BEFORE THE ADMINISTRATOR OF CONSUMER CREDIT
STATE OF OKLAHOMA

STATE OF OKLAHOMA *ex rel.* DEPARTMENT OF CONSUMER CREDIT,	)	
Petitioner,	)	
v.	)	Case No. 17-0197-DIS
SOLUTIONS AUTO GROUP, LLC (MUSTANG),	)	
Respondent.	)	

FINAL AGENCY ORDER

This matter was heard on the 1st day of June, 2017, at approximately 10:48 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 Solutions Auto Group, LLC, located at 1419 E. Highway 152, Mustang, Oklahoma 73064 ("Respondent"), did not appear in person or through an attorney, after such Respondent having been mailed a copy of the Notice and Order of Hearing filed by Petitioner herein on May 2, 2017 (the "Notice of Hearing"), in Case No. 17-0197-DIS, pursuant to the requirements of Article II of the Administrative Procedures Act (the "APA"), 75 O.S. §§ 308a-323, by first class U.S. Mail certified with return receipt requested to Respondent, at the address of Respondent at 1419 E. Highway 152, Mustang, Oklahoma 73064, and was delivered to Respondent by a representative of the U.S. Postal Service as verified through the certified return receipt (green card) signed by

Respondent through Bearren Nieto on May 4, 2017, 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 filed herein and presented in the Hearing.

Petitioner's General Counsel J. Steven Coates, announced that he had not heard from or spoken to Respondent about its appearance at the hearing in person or through an attorney. Mr. Coates indicated that Petitioner wished to secure, in the absence of Respondent who had an opportunity for a hearing and for whom he had good service, a hearing to present testimony from his witness, present evidence, and to create a record in this matter.

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 provided an opening statement and called a witness.

WITNESSES AND EXHIBITS

As its witness, Petitioner called Michael Thompson to testify. Upon being duly sworn, Mr. Thompson indicated that he is employed by Petitioner as an Examiner, that as an Examiner he performs investigations, and that he and his co-worker Jimmie Ray, another consumer credit examiner, were sent on March 28, 2017, by the Chief Examiner, Drew S'Renco, to investigate Respondent, to determine whether Respondent as an auto dealer was practicing any kind of unlicensed activity, 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. According to Mr. Thompson, Petitioner's data base and records that he reviewed provide that Respondent's Mustang business location currently holds no notification

license and has never held a notification license from Petitioner, that he regularly reviews Petitioner's data base and records, and that such review of the data base and records is within the scope of his work as an Examiner for Petitioner.

Continuing, Mr. Thompson stated that he visited Respondent's business location at 1419 E. Highway 152, Mustang, Oklahoma 73064, on March 28, 2017, that while there he met Bearren Nieto, who identified himself at that time as the manager of Respondent.

In response to a question from Petitioner's General Counsel J. Steven Coates, Mr. Thompson identified Petitioner's Exhibit A as a photograph he took of the outside of the dealership business location of Respondent at 1419 E. Highway 152, Mustang, Oklahoma 73064, on March 28, 2017. In the absence of Respondent there was no objection. Accordingly, Petitioner's Exhibit A was admitted without objection.

According to Mr. Thompson, the language on the signage posted on the building stated that: "5 MINUTE PRE-APPROVAL PROCESS – No Credit Needed – WARRANTY INCLUDED", that at the far right corner it states "WE FINANCE", and also "Solutions Auto Group", and that the photograph was an accurate representation of the business location and signage he photographed at 1419 E. Highway 152, Mustang, Oklahoma 73064.

Petitioner's Exhibit B was identified by Michael Thompson to be a copy of a document entitled "Motor Vehicle Lease Agreement - Closed End" that was provided to Mr. Thompson by Respondent's manager Bearren Nieto while Mr. Thompson was at Respondent's Mustang business location on March 28, 2017, which six-page "Motor Vehicle Lease Agreement - Closed End", a form of retail installment sales agreement or contract, which copy is an accurate representation of the document that was given to him. There being no objection, Exhibit B was

admitted into evidence.

