COLORADO DEPARTMENT OF REVENUE
MOTOR VEHICLE DEALER BOARD

Case No. BD 16-3292[1]

FINAL ORDER OF DEFAULT JUDGMENT

IN THE MATTER OF: HI TECH AUTO CARE LLC
Used Motor Vehicle Dealer License Number 41741

Respondent.

Case No. BD 16-3292 (the "Case") is a disciplinary proceeding before the Motor Vehicle Dealer Board (the "Board") involving a licensed used motor vehicle dealer, Hi Tech Auto Care LLC, License No. 41741 ("the Respondent"). Bradford Jones, Senior Assistant Attorney General I, and Aaron Neptune, Assistant Attorney General, of the Office of the Colorado Attorney General, represented the Board. The Respondent failed to answer or to provide any other responsive pleading on or before June 7, 2019, to the Notice of Charges served upon the Respondent on May 8, 2019.

Based upon the Respondent's failure to file a timely answer and pursuant to section 24-4-105(2)(b), C.R.S., the Board issued an Entry of Default on July 8, 2019. The Respondent had ten days thereafter to show good cause why the Board should set aside the Entry of Default. The Respondent did not move to set aside the entry of default, and, on July 19, 2019, the Case became ripe for a Final Order of Default Judgment.

FINDINGS OF FACT

The Board finds as fact that:

I. Procedural background

1. At all relevant times, the Respondent was a "used motor vehicle dealer" as defined in section 44-20-102(26), C.R.S. [formerly section 12-6-102(27), C.R.S.], in the State of Colorado.[2]

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[1] Note: This Board Case # BD16-3292 consolidates the legal matters set out in the reports of the investigations completed under the following investigative case files of the Auto Industry Division: #16-1913, #16-3292, #17-0412, #17-1158, #18-0340, #18-0924 and #19-0022.

[2] Effective October 1, 2018, Article 6 of Title 12 was recodified under Article 20 of Title 44. There were no substantive changes made as part of the recodification, as reflected in Senate Bill 18-030. The charges in this Final

2. At all relevant times, the Respondent operated under used motor vehicle dealer license number 41741.

3. At all relevant times, the Respondent was a used motor vehicle dealer which primarily sold vehicles that weigh one thousand five hundred pounds or more.

A. Valery Knyazhev

4. At all relevant times, Valery Knyazhev was the owner of the Respondent.

5. Mr. Knyazhev is authorized to sell motor vehicles under the Respondent's used motor vehicle dealer license.

B. Salvador Parra Aparicio

6. Salvador Parra Aparicio has held a motor vehicle salesperson's license, pursuant to section 44-20-102(19), C.R.S. [formerly section 12-6-102(20), C.R.S.], license # 195176, from January 17, 2017 to the current date.

7. Mr. Parra Aparicio worked for the Respondent, exclusively, across the period from January 17, 2017 to December 18, 2018, the date on which the Board suspended the Respondent's used motor vehicle dealer license.

C. Noel Abelino Salgado

8. Noel Abelino Salgado held a motor vehicle salesperson's license, pursuant to section 44-20-102(19), C.R.S. [formerly section 12-6-102(20), C.R.S.], license # 190994, during the following periods of time: a) between June 23, 2015 and June 30, 2016, as a permanent license; b) between August 18, 2016 and August 20, 2017, as a permanent license; and, c) between February 6, 2018 and February 12, 2018, as a temporary license.

9. Mr. Salgado worked for the Respondent, exclusively, across each of the license periods mentioned in paragraph 8.

10. Mr. Salgado did not hold a motor vehicle salesperson's license during the following periods of time: A) between July 1, 2016, and August 16, 2016; and, B) after February 12, 2018.

Order of Default Judgment refer to both the Title 12 framework and the Title 44 framework depending on whether the underlying factual allegations occurred prior to October 1, 2018 or on or after October 1, 2018.

D. Viridiana Giscela Gil

11. Viridiana Giscela Gil has held a motor vehicle salesperson's license, pursuant to section 44-20-102(19), C.R.S. [formerly section 12-6-102(20), C.R.S.], license # 193251, during the following periods of time: a) between March 21, 2016 and March 31, 2017, as a permanent license; and, b) between July 25, 2017 and the current date, as a permanent license.

12. Ms. Gil did not hold a motor vehicle salesperson's license between April 1, 2017 and July 25, 2017.

13. The Respondent is the only motor vehicle dealership with which Ms. Gil has been associated during the noted license periods.

E. Jose Urvano Aviles

14. Jose Urvano Aviles held a permanent motor vehicle salesperson's license, pursuant to section 44-20-102(19), C.R.S. [formerly section 12-6-102(20), C.R.S.], license # 188810, between October 15, 2014 and October 21, 2017, during which time Mr. Aviles worked as a salesperson exclusively for the Respondent.

F. Maribel Pinon Chavez

15. Maribel Pinon Chavez held a motor vehicle salesperson's license, pursuant to section 44-20-102(19), C.R.S. [formerly section 12-6-102(20), C.R.S.], license # 125647, intermittently from December 28, 2001 to December 31, 2006, during which time she worked as a salesperson for several different dealerships.

