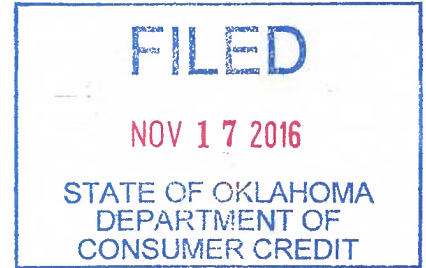


**BEFORE THE ADMINISTRATOR OF CONSUMER CREDIT  
STATE OF OKLAHOMA**

STATE OF OKLAHOMA, )  
ex rel., DEPARTMENT OF )  
CONSUMER CREDIT )  
 )  
Petitioner )  
 )  
v. )  
 )  
FIESTA MOTORS, LLC., )  
 )  
Respondent. )

Case No. 16-0139-DIS



**FINAL AGENCY ORDER**

This matter was heard on the 30th day of September, 2016, at approximately 9:30 a.m., the above numbered and entitled cause came on for hearing at the Office of the Oklahoma Department of Consumer Credit, 3613 N.W. 56<sup>th</sup> Street, Suite 240, Oklahoma City, Oklahoma 73112.

The State of Oklahoma, ex rel. Oklahoma Department of Consumer Credit (the “Department”), was represented by the Department’s General Counsel Roy John Martin and the Respondent Fiesta Motors, LLC., located at 1101 N. Portland, Oklahoma City, Oklahoma 73107 (the “Respondent”), appeared through an individual named Latif Tahmasebi, who admitted to being the owner of the Respondent and who appeared pro se without an attorney.

Pursuant to the requirements of Article II of the Oklahoma Administrative Procedures Act, 75 O.S. §§ 308a-323, a copy of the Notice and Order of Hearing filed in this matter on August 29, 2016 (the “Notice of Hearing”), was served upon the Respondent at 1101 N. Portland, Oklahoma City, Oklahoma 73107, setting the September 30, 2016, hearing date and time in Case

No. 16-0139-DIS, pursuant to the requirements of Article II of the Administrative Procedures Act (the "APA"), 75 O.S. §§ 308a-323, by certified U.S. Mail, return receipt requested, served on and received by the Respondent on August 30, 2016, as verified by a signed return receipt (green card) signed by someone on behalf of the Respondent and a sworn Affidavit of Service from the Department's General Counsel, Roy John Martin, that such service was secured, copies of each of which were presented in the Hearing. Such service was further evidenced by the personal appearance of Latif Tahmasebi as the owner of the Respondent at the Hearing.

Neither party to these proceedings requested that a court reporter record this matter. No proposed findings of fact were submitted to the Department by either party to these proceedings.

As part of his opening statement, the Department's General Counsel Roy John Martin stated that the Respondent operates a used car business that provided in-house financing for the vehicles it sells, that the Department was recommending that the Respondent pay a fine as a civil penalty for unlicensed activity involving consumer credit sales, consumer leases, or consumer loans, in the amount of Five Thousand Dollars (\$5,000.00), and that the Respondent pay for the costs of the hearing. Mr. Martin noted that, subsequent to the filing of the Notice of Hearing, the Respondent had recently become licensed by the Department on September 7, 2016, and that accordingly the Department was not requesting the issuance of a Cease and Desist Order in this matter.

As his opening statement on behalf of the Respondent, Mr. Latif Tahmasebi, in summary, upon being duly sworn, stated among other things, that he is 63 years of age, that he has a degree in physics and one in electronic engineering, that he has a master's degree, that he was told by an examiner for the Department that he needed a license because he provides financing for the

motor vehicles he sells, that he previously did have a license from the Department in 2008 (March 1, 2008), that he doesn't want to pay the Department money just for the Department to make money, that he has been in the used car business on Portland in Oklahoma City, Oklahoma, since 2007, that he does finance vehicles for three or four months, that he offers three months same as cash with no interest, that he never heard from the Department after his first license expired in 2010, and that he called the Department in 2010 after his first license expired and that he was told at that time that he did not need a license. Continuing on behalf of the Respondent, Mr. Tahmasebi stated that he is licensed in Oklahoma as a used motor vehicle dealer, which licensure requires that a licensee provide a bond and have insurance, that in order to participate in Oklahoma car auctions, the auction companies require that dealers have a Used Motor Vehicle Commission license, that as of September 7, 2016, he now is licensed with the Department until January 31, 2017, and that an unidentified someone with the Department told him he had 24 hours to get his Department license.

