

BEFORE THE ADMINISTRATOR OF CONSUMER CREDIT
STATE OF OKLAHOMA



STATE OF OKLAHOMA)
ex rel. DEPARTMENT OF)
CONSUMER CREDIT,)
)
Petitioner,)
)
v.)
)
AUTO VALUE LLC)
)
Respondent,)

Case No. 16-0217-DIS

FINAL AGENCY ORDER

This matter was heard on the 6th day of April, 2017, 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. 56th Street, Suite 240, Oklahoma City, Oklahoma 73112. The State of Oklahoma *ex rel.* Oklahoma Department of Consumer Credit (“Petitioner”), was represented by Petitioner’s General Counsel J. Steven Coates and Respondent Auto Value, LLC., located at 8442 S. Shields, Oklahoma City, Oklahoma 73149 (“Respondent”), appeared through an individual named Mohammad Haji, who admitted to being the owner of 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 Second Amended Notice and Order of Hearing filed in this matter on March 14, 2017 (the “Notice of Hearing”), was served upon Respondent at 8442 S. Shields, Oklahoma City, Oklahoma 73149, setting the April 6, 2017, hearing date, time and place in Case No. 16-0217-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 Respondent on March 21, 2017, as verified by a signed return receipt (green card) signed by Mohammad Haji on behalf of Respondent and a sworn Affidavit of Service from Petitioner's General Counsel, J. Steven Coates, 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 Mohammad Haji as the owner of 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 Petitioner by either party to these proceedings.

Petitioner's General Counsel J. Steven Coates waived providing an opening statement and called a witness.

WITNESSES AND EXHIBITS

As its first witness, Petitioner called Mark Swan to testify. Upon being duly sworn, Mr. Swan indicated that he is employed by Petitioner as a Consumer Credit Examiner, that he has been so employed for two years, that as a Consumer Credit Examiner he performs investigations, and that he was sent by his supervisor Drew S'Renco to determine whether Respondent as an auto dealer was offering any kind of financing to consumers or, in other words, was a dealer offering to engage or engaged in making consumer credit sales, consumer leases, consumer loans or supervised loans without a notification license. Continuing, Mr. Swan stated that he visited Respondent's business location at 8442 S. Shields, Oklahoma City, Oklahoma, on November 9, 2016, that while there he met Mohammad Haji, who identified himself as the owner of Respondent, and that Respondent's previous notification licensure by Petitioner expired some ten

years ago and was not renewed.

In response to a question from Mr. Coates, Mr. Swan identified Petitioner's Exhibit 1 as a photograph of the business card of Mohammad Haji that includes his name, business address, and telephone numbers, and that the photograph was an accurate representation of the business card he photographed. When asked if he had any objection to the admission of Exhibit 1 into the record, Mr. Haji said that he was the business owner, that it was his business card, and that he had no objection. Accordingly, Petitioner's Exhibit 1 was admitted without objection.

In response to a question from Mr. Coates, Mr. Swan identified Exhibit 2 to be a photograph he took of signage at Respondent's business location at 8442 S. Shields, Oklahoma City, Oklahoma, with the business name, business address, and telephone number displayed, and that the photograph was an accurate representation of the signage he photographed. Respondent through Mr. Haji stated no objection to Exhibit 2 and there being no objection, Exhibit 2 was admitted into evidence.

Petitioner's Exhibit 3 was identified by Mark Swan to be a retail installment sales agreement or contract that was provided to Petitioner under subpoena which was admitted into evidence without objection. In referring to Exhibit 3, Mr. Swan read from the retail installment sales agreement or contract and stated that the name of the purchaser was Jamie Talley who appears to be an individual person rather than an organization, that Respondent as an auto dealer was the seller as stated in Exhibit 3, that the seller extending credit is a person who regularly engages as a seller in credit transactions of motor vehicles, that the vehicle sold by Respondent on April 4, 2016, was a 2005 Honda Accord, that the payments on the vehicle are stated to be a \$2,000.00 cash down payment and thereafter \$200.00 a month with the first payment due on May

15, 2016, that the total sale price of the vehicle was \$6,900.00, of which amount \$4,900.00 was financed, that the amount financed was less than \$50,000.00, that Respondent regularly engages in the sale of motor vehicles on credit, that Respondent is not licensed as a Supervised Financial Organization [14A O.S. §1-301(20)] that Respondent holds no license to make supervised loans [14A O.S. §3-501(1)].