16. Between January 1, 2007 and September 11, 2018, Ms. Pinon Chavez did not hold a motor vehicle salesperson's license.

17. Ms. Pinon Chavez has never held a motor vehicle salesperson's license associated with the Respondent.

18. The Board has jurisdiction over the licenses (specifically, the Respondent's used motor vehicle dealer license), persons, and subject matter herein.

19. On December 18, 2018, the Board summarily suspended the Respondent's used motor vehicle dealer license based upon a determination that 1) the Respondent had deliberately and willfully violated article 6 of Title 12, C.R.S., and, 2) the public safety, health and welfare required emergency action.

II. Commencement of Matter

20. On May 8, 2019, in accordance with section 24-4-105(2)(a), C.R.S., the Office of the Colorado Attorney General served a copy of the Notice of Charges by United States Mail, first-class postage prepaid, on "Hi Tech Auto Care LLC, 8260 Brighton Rd., Commerce City, CO 80022," the Respondent's last known address of record listed with the Auto Industry Division.

21. On that same date, the Colorado Attorney General also sent a copy of the Notice of Charges by United States Mail, first-class postage prepaid, to "Valery Knyazhev (the Respondent's owner), 4942 S. Danube St., Aurora, CO 80015," the last known residence address of record listed with the Auto Industry Division.

22. The Respondent was properly served with the Notice of Charges.

23. This disciplinary action was initiated against the Respondent based on the following alleged violations: nine (9) counts of fraud pursuant to section 44-20-121(3)(d), C.R.S. [formerly section 12-6-118(3)(e), C.R.S.][3] ("Charge I"); eighteen (18) counts of fraudulent or illegal sales or transactions pursuant to section 44-20-121(3)(g), C.R.S. [formerly section 12-6-118(3)(h), C.R.S.][4] ("Charge II"); thirty-seven (37) counts of violations of any of the terms and provisions of part 1 or any rule or regulation promulgated by the board under part 1, pursuant to section 12-6-118(3)(c), C.R.S., to wit, knowingly allowing a person to exercise a privileges not held pursuant to section 12-6-109(2), C.R.S. ("Charge III"); fifteen (15) counts of engaging in business through employment of an unlicensed motor vehicle salesperson pursuant to section 12-6-118(3)(n), C.R.S. ("Charge IV"); four (4) counts of offering a false instrument for recording in the second degree pursuant to section 18-5-114, C.R.S.[5] in violation of section 12-6-118(3)(o), C.R.S. ("Charge V"); four (4) counts of attempting to influence a public servant by means of deceit pursuant to section 18-8-306, C.R.S. in violation of section 12-6-118(3)(o), C.R.S. ("Charge VI"); two (2)

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[3] Count 1 references the Title 12 framework [section 12-6-118(3)(e), C.R.S.] because the pertinent factual allegations occurred prior to October 1, 2018, while counts 2 through 9 reference the Title 44 framework [section 44-20-121(3)(d), C.R.S.] because the pertinent factual allegations occurred on or after October 1, 2018.

[4] Counts 1, 2 and 11 through 17 reference the Title 12 framework [section 12-6-118(3)(h), C.R.S.] because the pertinent factual allegations occurred prior to October 1, 2018, while counts 3 through10 and 18 reference the Title 44 framework [section 44-20-121(3)(g), C.R.S.] because the pertinent factual allegations occurred on or after October 1, 2018.

[5] The criminal statute cited under Charge V in the Notice of Charges references section 18-8-306, C.R.S., but quotes the language in subsection (3) of section 18-5-114, C.R.S. regarding the offering of a false instrument for recording. All four counts under Charge V in the Notice of Charges, however, involve allegations that the Respondent offered false instruments for recording and specifically allege the Respondent violated section 18-5-114(3), C.R.S in paragraphs 272, 273, 279, 280, 284, 285, 289 and 290. As such, the Board determines the reference to section 18-8-306, C.R.S. under Charge V was an inadvertent, clear, and obvious error that, because the specific allegations in paragraphs 272, 273, 279, 280, 284, 285, 289 and 290 in the Notice of Charges correctly cite section 18-5-114(3), C.R.S., did not materially prejudice any substantial rights of the Respondent.

counts of forgery pursuant to section 18-5-102(1)(c), C.R.S. in violation of section 12-6-118(3)(o), C.R.S. ("Charge VII"); one (1) count of failure to obtain an off-premise permit for the sale of motor vehicles away from the dealer's place of business pursuant to 1 CCR 205-1 Regulation 12-6-102(16) in violation of section 12-6-118(3)(c) ("Charge VIII"); one (1) count of completing a disclosure form without an interest rate pursuant to 1 CCR 205-1 Regulation 12-6-104(3)(k)(C)(7) in violation of section 12-6-118(3)(o) ("Charge IX"); three (3) counts of improperly issuing a second temporary registration permit pursuant to 1 CCR 204-10 Rule 34 2.9 in violation of section 12-6-118(3)(o) ("Charge X"); nine (9) counts of failure to deliver certificate of title to a purchaser pursuant to section 42-6-112, C.R.S. in violation of section 12-6-118(3)(o), C.R.S. [now section 44-20-121(3)(m), C.R.S.][6] ("Charge XI"); one (1) count of failure to provide a written document of the known material particulars pursuant to 1 CCR 205-1 Regulation 12-6-118(3)(i)(B) in violation of section 12-6-118(3)(c), C.R.S. ("Charge XII"); three (3) counts of temporary permit violations pursuant to 1 CCR 204-10 Rule 34 2.3 in violation of section 12-6-118(3)(o), C.R.S. ("Charge XIII"); four (4) counts of failure to reduce a consumer credit transaction to a written agreement pursuant to section 5-3-108, C.R.S. in violation of section 12-6-118(3)(o), C.R.S. ("Charge XIV"); four (4) counts of failing to maintain records regarding credit transactions pursuant to section 5-3-109, C.R.S. in violation of section 12-6-118(3)(o), C.R.S. ("Charge XV"); one (1) count of drafts not honored for payment in violation of section 44-20-130(1), C.R.S. ("Charge XVI"); eight (8) counts of fraud by check pursuant to section 18-5-205(2), C.R.S. in violation of section 12-6-118(3)(o), C.R.S. [now section 44-20-121(3)(m), C.R.S.][7] ("Charge XVII"); one (1) count of unfitness of financial character or record in violation of section 44-20-121(7)(c), C.R.S. ("Charge XVIII");