Petitioner's General Counsel J. Steven Coates asked Mr. Williams to read from the Motor Vehicle Lease Agreement - Closed End, which he did, stating that the name of the motor vehicle lessor is Respondent at 1419 E. highway 152, Mustang, Oklahoma, that the motor vehicle lessee was Tammy Lynn Derden of Guthrie, Oklahoma, and that the named-lessee, Tammy Lynn Derden, appears to be an individual person rather than an organization, that Respondent as an auto dealer was the motor vehicle lessor as stated in Exhibit B, that Respondent lessor extending credit is a person who regularly engages as a lessor in credit transactions of motor vehicles, and that the vehicle leased by Respondent on March 11, 2017, was a 2008 Chevrolet Malibu. Continuing, Mr. Thompson read from the Motor Vehicle Lease Agreement - Closed End that the payments on the leased motor vehicle are stated to be a $1,200.00 down payment or cash due at lease signing or delivery and thereafter $110.00 each week with the first payment due on March 21, 2017, followed by 129 weekly payments of $110.00, that the total of the periodic payments (amount financed) for the vehicle was $15,200.00, and that the total dollar amount of payments is $14,300.00, that the lease document was signed and executed by the designated lessee on March 11, 2017.

In response to questions about Respondent and the Motor Vehicle Lease Agreement - Closed End, Mr. Thompson stated that Respondent as a lessor regularly engages in the lease of motor vehicles on credit in these transactions, the lease term in this matter was for a period of time of more than four months, the dollar amount of the motor vehicle financed was less than $54,600.00, that it appears that Respondent is engaged in making consumer leases, that Respondent as an auto dealer, regularly engages in the lease of motor vehicles on credit, that the

lease transaction was payable in installments, that this transaction was not made as part of a lender credit card or similar arrangement, 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)], that Respondent has never had a notification license and that Respondent still does not have a notification license as of June 1, 2017.

Petitioner's Exhibit C was identified by Michael Thompson to be a Used Motor Vehicle Dealer Form of Petitioner that was filled out by Mr. Thompson on March 28, 2017, which Used Motor Vehicle Dealer Form marked as Exhibit C was admitted into evidence without objection.

In referring to Exhibit C, Mr. Thompson read from the Used Motor Vehicle Dealer Form and stated that the name of the auto dealership is Solutions Auto Group, that the address of the dealership's lot is 1419 E. Highway 152, Mustang, Oklahoma, that Mr. Nieto informed him that financing options are available through the dealership, that he answered "Yes" in response to the form's question if Respondent has any finance companies and/or banks it works with, that Respondent provides in-house financing through "tote the note, dealer financing, buy here pay here", that not all sales are cash purchases, that the options available to customers are: (1) pay in full; and (2) In-House Lease-Purchase", that Mr. Nieto wrote the following statement "Here at Solutions Auto Group we provide our customers with in house financing", and that Mr. Nieto, Respondent's manager, signed his name at the bottom of the form "Bearren Clay Nieto" on March 28, 2017. Upon the conclusion of Mr. Thompson's testimony, Petitioner rested.

Petitioner's General Counsel J. Steven Coates stated that Petitioner was recommending in this matter that Respondent pay a civil penalty for unlicensed activity involving consumer credit sales, consumer leases, or consumer loans, in the amount of Two Thousand Dollars ($2,000.00),

that Respondent pay for the costs of the hearing, and that Respondent be ordered to become licensed by Petitioner. Mr. Coates noted that 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.

Accordingly, the Independent Hearing Examiner announced from the bench that his recommendation in this matter to Petitioner's Administrator would be that Respondent pay a civil penalty for unlicensed activity involving consumer credit sales, consumer leases, or consumer loans, in the amount of Two Thousand Dollars ($2,000.00), that as Respondent is not the prevailing party in this matter, Respondent shall pay for the costs of the hearing, and that Respondent be ordered to become licensed by Petitioner by filing notification pursuant to the provisions of Sections 6-201 and 6-202 of the UCCC for which license Respondent shall pay to the Administrator an annual fee for the Mustang business location, a location within this state at which business is transacted.