Mr. Martin asked Mr. Tahmasebi several questions about his used car business and the financing of those used cars that the Respondent offers to its customers. Mr. Tahmasebi stated that he provides financing at zero interest with 90 days same as cash and that he gives those who don't pay within 90 days an extra 30 or 60 days to pay. Mr. Tahmasebi also stated that he previously had a license, which he referred to as his "first license", from the Department for one or two years and that he believed that the Department should contact him annually whenever his license expires to inform him so that he can renew his license but that, unlike the Used Motor Vehicle Commission, the Department does not and did not do so. Mr. Tahmasebi cited no authority in support of his opinion that the Department should contact him annually whenever his

license expires to inform him so that he can renew his license. Mr. Tahmasebi produced a document labeled as "Application" in response to a question from Mr. Martin that he provide a sample copy of the form of contract he uses in connection with the in-house vehicle financing he provides. Once those questions were answered, Mr. Martin presented the Department's first witness.

#### WITNESSES AND EXHIBITS

As its first witness, the Department called Anthony Breshers to testify. Upon being duly sworn, Mr. Breshers testified that he is employed by the Department as a Consumer Credit Examiner 1, that as an Consumer Credit Examiner 1 he regulates consumer credit licenses and that he performs investigations, and that he was assigned to investigate the Respondent as a dealer without a notification license from a list of other similar dealers without notification licensure in the Oklahoma City area provided by his Supervisor Brad Custard. Continuing, Mr. Breshers stated that he and the Department's Karen Banks met the Respondent's owner Latif Tahmasebi, that he showed Mr. Tahmasebi, his ID, that he discussed the financing the Respondent offers to customers with Mr. Tahmasebi, that he was told that the Respondent provides ninety days same as cash with no interest charged the first ninety days with financing offered up to sixty months, that the Respondent's owner, Mr. Tahmasebi, emphasized that no interest is charged, that he asked the Respondent's owner Latif Tahmasebi for a sample contract, that the Respondent's owner Latif Tahmasebi actually only provided a sample application and that no sample contract was provided as requested, that no one with the Department told the Respondent's owner Latif Tahmasebi that he only had 24 hours in which to get a license from the Department, that there were between 20 and 30 motor vehicles on the Respondent's car lot that

day, that there were no displays on any of those vehicles that day of prices or available financing, and that he was at the Respondent's business location there speaking with the Respondent's owner Latif Tahmasebi for 10 or 15 minutes.

In response to a question from Mr. Martin, Mr. Breshers identified Exhibit 1 as a printout from the Office of the Oklahoma Secretary of State for Fiesta Motors, LLC., in which the Respondent was listed to be a Domestic Limited Liability Company formed in Oklahoma on February 10, 2010, with its Registered Agent named as Latif Tahmasebi with an address of 1101 N. Portland, Oklahoma City, Oklahoma 73107, and whose status was listed by the Office of the Oklahoma Secretary of State as "Inactive". While Exhibit 1 was admitted without objection, it is noted that the Respondent's owner Latif Tahmasebi questioned the contents of the record as to the status of the Respondent being "Inactive". Mr. Tahmasebi was informed by the Independent Hearing Examiner that the contents of the Secretary of State's record were not those of the Department and that if he questioned the contents that he should contact the Office of the Oklahoma Secretary of State.

In response to a question from Mr. Martin, Mr. Breshers identified Exhibit 2 to be a Department record labeled as a Notifications Filing Information for the Respondent that documented that the Respondent's previous licensure by the Department expired on February 1, 2010 and was not renewed. There being no objection, Exhibit 2 was admitted into evidence.

In response to a question from Mr. Martin, Mr. Breshers identified Exhibit 3 to be a Department record labeled as a Notifications Filing Information for the Respondent that documents the Respondent's current licensure on September 7, 2016, that does not expire until January 31, 2017. There being no objection, Exhibit 3 was admitted into evidence.



In response to a question from Mr. Martin, Mr. Breshers identified Exhibit 4 to be a sample application like the one he received from the Respondent's owner Latif Tahmasebi the day he met with Mr. Tahmasebi at his business location, which document is not a sample contract and contains basic information about an applicant. Mr. Breshers indicated that the document he was given labeled as "Application" is the same as the one Mr. Tahmasebi provided to Mr. Martin at the Hearing in response to the Respondent producing a sample form of contract that the Respondent uses for in-house financing of the used motor vehicles. There being no objection, Exhibit 4 was admitted into evidence.

In response to a question from Mr. Martin, Mr. Breshers identified Exhibit 5 to be a photocopy (enlarged print) of the business card of the Respondent's owner Latif Tahmasebi given to him on August 1, 2016, that states "Fiesta Motors We Finance, Buy, Sell, Trade" with a phone number, an email address and a business address. There being no objection, Exhibit 5 was admitted into evidence.