24. On or about May 29, 2019, the Post Office returned to the Office of the Colorado Attorney General the Notice of Charges that was addressed to Hi Tech Auto Care LLC, 8260 Brighton Rd., Commerce City, CO 80022. The envelope was marked "Return to sender – No Mail Receptacle – Not deliverable as addressed – Unable to forward." The Post Office did not return the copy of the Notice of Charges that had been contemporaneously served on the Respondent's owner, Valery Knyazhev, at his home address, 4942 S. Danube St., Aurora, CO 80015, so delivery is presumed to the owner's home address.

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[6] Count 1 references the Title 12 framework [section 12-6-118(3)(o), C.R.S.] because the pertinent factual allegations occurred prior to October 1, 2018, while counts 2 through 9 reference the Title 44 framework [section 44-20-121(3)(m), C.R.S.] because the pertinent factual allegations occurred on or after October 1, 2018.

[7] Count 1 references the Title 44 framework [section 44-20-121(3)(m), C.R.S.] because the pertinent factual allegations occurred on or after October 1, 2018, while counts 2 through 8 reference the Title 12 framework [section 12-6-118(3)(o), C.R.S.] because the pertinent factual allegations occurred prior to October 1, 2018.

25. The evidentiary hearing in this matter was set for July 24, 25 & 26, 2019.

26. The Respondent's Answer was due on or before June 7, 2019.

27. As of October 15, 2019, the Respondent has not filed an Answer or any other responsive pleading.

III. Default

28. The Board filed a Motion for Entry of Default Judgment, which was mailed to the Respondent by first class mail to its address of record.

29. The Respondent did not respond to the Motion and the Executive Secretary of the Board issued an Entry of Default, which was mailed to the Respondent by first class mail to its address of record on July 8, 2019.

30. The Respondent did not file a motion to set aside the Entry of Default.

31. By the Respondent's failure to answer the Notice of Charges, the Respondent is deemed to have admitted: a) the facts alleged in the Notice of Charges, *see Dickinson v. Lincoln Bldg. Corp.*, 378 P.3d 797, 804 (Colo. App. 2015) (citing *People v. Richards,* 748 P.2d 341, 347-48 (Colo. 1987)); and, b) the Respondent's associated liability. *See id.* (citing *Singh v. Mortensun,* 30 P.3d 853, 856 (Colo. App. 2001)). The Board's Entry of Default established the Respondent's liability. *See id.* (citing *Kwik Way Stores, Inc. v. Caldwell,* 745 P.2d 672, 678 (Colo. 1987); *Snow v. Dist. Court,* 194 Colo. 335, 337, 572 P.2d 475, 476 (1977); and, *Singh,* 30 P.3d at 855).

IV. Charge I – Defrauding Consumers

32. There are nine (9) counts of the Respondent defrauding buyers to such person's damage in violation of section 12-6-118(3)(e), C.R.S. [effective prior to October 1, 2018] with respect to count 1 and section 44-20-121(3)(d), C.R.S. [effective as of and after October 1, 2018] with respect to counts 2 through 9.

a. Charge I, Count 1:

33. On or about March 21, 2017, the Respondent sold a 2002 Acura, VIN: [redacted] ("2002 Acura"), to Guadalupe Vargas for $4,500.00.

34. As of March 2017, Salvador Parra Aparicio worked for the Respondent as a motor vehicle salesperson.

35. According to Ms. Vargas, Mr. Parra Aparicio assured her when she purchased the 2002 Acura from the Respondent that the vehicle "was clean."

36. According to Ms. Vargas, Mr. Parra Aparicio also assured her that the 2002 Acura had a "clean title" on the date of purchase.

37. Approximately two months after Ms. Vargas' purchase of the 2002 Acura from the Respondent, when she reviewed Colorado Certificate of Title [redacted] Ms. Vargas discovered that the 2002 Acura's title bore a "Rebuilt from Salvage" brand.

38. Subsequently, Ms. Vargas alleged that the Respondent had not informed her on the date of purchase that the 2002 Acura had a salvage title brand.

i. Disclosure Statement #1

39. On or about August 31, 2017, Mr. Parra Aparicio told Auto Industry Division ("AID") Criminal Investigator Joshua Dexter that he had sold Ms. Vargas the 2002 Acura and another vehicle and had, personally, issued a Branded Title Disclosure Statement (hereafter referred to as "Disclosure Statement #1") to Ms. Vargas for her purchase of the 2002 Acura on the date of purchase, March 21, 2017.

