEPARTMENT OF INSURANCE  
AND FINANCIAL SERVICES**

  
Stephen R. Hilker  
Senior Deputy Director

Dated: 5/29/13

**IV.  
APPEAL**

This Order of Denial is an administrative order subject to judicial review pursuant to the Michigan Constitution, MCL Const. Art. 6, § 28, and subject to the Revised Judicature Act, MCL 600.631.