Petitioner's Exhibit 4 was identified by Mark Swan to be a retail installment sales agreement or contract that was provided to Petitioner through subpoena which was admitted into evidence without objection. In referring to Exhibit 4, Mr. Swan read from the contract and stated that the name of the purchaser is an individual person named Loren Athena Lara Lara rather than an organization, that Respondent as an auto dealer was the seller, that the seller extending credit is a person who regularly engages as a seller in credit transactions of motor vehicles, that the vehicle sold on April 9, 2016, was a 2006 Honda Accord, that the obligation of the buyer was payable in installment payments, that the vehicle's total purchase price is \$7,900.00, with a down payment of \$500.00, that the balance of \$7,400.00 was to be financed through installment payments of \$300.00 a month with the first payment due May 15, 2016, that the amount financed was less than \$50,000.00, that Respondent as an auto dealer, regularly engages in the sale of motor vehicles on credit, that Respondent is not licensed as a Supervised Financial Organization [14A O.S. §1-301(20)] that Respondent holds no license to make supervised loans [14A O.S. §3-501(1)].

Petitioner's Exhibit 5 was identified by Mark Swan to be a retail installment sales agreement or contract that was provided to Petitioner through subpoena which was admitted into evidence without objection. In referring to Exhibit 5, Mr. Swan read from the contract and stated

that the name of the purchaser appeared to be an individual person(s) named Enayet Karim or Sheneka Karim rather than an organization, that Respondent as an auto dealer was the seller, that the seller extending credit is a person who regularly engages as a seller in credit transactions of motor vehicles, that the vehicle sold on June 10, 2016, was a 2006 Toyota Camry, that the obligation of the buyer was payable in installment payments, that the vehicle's total purchase price is \$6,500.00, with a down payment of \$2,000.00, and that the balance of \$4,500.00 was to be financed through installment payments of \$300.00 a month with the first payment due July 15, 2016, that the amount financed was less than \$50,000.00, that Respondent as an auto dealer, regularly engages in the sale of motor vehicles on credit, that Respondent is not licensed as a Supervised Financial Organization [14A O.S. §1-301(20)] that Respondent holds no license to make supervised loans [14A O.S. §3-501(1)].

Petitioner's Exhibit 6 was identified by Mark Swan to be a retail installment sales agreement or contract that was provided to Petitioner through subpoena which was admitted into evidence without objection. In referring to Exhibit 6, Mr. Swan read from the contract and stated that the name of the purchaser appeared to be an individual person named Abraham Cruz Cristoral rather than an organization, that Respondent as an auto dealer was the seller, that the seller extending credit is a person who regularly engages as a seller in credit transactions of motor vehicles, that the vehicle sold was a 2002 Honda Accord, that the obligation of the buyer was payable in installment payments, that the vehicle's total purchase price is \$5,900.00, with a cash down payment of \$1,000.00, and that the balance of \$4,900.00 was to be financed through installment payments of \$300.00 a month with the first payment due July 15, 2016, that the amount financed was less than \$50,000.00, that Respondent is not licensed as a Supervised

Financial Organization [14A O.S. §1-301(20)] that Respondent holds no license to make supervised loans [14A O.S. §3-501(1)].

Petitioner's Exhibit 7 was identified by witness Mark Swan to be a handwritten note written to Mr. Swan by Mr. Haji dated November 9, 2016, that Mr. Haji admitted to being the author of the handwritten note, and to the admission of which he had no objection. Accordingly, Petitioner's Exhibit 7 was admitted without objection. The note reads as follows: "Auto Value 11-9-16 I sell all my car cash if I sell on payment I don't get interest from anybody Haji".

Mr. Swan testified that about ten years ago, Respondent did have a notification license that Respondent allowed to expire and Respondent did not renew, that Respondent does now have a notification license as of December 8, 2016, that Respondent secured its notification license about a month after Mr. Swan conducted his investigation and before Respondent received a notice of hearing from Petitioner. Upon the conclusion of Mr. Swans' testimony, Petitioner rested.

Respondent's owner Mohammad Haji, having been duly sworn, testified that he is sixty-six years old, that he did not know that he needed a [notification] license, that people pay out their obligations to him, that he charges no interest when people pay out their obligations, that his religion does not allow him to charge any interest, that he got a license when he learned that he needed a license, that he never did anything wrong, and that he has been here for forty years.

In response to a question about Respondent having previously held a notification license about ten years ago, Mr. Haji stated that he could not remember if he previously held a notification license. Mr. Haji did not admit or deny that he previously held a notification license.