40. On that same date, after Investigator Dexter asked for the deal jacket for the 2002 Acura, Mr. Parra Aparicio searched for the deal jacket but then informed Investigator Dexter that he could not find it.

41. On or about September 6, 2017, Mr. Parra Aparicio, on behalf of the Respondent, provided Investigator Dexter with a stack of documents that Mr. Parra Aparicio characterized as the Respondent's deal jacket for the 2002 Acura.

42. Subsequently, upon review of the 2002 Acura's purported deal jacket, Investigator Dexter observed that all the documents in the stack were stapled together except for the following documents: A) a copy of the 2002 Acura's Colorado Certificate of Title [redacted] which stated the vehicle was rebuilt from salvage; and, B) Disclosure Statement #1, which Mr. Parra Aparicio had earlier claimed Ms. Vargas had signed.

43. On or about September 7, 2017, Forensic Handwriting and Document Examiner Robert Hoff, who had been asked to examine the signature on Disclosure Statement #1, reported to Investigator Dexter that Ms. Vargas' purported signature on Disclosure Statement #1 was a "traced forgery" (i.e., a reproduction of a known signature of Ms. Vargas).

44. On or about September 11, 2017, at Investigator Dexter's request, Ms. Vargas reviewed all of the documents in the deal jacket and informed Investigator Dexter that she had signed the documents stapled together and that the signatures looked good.

45. Ms. Vargas informed Investigator Dexter that she had never seen Disclosure Statement #1 prior to September 11, 2017.

46. Ms. Vargas also declared that her purported signature on Disclosure Statement #1 was not hers.

47. At the end of Investigator Dexter's meeting with Ms. Vargas, she mentioned that sometime during the week of September 4, 2017, Mr. Parra Aparicio had telephoned her to inquire whether she had already titled the 2002 Acura in her name at the DMV, and, if not, to ask her for the original title for the vehicle.

48. In response, Ms. Vargas informed Mr. Parra Aparicio that she had already titled the 2002 Acura in her name.

49. On or about October 11, 2017, in response to Investigator Dexter's inquiry whether Mr. Parra Aparicio had any additional information, Mr. Parra Aparicio replied that he did not know anything and that he had already given Investigator Dexter all of the documents that Ms. Vargas had signed.

50. Mr. Parra Aparicio then told Investigator Dexter that he had not disclosed salvage to Ms. Vargas on the purchase date because he did not know then that the 2002 Acura was salvage, but had later learned of the Salvage Branded Title after the Respondent received the certificate of title approximately a month after the purchase date.

51. Mr. Parra Aparicio then informed Investigator Dexter that, on behalf of the Respondent, he had contacted Ms. Vargas once he knew of the Salvage Branded Title and offered either to unwind the deal with Ms. Vargas or to reduce the purchase price by $1,000.00.

52. Mr. Parra Aparicio also claimed that Ms. Vargas had chosen to take $1,000.00 off the purchase price rather than unwind the deal.

53. In response to Investigator Dexter's question regarding precisely who had signed Disclosure Statement #1 and on what date it had been signed, Mr. Parra Aparicio responded that Ms. Vargas had signed the document at the time she bought the car and signed all of the other documents.

54. Investigator Dexter then confronted Mr. Parra Aparicio with the apparent inconsistency between Mr. Parra Aparicio's various statements about Disclosure Statement #1, by asking him why he had had Ms. Vargas sign a Branded Title Disclosure Statement on March 21, 2017, if, in fact, he did not know about the Salvage Branded Title until April 2017.

55. Mr. Parra Aparicio responded that Ms. Vargas had actually returned to the dealership after March 21, 2017, after the Respondent had learned about the Salvage brand on the title for the 2002 Acura, and it was then that Ms. Vargas signed Disclosure Statement #1.

56. After Investigator Dexter informed Mr. Parra Aparicio that a handwriting expert had reported that Ms. Vargas' purported signature on Disclosure Statement #1 was a forgery, Mr. Parra Aparicio denied that he had signed her name on that document, but went on to say that Ms. Vargas had signed it, but not on March 21, 2017.

57. On or about October 12, 2017, Ms. Vargas acknowledged to Investigator Dexter that the Respondent had, indeed, refunded $1,000.00 to her, but the Respondent did not, at that time, tell her about the Salvage Branded Title until two to three months after her purchase of the 2002 Acura.

58. Also on or about October 12, 2017, Ms. Vargas reiterated that she never signed the Disclosure Statement #1.

ii. Disclosure Statement #2 and Disclosure Statement #3

59. On or about October 13, 2017, Investigator Dexter ran VIN: [redacted] for the 2002 Acura through Colorado's Webextender database to examine the title history and determine if the Respondent had officially submitted Disclosure Statement # 1 to the State of Colorado.

60. Based on his search, Investigator Dexter discovered a number of documents that had been officially submitted to the State on or about October 5, 2017, all related to the 2002 Acura sold to Ms. Vargas on March 21, 2017.

