

BEFORE THE ADMINISTRATOR OF CONSUMER CREDIT  
STATE OF OKLAHOMA



STATE OF OKLAHOMA, )  
*ex rel.* DEPARTMENT OF )  
CONSUMER CREDIT, )  
 )  
Petitioner )  
 )  
v. )  
 )  
WADE HIGGINS AUTO GROUP, LLC )  
D/B/A WADE HIGGINS CHEVROLET, )  
 )  
Respondent )

Case No. 17-0327-DIS

**FINAL AGENCY ORDER**

This matter was heard on the 1st day of March, 2018, at approximately 9:45 a.m., after allowing additional time for the named respondent or its representative(s) to attend, the above numbered and entitled cause (scheduled for 9:30 a.m.) 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 (“Petitioner”), was represented by Petitioner’s Chief Enforcement Attorney, John T. Coyne, and Respondent, Wade Higgins Auto Group, LLC d/b/a Wade Higgins Chevrolet, who transacts business at 1601 N. Green Avenue, Purcell, Oklahoma 73080, and whose mailing address of record through its registered agent is c/o Kathy E. Wallis, PC, 1019 F Waterwood Parkway, Edmond, Oklahoma 73034 (“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 January 22, 2018 (the “Notice of Hearing”), in Case No. 17-0327-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 given to Petitioner by Respondent c/o Kathy E. Wallis, PC, 1019 F Waterwood Parkway, Edmond, Oklahoma 73034, by a representative of the U.S. Postal Service as verified through the certified return receipt signed by Elizabeth J. Varbel on January 25, 2018, on behalf of Respondent and a sworn Affidavit of Service from Petitioner's Chief Enforcement Attorney John T. Coyne, that such service was secured, copies of each of which were filed herein and presented in the Hearing.

Petitioner's Chief Enforcement Attorney John T. Coyne, announced that he had not heard from or spoken to Respondent about its appearance at the hearing in person or through an attorney. Mr. Coyne was present and ready for hearing with Petitioner's witness, Jimmie Ray, who was likewise present. Mr. Coyne indicated that he wished to secure, in the absence of Respondent who had an opportunity for a hearing and for whom he had good service, a judgment by default pursuant to 75 O.S. § 309(E). Further, Mr. Coyne indicated that Petitioner's recommendation in this matter is that Respondent pay a civil penalty of Two Thousand Dollars (\$2,000.00), and that Respondent pay for the costs of the hearing.

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 of Two Thousand Dollars (\$2,000.00), and as Respondent is not the prevailing party in this matter, that Respondent pay for the costs of the hearing.

After reviewing the administrative record of this individual proceeding, reviewing the arguments and testimony presented at the March 1, 2018 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 failed to appear in person or through an attorney at the hearing on March 1, 2018, at the scheduled time of 9:30 a.m. or later that same morning when its case was heard at approximately 9:45 a.m., Respondent having received notice of the hearing in this matter set for March 1, 2018, at 9:30 a.m., by first class U.S. Mail, certified with return receipt requested through mail-delivery of a copy of the original Notice of Hearing filed in this matter on January 22, 2018, served upon Respondent as verified through the certified return receipt filed herein signed by Elizabeth J. Varbel on behalf of Respondent on January 25, 2018, at the address given to Petitioner by Respondent at c/o Kathy E. Wallis, PC, 1019 F Waterwood Parkway, Edmond, Oklahoma 73034, by a representative of the U.S. Postal Service.
3. Respondent is a domestic limited liability company under the State of Oklahoma, Oklahoma Secretary of State filing number 3512462195, active filing status.
4. Respondent transacts business at 1601 N. Green Avenue, Purcell, Oklahoma 73080.
5. On July 14, 2017, Jimmie Ray and Michael Thompson, consumer credit investigators, entered Respondent's business premises at 1601 N. Green Avenue, Purcell, Oklahoma 73080, and spoke with Jon Atkins, Finance Director.

6. The investigators asked Mr. Atkins about how Respondent handles the financing of consumers. The investigators requested to review recent retail installment contracts as well. Mr. Atkins advised he did not feel comfortable giving customer information to the investigators. The investigator explained that he could contact Petitioner to verify their identity. Mr. Atkins stated that he understood, but the owner would have to give him authority to show the investigators the contracts. He excused himself and stated he would go ask the owner. He came back after a few minutes and stated the owner, Wade Higgins, would not allow the investigators to review contracts, and was not willing to speak with the investigators. The investigators asked Mr. Atkins to write a statement advising the reason for not allowing review of the contracts. Mr. Atkins wrote a statement and signed it.

7. On October 19, 2017, Petitioner issued a subpoena duces tecum to Wade Higgins of Wade Higgins Chevrolet at the address of 1601 N. Green Avenue, Purcell, Oklahoma 73080. Respondent was requested to submit documents no later than November 20, 2017. Ten (10) Retail Installment Sales Contracts were received on October 27, 2017.

8. The copy of the Retail Installment Contract for T. Rollins lists the purchase of a 2014 Chevrolet Equinox. The Seller is listed as Wade Higgins Chevrolet-Buick-GMC with the business address listed as 1601 N. Green Avenue, Purcell, Oklahoma 73080. The terms of the contract are 78 monthly payments in the amount of \$326.86 with the first payment due on June 19, 2017. Total sales price of the vehicle is \$25,495.08. The interest rate is listed as 5.99%.

9. Respondent is not a Supervised Financial Organization [14A O.S. § 1-301(20)] or a person holding a license to make supervised loans [14A O.S. § 3-501(1)] issued under 14A O.S. § 3-501 *et seq.*



10. As of the date of the Notice, January 22, 2018, 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).

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, 2017.

12. 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. 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.

3. 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).

4. Respondent has violated 14A O.S. § 6-113(3), by engaging in making consumer credit sales, consumer leases, or consumer loans, without filing notification with the Administrator and is subject to a civil penalty not to exceed Five Thousand Dollars (\$5,000.00).

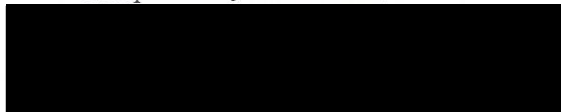
**ORDER**

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:

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), and that, as Respondent is not the prevailing party in this matter, Respondent shall pay court costs of \$510.00 incurred in this matter as authorized in 14A O.S. § 3-505(1).

WITNESS my hand this 6<sup>th</sup> day of March, 2018.

Respectfully submitted,



Ruben Tornini, Deputy Administrator  
For Scott Leshar  
Administrator of Consumer Credit  
State of Oklahoma