After reviewing the administrative record of this individual proceeding, reviewing the arguments, testimony and evidence presented at the June 1, 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 Solutions Auto Group, LLC, located at 1419 E. Highway 152, Mustang, Oklahoma 73064, did not appear in person or through an attorney, after such Respondent having been mailed a copy of the Notice and Order of Hearing filed by Petitioner herein on May 2, 2017, in Case No. 17-0197-DIS, pursuant to the requirements of Article II of the Administrative Procedures Act, 75 O.S. §§ 308a-323, by first class U.S. Mail certified with return receipt requested to Respondent, at the address of Respondent at 1419 E. Highway 152, Mustang, Oklahoma 73064, and was delivered to Respondent by a representative of the U.S. Postal Service as verified through the certified return receipt (green card) signed by Respondent through Bearren Nieto on May 4, 2017, 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 filed herein and presented in the Hearing, that such notice was provided and that such notice was proper and reasonable.

3. Respondent through its manager, Mr. Bearren Nieto, transacts business through cash sales and through leases of motor vehicles by offering and granting in-house credit financing for the motor vehicles it leases at 1419 E. Highway 152, Mustang, Oklahoma 73064. Respondent grants its consumer debtors to whom it offers and provides in-house credit financing through leases of motor vehicles, the right to defer payment of debt or to incur debt and defer its payment (i.e., the right to make weekly payments over time) which constitutes an extension of credit to consumers.

4. On March 28, 2017, Petitioner's consumer credit examiner named Michael Thompson entered the business premises of Respondent at 1419 E. Highway 152, Mustang, Oklahoma 73064 and spoke to its manager, Mr. Bearren Nieto. Petitioner's examiner asked Mr. Nieto if Respondent offered in-house financing on the motor vehicles sold at its Mustang business location. Mr. Nieto did advise Petitioner's examiner in addition to cash sales of motor vehicles at the Mustang business location, that Respondent does offer and does provide in-house financing on motor vehicles at its Mustang business location through leases of motor vehicles.

5. The copy of the "Motor Vehicle Lease Agreement - Closed End", a form of retail installment sales agreement or contract, for Tammy Lynn Derden (Exhibit B) as an individual person rather than an organization (the "lease agreement"), lists the lease of a 2008 Chevrolet Malibu, on March 11, 2017. The motor vehicle lessor, an auto dealer, is listed in the lease agreement as Respondent "Solutions Auto Group, LLC" with the business listed as 1419 E. Highway 152, Mustang, Oklahoma 73064, and the motor vehicle lessor extending credit is a person who regularly engages as a motor vehicle lessor in credit transactions of motor vehicles. The terms of the lease agreement are stated to be $1,200.00 down payment or cash due at lease signing or delivery and thereafter $110.00 each week with the first payment due on March 21, 2017, followed by 129 weekly payments of $110.00, that the total of the periodic payments (amount financed) for the vehicle was $15,200.00, that the total dollar amount of payments financed is $14,300.00, the lease agreement in this matter was for a period of time of more than four months, that the amount financed was less than $54,600.00, that Respondent regularly engages as a lessor in the lease of motor vehicles on credit, that the 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)], that Respondent has never had a notification license and that Respondent still does not have a notification license as of June 1, 2017.

7. As of June 1, 2017, 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.

8. 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, 2017.

9. Respondent failed to pay the notification filing fee of $120.00 for each business location 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 UCCC defines "credit" in 14A O.S. § 1-301(7) to mean "...the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment."

2. The UCCC defines "consumer lease" in 14A O.S. § 2-106 to mean "a lease of goods...which a lessor regularly engaged in the business of leasing makes to a person, other than an organization, who takes under the lease primarily for a personal, family, or household purpose...in which the amount payable under the lease does not exceed Fifty-Four Thousand Six Hundred Dollars ($54,600.00)...which is for a term exceeding four (4) months."

3. 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, 2017.

4. 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, 2017, 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 pay a civil penalty in the amount of Two Thousand Dollars ($2,000.00) as authorized in 14A O.S.§ 6-113(3)

2. As Respondent is not the prevailing party in this matter, Respondent shall pay court costs of $395.25 incurred in this matter as authorized in 14A O.S. § 3-505(1).

3. In light of Respondent's 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, 2017, Respondent is hereby ordered to become licensed by Petitioner by filing notification pursuant to the provisions of Sections 6-201 and 6-202 of the UCCC, for which license Respondent shall pay to the Administrator an annual fee for this Mustang business location, a location within this state at which business is transacted, within thirty (30) days after the issuance of this final order.

WITNESS my hand this 31st day of July, 2017.

[redacted]

Scott Lesher
Administrator of Consumer Credit
State of Oklahoma