61. During his review of the Webextender documents on or about October 13, 2017, Investigator Dexter discovered another Branded Title Disclosure Statement for the 2002 Acura (hereafter, "Disclosure Statement #2").

62. When Investigator Dexter compared Disclosure Statement #2 to Disclosure Statement #1, he identified the following discrepancies:

i. Disclosure Statement # 1 lacked a title number in the title number box, but one was present in Disclosure Statement # 2;
ii. Disclosure Statement #1 had computer-generated checkmarks for both the "Rebuilt from Salvage" title box and the "Type of Damage, Collision" box, whereas Disclosure Statement # 2 showed clearly-handwritten "X" marks in those boxes;
iii. the Disclosure Statement # 1's seller's signature showed "Salvador Parra," whereas the Disclosure Statement # 2's seller's signature showed "Noel Salgado; and
iv. Ms. Vargas' signature on Disclosure Statement # 1 was different from Ms. Vargas' signature on Disclosure Statement #2, and the signature on Disclosure Statement # 2 was inconsistent with any known signature of Ms. Vargas.

63. During his review of the Webextender documents for the 2002 Acura, Investigator Dexter also discovered an earlier Branded Title Disclosure Statement for the 2002 Acura (hereafter, "Disclosure Statement #3") that Boulder Nissan had generated pertaining to its prior sale of the 2002 Acura to the Respondent.

64. Disclosure Statement #3 was generated on or about February 20, 2017, when Jennifer Stark of Boulder Nissan reassigned the 2002 Acura's title to the Respondent through Noel Salgado.

65. As of February 2017, Noel Abelino Salgado was working for the Respondent as a licensed motor vehicle salesperson.

66. Disclosure Statement #3, referencing Colorado Certificate of Title [redacted] described the 2002 Acura as having a "Rebuilt from Salvage" title with previous collision damage.

67. Colorado Certificate of Title # [redacted] shows Jennifer Stark of Boulder Nissan reassigned the title to the Respondent on March 10, 2017, not February 20, 2017, and shows a reassignment of the title to Ms. Vargas by Noel Salgado on behalf of the Respondent on March 21, 2017.

68. On or about October 16, 2017, after Investigator Dexter asked Ms. Vargas whether her purported signature on Disclosure Statement #2 was hers, Ms. Vargas responded that the signature was not hers.

69. On or about October 18, 2017, after Forensic Handwriting and Document Examiner Hoff compared Ms. Vargas' purported signature in Disclosure Statement #2 with known exemplars of her signature, he concluded that the purported Vargas signature is a "simulated forgery."

70. A motor vehicle's status as a "salvage vehicle" is a material particular according to 1 CCR 205-1 Regulation 12-6-118(3)(i)(D)(1) (effective date 04/15/2016).

71. Pursuant to 1 CCR 205-1 Regulation 12-6-118(3)(i)(B) (effective date 04/15/2016), a used motor vehicle dealer must disclose a material particular in writing to the buyer by means of a disclosure document prior to the signing of the contract.

72. Colorado Certificate of Title #[redacted] shows that on or about March 10, 2017, Jennifer Stark of Boulder Nissan reassigned the title to the 2002 Acura to the Respondent, through Noel Salgado,

73. Mr. Salgado, by his signature and acting on behalf of the Respondent, reassigned the Colorado Certificate of Title #[redacted] to Ms. Vargas on or about March 21, 2017.

74. On or about February 20, 2017, approximately a month prior to selling the 2002 Acura to Ms. Vargas, the Respondent, through its employees/agents, knew that the 2002 Acura had a salvage brand title based on Disclosure Statement #3.

75. On that date, the Respondent also knew that the 2002 Acura had been rebuilt from salvage after sustaining collision damage.

76. Nevertheless, the Respondent failed to disclose this known information to Ms. Vargas in writing in accordance with 1 CCR 205-1 Regulation 12-6-118(3)(i)(B) at the time it sold the 2002 Acura to Ms. Vargas on or about March 21, 2017.

77. Instead, through Mr. Parra Aparicio, the Respondent intentionally made a false representation of material fact by informing Ms. Vargas that the 2002 Acura had a "clean title."

78. Ms. Vargas knew nothing of the 2002 Acura's salvage brand title designation before she signed the purchase contract on March 21, 2017, because of the Respondent's intentional false representation that the vehicle had a "clean title" and because the Respondent, which had the actual title showing the salvage brand at the time of sale, intentionally did not reveal the title to Ms. Vargas.

79. Because of the Respondent's misrepresentation and failure to disclose the salvage brand on the title, Ms. Vargas paid more for the 2002 Acura than was appropriate, as is evidenced by the fact that the Respondent subsequently refunded $1,000 to Ms. Vargas.

80. Based on these facts, the Respondent defrauded Ms. Vargas to her damage in violation of section 12-6-118(3)(e), C.R.S. when one of the Respondent's agents intentionally misrepresented to Ms. Vargas that the 2002 Acura had a "clean title" and also by intentionally concealing, through one of its agents, the 2002 Acura's salvage title brand from Ms. Vargas in violation of 1 CCR 205-1 Regulation 12-6-118(3)(i)(B).

b. Charge I, Counts 2 through 9

81. The Respondent purchased the eight (8) vehicles listed in Chart A in the Notice of Charges (hereafter "the Chart A vehicles") through Loveland Auto Auction (also referred to as "LAA between August 2018 and November 2018.

