

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



STATE OF OKLAHOMA, )  
*ex rel.* DEPARTMENT OF )  
CONSUMER CREDIT, )  
 )  
Petitioner, )  
 )  
v. )  
 )  
BMC, INC. D/B/A BLAZER MOTORS, )  
 )  
Respondent. )

Case No. 17-0455-DIS

**FINAL AGENCY ORDER**

This matter was heard on the 1st day of November, 2018, at approximately 9:48 a.m., the above numbered and entitled cause came on for hearing after having allowed the above-named Respondent or its legal representatives additional time to appear (after convening at approximately 9:30 a.m.), 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 the corporate Respondent BMC, Inc. d/b/a Blazer Motors, located at 9229 S. I-35 Service Road, Moore, Oklahoma 73160 (“Respondent”), did not appear through an attorney, after such corporate Respondent having been mailed a copy of the Notice and Order of Hearing filed by Petitioner herein on September 4, 2018 (the “Notice of Hearing”), in Case No. 17-0455-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

mailing address of the Registered Agent of Respondent, Blazer Motors c/o Paul M. James, Jr., at 3315 North I-35 Frontage Road, Moore, Oklahoma 73160, for Respondent's business located at 9229 S. I-35 Service Road, Moore, Oklahoma 73160, and was delivered to Respondent's Registered Agent by a representative of the U.S. Postal Service as verified through the certified return receipt (green card) signed by Respondent's Registered Agent through Felicia Stotts on September 6, 2018, 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 Chief Enforcement Attorney John T. Coyne, announced that he had not heard from or spoken to the corporate Respondent about its appearance at the hearing through an attorney. 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 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 Five Hundred Dollars (\$2,500.00), and that Respondent pay for the costs of the hearing. Mr. Coyne 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 Five Hundred Dollars (\$2,500.00), and that as Respondent is not the prevailing party in this matter, Respondent shall pay for the costs of the hearing.

After reviewing the administrative record of this individual proceeding, reviewing the evidence presented at the November 1, 2018 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 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 (OAC) § 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 finds that the following facts were proven through the Respondent's default 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 corporate Respondent BMC, Inc. d/b/a Blazer Motors, located at 9229 S. I-35 Service Road, Moore, Oklahoma 73160, did not appear through an attorney, after such Respondent having been mailed a copy of the Notice and Order of Hearing filed by Petitioner herein on September 4, 2018, in Case No. 17-0455-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 mailing address of the Registered Agent of Respondent at Blazer Motors c/o Paul M. James, Jr., at 3315 North I-35 Frontage Road, Moore, Oklahoma 73160, and was delivered to Respondent through a representative of the U.S. Postal Service as verified through the certified return receipt (green card) signed by Respondent's Registered Agent through Felicia Stotts on September 6, 2018, 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 is a domestic for profit business corporation under the State of Oklahoma, Oklahoma Secretary of State filing number 1912061970, active filing status.

4. Respondent transacts business at 9229 S. I-35 Service Road, Moore, Oklahoma 73160.

5. On December 13, 2017, Michael Thompson and Jimmie Ray, Consumer Credit Investigators, entered Respondent's business premises at 9229 S. I-35 Service Road, Moore, Oklahoma 73160, and spoke to Drew Bernardy, F & I Manager.

6. The investigators asked if Respondent offers financing options to consumers for vehicles at their location. Mr. Bernardy explained that Respondent offers indirect finance and cash options to consumers. Mr. Bernardy advised that the consumers sign the financing paperwork at Respondent's location. Mr. Bernardy advised that Respondent assigns the financing to Wells Fargo, United Auto Credit, and CPS. Upon request, investigators scanned an executed retail contract that listed customer signatures and financing terms.

7. Respondent has engaged or offered to engage in making consumer credit sales. The copy of the Retail Installment Sale Contract for R. Reyes lists the purchase of a 2010 Mercedes-Benz CLS Class. The Seller is listed as Blazer Motors with the business address listed. The terms of the contract are 60 monthly payments in the amount of \$300.97 with the first payment due on December 19, 2017. The total sales price of the motor vehicle is \$21,558.20. The interest rate is listed as 6.99%.

8. Respondent is not a licensed Supervised Financial Organization [14A O.S., § 1-



301(20)] or a person holding a license to make supervised loans issued under 14A O.S. § 3-501 *et seq.*

9. As of the date of the Notice of Hearing, September 4, 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). Respondent previously held a notification license (NOT83123); said license expired on December 31, 2009.

10. 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.

11. Respondent failed to pay the notification filing fee of \$120.00 for each business location pursuant to OKLA. ADMIN. CODE (OAC) § 160:5-1-2(2)(A).

#### **CONCLUSIONS OF LAW**

The Administrator concludes as follows:

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 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.

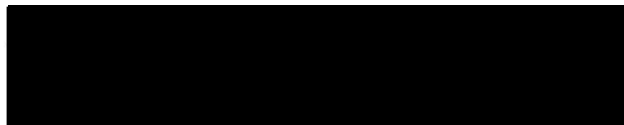
4. Respondent has violated OKLA. ADMIN. CODE (OAC) § 160:5-1-2(2)(A) by failing to pay the notification license filing fee of \$120.00 for each business location.

**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, Respondent is further 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, and Respondent is still further found to have violated OKLA. ADMIN. CODE (OAC) § 160:5-1-2(2)(A) by failing to pay the notification license filing fee of \$120.00 for each business location, for which violations Respondent shall pay a civil penalty in the amount of Two Thousand Five Hundred Dollars (\$2,500.00) as authorized in 14A O.S. § 6-113(3), and that, as Respondent is not the prevailing party in this matter, Respondent shall pay hearing costs of \$191.25 incurred in this matter as authorized in 14A O.S. § 3-505(1), for a total of \$2,691.25.

So ordered this 17<sup>th</sup> day of December, 2018.



Ruben Tornini  
Deputy Administrator of Consumer Credit  
State of Oklahoma