In response to a question from Mr. Martin, Mr. Breshers identified Exhibit 6 to be a photograph that Mr. Breshers took himself of the business signage of the Respondent on the front of the building at 1101 N. Portland, Oklahoma City, Oklahoma, on August 1, 2016, that states "Fiesta Motors Buy-Sell-Trade Se Habla Espanol. We Finance". There being no objection, Exhibit 6 was admitted into evidence.

While Mr. Breshers was testifying, the Respondent's owner Latif Tahmasebi would periodically interject comments such as to Exhibit 4, the sample application, to which the Respondent's owner Latif Tahmasebi stated it was used "for reference", and as to Exhibit 5, the business card that listed an email address, the Respondent's owner Latif Tahmasebi stated that

the email address is not working currently.

Upon the conclusion of Mr. Breshers' testimony, the Department rested.

The Respondent's owner Latif Tahmasebi, having been duly sworn, in summary, basically testified that he said most everything he wanted to say as part of his opening statement and in response to the questions posed to him by Mr. Martin and had very little to add beyond what he had already said. Mr. Tahmasebi offered no exhibits for admission into evidence and presented no witnesses to testify other than himself.

At that time, there being nothing further to be said by either party, the duly appointed Independent Hearing Examiner, noted that he would take this matter under advisement with no announcement as to a recommendation to the Administrator. Subsequently, the duly appointed Independent Hearing Examiner listened to a recording of the Hearing and reviewed the pertinent statutes and Department rules in order to prepare this proposed order.

After reviewing the administrative record of this individual proceeding, reviewing the arguments, testimony and evidence presented at the September 30, 2016, hearing and reviewing the Proposed Order filed by Independent Hearing Examiner, Bryan Neal, the Administrator of Consumer Credit issues the following findings, conclusions and orders.

#### **JURISDICTION AND AUTHORITY**

1. The Administrator of Consumer Credit (the "Administrator") is responsible for the enforcement of the Uniform Consumer Credit Code, 14A O.S. §§ 1-101 et seq., (the "UCCC"). 14A O.S. § 6-501.

2. The term "licensee" or "license," as used in the UCCC, includes any entity or individual that has filed or is required to file notification with the Administrator pursuant to the

provisions of 14A O.S. §§ 6-201 through 6-203 of the UCCC. 14A O.S. § 6-203(2).

3. Any person other than a supervised financial organization or a person holding a license to make supervised loans issued under Part 5 of Article 3 of the UCCC, engaged in making in this state consumer credit sales, consumer leases, or consumer loans and any person having an office or place of business in this state who takes assignments of and undertakes direct collection of payments from or enforcement of rights against debtors arising from these sales, leases or loans is required to file notification with the Administrator within thirty (30) days after commencing business in this state and thereafter on or before January 31 of each year. 14A O.S. §§ 6-201 and 6-202.

4. Any person required to file notification pursuant to the provisions of Section 6-201 of the UCCC, on or before January 31 of each year, shall pay to the Administrator an annual fee for each location within this state at which business is transacted. A late fee shall be charged for any notification filed after January 31. 14A O.S. § 6-202(1).

5. The notification filing fee is \$120.00 for each business location within this state at which business is transacted. OKLA. ADMIN. CODE § 160:5-1-2(2)(A).

6. The Administrator may, after notice and hearing, censure, probate, suspend, revoke or refuse to renew any license, or in addition to or in lieu of censure, probation, suspension or revocation, order refunds for unlawful charges if the Administrator finds that:

(a) The licensee has failed to pay the annual license fee imposed by UCCC, or an examination fee, investigation fee or charge imposed by the Administrator under the authority of the UCCC;



(b) The licensee, either knowingly or without the exercise of due care to prevent the same, has violated any provision of the UCCC or any rule or order lawfully made pursuant to and within the authority of the UCCC; or

(c) Any fact or condition exists which, if it had existed or had been known to exist at the time of the original application for such license, clearly would have justified the Administrator in refusing to issue such license. 14A O.S. §3-505.

7. After notice and a hearing, the Administrator or an independent hearing examiner may order a creditor or a person acting in the creditor's behalf to cease and desist from engaging in violations of the UCCC. 14A O.S. §6-108.

8. Any entity or individual offering to engage or engaged in making consumer credit sales, consumer leases, consumer loans or supervised loans in this state without a license or notification filing as required by the UCCC shall be subject to a civil penalty not to exceed Five Thousand Dollars (\$5,000.00). 14A O.S. §6-113(3).

### **FINDINGS OF FACT**

The Administrator of Consumer Credit finds that the following facts were proven by clear and convincing evidence:

1. The proceedings in this matter were conducted in accordance with the provisions of Article 3, Part 5, of the Uniform Consumer Credit Code, 59 O.S. §§ 3-501 et seq. and Article II of the Administrative Procedures Act, 75 O.S. §§ 308a to 323.