82. The Respondent purchased the Chart A vehicles for purposes of resale by The Respondent to consumers.

83. The Respondent purchased each of the Chart A vehicles through LAA utilizing a process termed "pending as a call draft."

84. During the period of time between August 2018 and November 2018, the process termed "pending as a call draft" referred to instances in which LAA obtained the certificate of title to a vehicle from the seller of the vehicle while payment for the vehicle was still pending from the buyer, in this case the Respondent.

85. Under this process, LAA retained possession of the certificate of title to a vehicle until the buyer of the vehicle, in this case, the Respondent, paid LAA for the vehicle in accordance with the bill of sale between the seller and buyer.

86. The designation of the sales of each of the Chart A vehicles as "pending as a call draft" indicates the Respondent agreed to pay LAA for the Chart A vehicles before it could receive the certificate of title for each vehicle from LAA.

87. Following its purchase of each of the Chart A vehicles, the Respondent subsequently sold each of the vehicles to the consumers listed in Chart A in the Notice of Charges (hereinafter, the "Chart A Consumers").

88. Prior to the sale of each Chart A vehicle, the Respondent had not paid LAA for any of the vehicles listed in Chart A in the Notice of Charges.

89. As such, the Respondent had not obtained the certificate of title to the Chart A vehicles prior to selling to the Chart A Consumers.

90. Pursuant to section 42-6-112, C.R.S. (2018), a motor vehicle dealer shall, within thirty (30) days after the sale, deliver or facilitate the delivery of the certificate of title to a purchaser or the holder of a chattel mortgage on the motor vehicle.

91. As such, the Respondent had thirty (30) days after its sale of each Chart A vehicle to provide the respective Chart A Consumer the certificate of title for the vehicle.

92. At the time the Respondent received funds from the sale of each Chart A vehicle, the Respondent did not pay or remit the funds to LAA to obtain the certificate of title for each vehicle.

93. As of February 22, 2019, the Respondent had failed to pay LAA for each of the Chart A vehicles.

94. As of February 22, 2019, LAA had not issued the certificate of title for any of the Chart A vehicles to the Respondent because the Respondent failed to pay LAA for each of the Chart A vehicles.

95. At the time of the sale of the Chart A vehicles to the Chart A Consumers, the Respondent knew it would be unable to deliver or facilitate delivery of the certificate of title for each vehicle within thirty (30) days after the sale to each respective Chart A Consumer because the Respondent had not obtained the title to each of the vehicles by paying LAA for each vehicle.

96. At the time of the sale of each of the Chart A vehicles to the Chart A Consumers, the Respondent either: (1) led each of the Chart A Consumers to believe that it would deliver or facilitate delivery of the certificate of title for each vehicle within thirty (30) days after the sale to the respective Chart A Consumer, as required by section 42-6-112, C.R.S.; or (2) failed to disclose to each of the Chart A Consumers that it would be unable to deliver or facilitate delivery of the certificate of title for each vehicle within thirty (30) days after the sale to the respective Chart A Consumer.

97. At the time of the sale of the vehicles to the Chart A Consumers, each of the Chart A Consumers was unaware that the Respondent would be unable to deliver the certificate of title to the vehicle within thirty (30) days after the sale to the respective Chart A Consumer.

98. In order to complete the sale of the vehicles to the Chart A Consumers, the Respondent misrepresented or failed to disclose its ability to deliver or facilitate

delivery of the certificate of title for each Chart A vehicle within thirty (30) days after sale.

99. None of the Chart A Consumers received the certificate of title to his or her respective vehicle from the Respondent within thirty (30) days after the dates of sale to each Chart A Consumer.

100. Because of the Respondent's failure to ensure that it could obtain the certificates of title for the Chart A vehicles from LAA, the Chart A Consumers suffered damage in that each consumer was unable to title their respective vehicle.

101. Based on these facts, the Respondent defrauded each of the listed Chart A Consumers to each consumer's damage in violation of section 44-20-121(3)(d), C.R.S. because the Chart A Consumers were unable to title their respective vehicles listed in Chart A in the Notice of Charges due to the Respondent's knowing misrepresentation and failure to disclose its inability to deliver or facilitate delivery of the certificate of title for each Chart A vehicle within thirty (30) days after sale.

102. The findings above concerning counts 1 through 9 under Charge I support the opening of the Respondent's surety bond for purposes of reimbursement of the losses and damage suffered by the consumers.

V. Charge II – Fraudulent or Illegal Sales

103. There are eighteen (18) counts of the Respondent engaging in fraudulent or illegal sales/transactions in violation of section 12-6-118(3)(h), C.R.S. [effective prior to October 1, 2018] with respect to counts 1, 2 and 11 through 17 and section 44-20-121(3)(g), C.R.S. [effective as of and after October 1, 2018] with respect to counts 3 through 10 and 18 under Charge II in the Notice of Charges.

a. Charge II, Count 1

104. As detailed in paragraphs 33 through 79 under Charge I above, the Respondent sold the 2002 Acura, VIN [redacted] to Ms. Vargas without disclosing the salvage brand title on the 2002 Acura to Ms. Vargas in writing in accordance with 1 CCR 205-1 Regulation 12-6-118(3)(i)(B).