Mr. Haji offered no exhibits for admission into evidence and presented no witnesses to

testify other than himself.

Petitioner's General Counsel J. Steven Coates stated that Petitioner was recommending in this matter that Respondent pay a fine as a civil penalty for unlicensed activity involving consumer credit sales, consumer leases, or consumer loans, in the amount of Seven Hundred Fifty Dollars (\$750.00), and that Respondent pay for the costs of the hearing. Mr. Coates noted that, subsequent to the filing of the Notice of Hearing, Respondent had recently become licensed by Petitioner on December 8, 2016, and that accordingly Petitioner was not requesting the issuance of a Cease and Desist Order in this matter. By requesting a civil penalty in this case, Petitioner has invoked the provisions of 14A O.S. §6-113(3) that authorize a civil penalty not to exceed Five Thousand Dollars (\$5,000.00) where a person or respondent violates 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.

In response to Petitioner's recommendation, Mr. Haji stated that it would be difficult for him to pay the Petitioner-recommended fine of Seven Hundred Fifty Dollars (\$750.00).

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 that day as to a recommendation to the Administrator. Subsequently, the duly appointed Independent Hearing Examiner considered the testimony and evidence presented, and reviewed the pertinent statutes and Department rules in order to prepare a proposed order.

After reviewing the administrative record of this individual proceeding, reviewing the arguments, testimony and evidence presented at the April 6, 2017 hearing and reviewing the Proposed Order filed by the 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 Sections 6-201 and 6-202 of the UCCC, on or before January 31st 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. § 6-203(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 the 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 hearing, the Administrator 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. Respondent through its owner, Mr. Haji admitted that it transacts business through cash sales of motor vehicles and by offering and granting in-house credit financing for the motor vehicles it sells at 8442 S. Shields, Oklahoma City, Oklahoma 73149. While Respondent does not charge interest on the monthly payments made by its consumer debtors to Respondent, Respondent grants its consumer debtors to whom it offers and provides in-house credit financing, the right to defer payment of debt or to incur debt and defer its payment (i.e., the right to make monthly payments over time) which constitutes an extension of credit to consumers.

4. On November 9, 2016, Petitioner's consumer credit examiner named Mark Swan entered the business premises of Respondent at 8442 S. Shields, Oklahoma City, Oklahoma 73149 and spoke to the owner, Mohammad Haji. Petitioner's examiner asked Mr. Haji if he offered in-house financing on the motor vehicles sold at the business location. Mr. Haji did advise the Petitioner's examiner in addition to cash sales of motor vehicles at the business location, that he does offer and does provide in-house financing on the motor vehicles sold at his business location. Mr. Haji also mentioned that he does not charge interest on any vehicle sales.

5. On December 5, 2016, Petitioner issued a subpoena duces tecum to Mohammad Haji of Auto Value, LLC., at the address of 8442 S. Shields, Oklahoma City, Oklahoma 73149.

Respondent was requested to submit documents to Petitioner no later than January 3, 2017. Ten (10) Retail Installment Sale Contracts were received by January 3, 2017. Four (4) of the Retail Installment Sale Contracts received under subpoena were presented at the Hearing and admitted into evidence.

6. The copy of the Retail Installment Sale Contract for Jamie Talley (Exhibit 3) as an individual person rather than an organization (the "Talley contract"), lists the purchase of a 2005 Honda Accord on April 4, 2016. The Seller, an auto dealer, is listed as Respondent Auto Value with the business address listed as 8442 S. Shields, Oklahoma City, Oklahoma 73149, and that the seller extending credit is a person who regularly engages as a seller in credit transactions of motor vehicles. The terms of the Talley contract are 24.5 monthly payments in the amount of \$200.00 with the first payment scheduled on May 15, 2016. The total sales price of the vehicle is \$6,900.00, of which amount \$4,900.00 was financed, that the amount financed was less than \$50,000.00, that Respondent regularly engages in the sale of motor vehicles on credit, that Respondent is not licensed as a Supervised Financial Organization [14A O.S. §1-301(20)] that Respondent holds no license to make supervised loans [14A O.S. §3-501(1)]. An annual interest percentage rate of 0% is listed in the Talley contract.