2. The Respondent is a registered domestic limited liability company in the State of Oklahoma, Oklahoma Secretary of State filing number 3512261993, inactive filing status.

3. The Respondent through its owner, Mr. Tahmasebi, admitted that it transacts business by offering and providing in-house financing for the motor vehicles it sells at 1101 N. Portland, Oklahoma City, Oklahoma 73107.

4. The Respondent previously held a Notification license (NOT 83807) for the period of March 1, 2008 through February 1, 2010, which said license was not renewed. On September 7, 2016, a date subsequent to the issuance of the Notice of Hearing in this matter on August 29, 2016, the Respondent obtained a Notification license that remains in effect until January 31, 2017.

5. On August 1, 2016, a Department consumer credit examiner entered the business premises of the Respondent at 1101 N. Portland, Oklahoma City, Oklahoma 73107 and spoke to the owner, Latif Tahmasebi. The Department's examiner asked Mr. Tahmasebi if he offered in-house financing at the business location. Mr. Tahmasebi did advise the Department's examiner that he does offer and does provide in-house financing at his business location.

6. Mr. Tahmasebi explained to the Department's examiner that a consumer who is interested in financing will fill out an application and he will offer the vehicle to the consumer for a cash price. If the consumer does not have the funds to purchase the vehicle outright via cash, Mr. Tahmasebi will ask the consumer what type of payments they would like to set up. Mr. Tahmasebi mentioned that he will offer a consumer the option of making monthly payments ranging from three months to sixty months and the option for "90 days same as cash". Mr. Tahmasebi also mentioned that he does not charge interest on any vehicle sales.

7. The Respondent's business card lists "We Finance" directly on the card.

8. As of August 26, 2016, the Respondent was not licensed in the State of Oklahoma

pursuant to the provisions of 14A O.S. §§ 6-201 through 6-203 of the UCCC. 14A O.S. § 6-203(2).

9. The Respondent did not file notification with the Department pursuant to the provisions of 14A O.S. § 6-201 of the UCCC, on or before January 31, 2016, until September 7, 2016, a date subsequent to the issuance of the Notice of Hearing in this matter on August 29, 2016.

10. The Respondent has failed to pay the annual notification filing fee of \$120.00 to the Department for each business location within this state at which business is transacted pursuant to OKLA. ADMIN. CODE § 160:5-1-2(2)(A).

### **CONCLUSIONS OF LAW**

The Administrator of Consumer Credit concludes that based on the evidence and testimony in this individual proceeding that:

1. The Respondent has violated 14A O.S. §§ 6-201 and 6-202 for failure to file notification with the Department pursuant to the provisions of 14A O.S. § 6-201 of the UCCC, on or before January 31, 2016.

2. The Respondent has violated OKLA. ADMIN. CODE § 160:5-1-2(2)(A) for failure to pay the annual notification filing fee of \$120.00 to the Department for each business location within this state at which business is transacted.

### **ORDER**

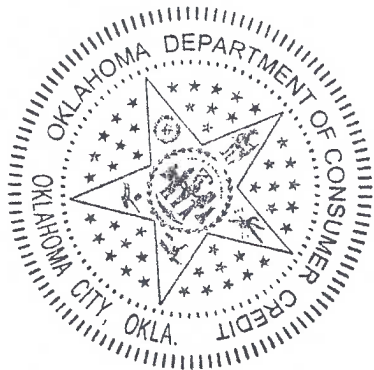
Based upon the findings of fact and conclusions of law in this individual proceeding and based upon the recommendation of the Independent Hearing Examiner, the Administrator of

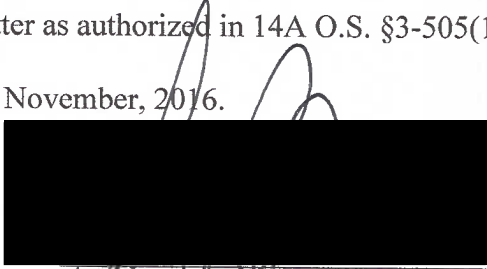
Consumer Credit issues the following orders:

1. The Respondent hereby is found to have violated 14A O.S. §6-113(3), by engaging in or offering to engage in making consumer credit sales, consumer leases, or consumer loans, without filing notification with the Administrator, for which violation the Respondent shall be fined a civil penalty in the amount of One Thousand Dollars (\$1,000.00) as authorized in 14A O.S. § 6-113(3).

2. As the Respondent is not the prevailing party in this matter, the Respondent shall pay court costs of \$964.75, incurred in this matter as authorized in 14A O.S. §3-505(1).

WITNESS my hand this 17<sup>th</sup> day of November, 2016.



  
Scott Leshner  
Administrator of Consumer Credit  
State of Oklahoma