105. The Respondent's knowing misrepresentation or failure to disclose the salvage brand title, as a material particular, for the 2002 Acura, VIN [redacted] to Ms. Vargas in writing in accordance with 1 CCR 205-1 Regulation 12-6-118(3)(i)(B) when she purchased the 2002 Acura from the

Respondent on or about March 21, 2017 constitutes having made a fraudulent sale/transaction in violation of section 12-6-118(3)(h), C.R.S.

b. Charge II, Count 2

106. On or around March 22, 2016, the Respondent sold a 2008 Honda Accord, VIN No. [redacted] ("2008 Accord"), to Julio Cesar Figueroa.

107. As of March 2016, Jose Urvano Aviles was working for the Respondent as a licensed motor vehicle salesperson.

108. Mr. Aviles completed the sale of the 2008 Accord to Mr. Figueroa on behalf of the Respondent.

109. On or around March 22, 2016, Mr. Aviles, as an agent of the Respondent, issued Temporary Permit Number [redacted] to Julio Cesar Figueroa for the 2008 Accord.

110. On or about March 10, 2017, AID Criminal Investigator Joshua Dexter requested the complete deal jacket for the sale of the 2008 Accord from the Respondent.

111. On or around March 10, 2017, Mr. Aviles, on behalf of the Respondent, emailed the deal jacket for the purchase of the 2008 Accord to Investigator Dexter.

112. The Respondent's deal jacket for the sale of the 2008 Accord to Mr. Figueroa, which Mr. Aviles emailed to Investigator Dexter, included: a three-page Buyer's Order (hereafter, the "Buyer's Order"); a one-page Buyer's Guide; and a Form DR 2434 (Disclosures Required as Part of a Motor Vehicle/Powersports Vehicle Sale).

113. On or about March 13, 2017, Mr. Aviles, on behalf of the Respondent, brought the original 2008 Accord deal jacket to Investigator Dexter for inspection.

114. The Respondent's original deal jacket for the sale of the 2008 Accord to Mr. Figueroa, which Mr. Aviles provided to Investigator Dexter on or about March 13, 2017, consisted of: a three-page Buyer's Order, a one-page Buyer's Guide, a Form DR 2434, and a scanned copy of Julio Cesar Figueroa's Mexican driver's license, as well as other documents (hereafter collectively referred to as "the Deal Jacket").

115. Mr. Aviles' name is listed next to "Salesman" on the cover page of the Deal Jacket.

116. Mr. Aviles signed the Buyer's Order and the Form DR 2434 on behalf of the Respondent as part of the sale.

117. The Buyer's Order for the 2008 Accord was dated March 22, 2016.

118. The Buyer's Guide for the 2008 Accord was not dated.

119. Form DR 2434 for the 2008 Accord was dated March 22, 2015.

120. On or about March 13, 2017, Mr. Aviles, on behalf of the Respondent, told Investigator Dexter that the Deal Jacket was created on March 22, 2016.

121. On that date, Mr. Aviles also told Investigator Dexter that Julio Cesar Figueroa signed the Buyer's Order and Form DR 2434 in the Deal Jacket.

122. According to computer generated text on the top left side of Form DR 2434, Form DR 2434 was generated by the Colorado Department of Revenue on May 26, 2016 – approximately two months after the Respondent's sale of the 2008 Accord to Mr. Figueroa.

123. On or around March 13, 2017, Mr. Aviles admitted to Investigator Dexter that he had created the Deal Jacket after the sale of the 2008 Accord to Mr. Figueroa on March 22, 2016.

124. Mr. Aviles gave a written statement to Investigator Dexter stating:

> *I Jose Aviles sold vehicle on consignment to Julio Figueroa. I issued temp tag in both our names because he didn't have US. id and he hadn't decided where to register vehicle. Deal was paid cash to dealer. Later with permission from Julio I signed his name to contract which I gave to homeland security and to Investigator Dexter which I made on February 17.*

125. Mr. Aviles created the documents in the Deal Jacket in February 2017.

126. Mr. Aviles also admitted he signed the Buyer's Order and Form DR 2434 in the Deal Jacket for Julio Cesar Figueroa.

127. Mr. Aviles paid a finder's fee of $299 to the Respondent with respect to the sale of the 2008 Accord.

128. Mr. Aviles provided false information when he gave the Deal Jacket to Investigator Dexter, who is a public employee, on March 13, 2017, initially

indicating that the Deal Jacket was completed on March 22, 2016, but subsequently admitting he created the Deal Jacket in February 2017.

129. On or about March 13, 2017, Mr. Aviles told Investigator Dexter that he completed the Deal Jacket for the sale of the 2008 Accord on March 22, 2016.

130. Later that day, Mr. Aviles admitted to Investigator Dexter that he completed the Deal Jacket in February 2017 – not on March 22, 2016.

131. Mr. Aviles told Investigator Dexter that originally the sale was completed under the table and that after he learned that Mr. Figueroa had been arrested he created the fabricated Deal Jacket in February 2017 in anticipation of inquiries about the sale of the 2008 Accord to Mr. Figueroa.