7. The copy of the Retail Installment Sale Contract for Loren Athena Lara Lara (Exhibit 4) rather than an organization (the "Lara contract"), lists the purchase of a 2006 Honda Accord on April 9, 2016. The Seller, an auto dealer, is listed as Respondent Auto Value with the business address listed as 8442 S. Shields, Oklahoma City, Oklahoma 73149, and that the seller extending credit is a person who regularly engages as a seller in credit transactions of motor vehicles. The terms of the Lara contract are 24.6 monthly payments in the amount of \$300.00

with the first payment scheduled on May 15, 2016. The total sales price of the vehicle is \$7,900.00, of which amount \$7,400.00 was financed, that the amount financed was less than \$50,000.00, that Respondent regularly engages in the sale of motor vehicles on credit, that Respondent is not licensed as a Supervised Financial Organization [14A O.S. §1-301(20)] that Respondent holds no license to make supervised loans [14A O.S. §3-501(1)]. An annual interest percentage rate of 0% is listed in the Lara contract.

8. The copy of the Retail Installment Sale Contract for an individual person(s) named Enayet Karim or Sheneka Karim (Exhibit 5) rather than an organization (the “Karim contract”), lists the purchase of a 2006 Toyota Camry on June 10, 2016. The Seller, an auto dealer, is listed as Respondent Auto Value with the business address listed as 8442 S. Shields, Oklahoma City, Oklahoma 73149, and that the seller extending credit is a person who regularly engages as a seller in credit transactions of motor vehicles. The terms of the Karim contract are 15 monthly payments in the amount of \$300.00 with the first payment scheduled on July 15, 2016. The total sales price of the vehicle is \$6,500.00, of which amount \$4,500.00 was financed, that the amount financed was less than \$50,000.00, that Respondent regularly engages in the sale of motor vehicles on credit, that Respondent is not licensed as a Supervised Financial Organization [14A O.S. §1-301(20)] that Respondent holds no license to make supervised loans [14A O.S. §3-501(1)]. An annual interest percentage rate of 0% is listed in the Karim contract.

9. The copy of the Retail Installment Sale Contract for Abraham Cruz Cristoral (Exhibit 6) was for an individual person rather than an organization (the “Cristoral contract”), lists the purchase of a 2002 Honda Accord on June 13, 2016. The Seller, an auto dealer, is listed as Respondent Auto Value with the business address listed as 8442 S. Shields, Oklahoma City,

Oklahoma 73149, and that the seller extending credit is a person who regularly engages as a seller in credit transactions of motor vehicles. The terms of the Cristoral contract are 16.3 monthly payments in the amount of \$300.00 with the first payment scheduled on July 15, 2016. The total sales price of the vehicle is \$5,900.00, of which amount \$4,900.00 was financed, that the amount financed was less than \$50,000.00, that Respondent regularly engages in the sale of motor vehicles on credit, that Respondent is not licensed as a Supervised Financial Organization [14A O.S. §1-301(20)] that Respondent holds no license to make supervised loans [14A O.S. §3-501(1)]. An annual interest percentage rate of 0% is listed in the Cristoral contract.

10. As of December 8, 2016, Respondent is licensed in the State of Oklahoma pursuant to the provisions of 14A O.S. §§ 6-201 through 6-203 of the UCCC. The notification filing application was received on November 18, 2016. Respondent previously held a Notification license (NOT84086) in 2010, which said license expired no January 31, 2011. On December 8, 2016, a date subsequent to the issuance of the Notice of Hearing in this matter on March 14, 2017, Respondent obtained a Notification license that remains in effect until January 31, 2018.

11. Respondent did not file notification with Petitioner pursuant to the provisions of 14A O.S. §§ 6-201 and 6-202 of the UCCC, on or before January 31, 2016.

CONCLUSIONS OF LAW

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

1. Respondent has violated 14A O.S. §§ 6-201 and 6-202 for failure to file notification with Petitioner pursuant to the provisions of 14A O.S. § 6-201 and §6-202 of the

UCCC, on or before January 31, 2016.

2. Respondent has 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.

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. Respondent hereby is found to have violated 14A O.S. §§ 6-201 and 6-202 for failure to file notification with Petitioner pursuant to the provisions of 14A O.S. § 6-201 and §6-202 of the UCCC, on or before January 31, 2016, and 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 Respondent shall be fined a civil penalty in the amount of Seven Hundred Fifty Dollars (\$750.00) as authorized in 14A O.S. § 6-113(3).

2. As Respondent is not the prevailing party in this matter, Respondent shall pay \$475.00 of the \$901.00 court costs incurred in this matter as authorized in 14A O.S. §3-505(1).

3. Costs and penalties to be paid by Respondent come to a total amount of \$1,225.00

WITNESS my hand this 16th day of May, 2017


Scott Leshner
Administrator of Consumer Credit
State of Oklahoma