132. As an agent of the Respondent, Mr. Aviles' fabrication of the Deal Jacket in February 2017, reflecting the Respondent's sale of the 2008 Accord to Mr. Figueroa, constitutes a fraudulent sale/transaction by the Respondent in violation of section 12-6-118(3)(h).

c. Charge II, Counts 3 through 10

133. As detailed in paragraphs 81 through 100 under Charge I above, the Respondent knowingly misrepresented or failed to disclose its ability to deliver or facilitate delivery of the certificate of title for each of the eight vehicles listed in Chart A in the Notice of Charges to the Chart A Consumers within thirty (30) days after the sale of each vehicle.

134. The Respondent's knowing misrepresentation or failure to disclose its ability to deliver or facilitate delivery of the certificate of title for each of the eight vehicles listed in Chart A in the Notice of Charges to the Chart A Consumers within thirty (30) days after sale constitutes having made a fraudulent sale/transaction for each of the Chart A vehicles in violation of section 44-20-121(3)(g), C.R.S.

d. Charge II, Counts 11 through 17

135. On seven separate occasions, as reflected in Chart B in the Notice of Charges, the Respondent issued a check to Loveland Auto Auction ("LAA") to pay for motor vehicles that the Respondent had previously purchased through LAA.

136. On each occasion as reflected in Chart B in the Notice of Charges, the checks were not honored due to insufficient funds (used interchangeably with "nonsufficient funds").

137. On or about March 15, 2018, the Respondent's owner, Mr. Knyazhev, admitted to AID Criminal Investigator Francisco Macias that Check # was returned for nonsufficient funds, explaining that he had made a deposit, but the funds were put on hold, which resulted in Check # being returned nonsufficient funds.

138. On January 30, 2019, Mr. Knyazhev also admitted to Investigator Macias that the Respondent will sometimes write a check knowing there are no funds in the account, but the Respondent knows it is depositing money on the same date to cover the check.

139. By issuing each of the checks listed in Chart B in the Notice of Charges, the Respondent signified to LAA that it had sufficient funds to pay each check.

140. At the time the Respondent issued each of the checks listed in Chart B in the Notice of Charges to LAA, the Respondent knew it did not have sufficient funds to pay each of the checks or that it should have disclosed to LAA that each check might not be honored due to nonsufficient funds.

141. At the time the Respondent issued each of the checks listed in Chart B in the Notice of Charges to LAA, LAA was unware that the Respondent had nonsufficient funds to pay for each of the checks, or that each check might not be honored due to nonsufficient funds.

142. the Respondent issued each of the checks listed in Chart B in the Notice of Charges intending for LAA to accept each check as payment for previously purchased motor vehicles.

143. the Respondent's knowing misrepresentation that it had sufficient funds to pay each of the checks listed in Chart B in the Notice of Charges at the time each check was issued or the Respondent's failure to disclose to LAA that it did not have sufficient funds to pay each check listed in Chart B constitute having made fraudulent transactions in violation of section 12-6-118(3)(h), C.R.S.

e. <u>Charge II, Count 18</u>

144. On or around November 30, 2018, the Respondent issued Check # to LAA for $32,905.00 to pay for ten vehicles purchased from multiple sellers through LAA.

145. On or about December 3, 2018, Check # was not honored due to The Respondent's account having nonsufficient funds.

146. By issuing Check # the Respondent signified it had sufficient funds to pay Check

147. At the time the Respondent issued Check # to LAA, the Respondent knew that it did not have sufficient funds to pay for Check # or that it should have disclosed to LAA that Check # ght not be honored due to nonsufficient funds.

148. When it issued Check # the Respondent did not provide information to LAA explaining it either did not have sufficient funds to pay Check or that Check ight not be honored due to nonsufficient funds.

149. At the time the Respondent issued Check , LAA was unware that the Respondent had nonsufficient funds pay for Check or that each check might not be honored due to nonsufficient funds.

150. The Respondent issued Check ntending for LAA to accept the check as payment for previously purchased motor vehicles.

151. Under these circumstances, the Respondent's knowing misrepresentation that it had sufficient funds to pay Check at the time it issued the check or its failure to disclose to LAA that Check might not be honored due to nonsufficient funds constitute having made a fraudulent transaction in violation of section 44-20-121(3)(g), C.R.S.

152. The findings above concerning counts 1 through 18 under Charge II support the opening of the Respondent's surety bond for purposes of reimbursement of the losses and damage suffered by the consumers.

VI. Charge III – Knowingly Allowing Exercise of Privileges

153. There are thirty-seven (37) counts of the Respondent knowingly allowing individuals to exercise privileges as motor vehicle salespersons and/or used motor vehicle dealers when each individual did not hold the appropriate Board license in violation of section 12-6-109(2), C.R.S. under Charge III in the Notice of Charges.

a. Charge III, Counts 1 through 14:

154. Viridiana Giscela Gil has held a motor vehicle salesperson's license, pursuant to section 44-20-102(19), C.R.S. (formerly section 12-6-102(20), C.R.S.), license # during the following periods of time: A) between March 21, 2016 and March 31, 2017, as a permanent license; and, B) between July 25, 2017 and the current date, as a permanent license.

155. Ms. Gil did not hold a motor vehicle salesperson's license between April 1, 2017 and July 25, 2017.

156. During the period between April 1, 2017 and July 24, 2017, Ms. Gil worked for the Respondent as a salesperson.

157. On or about August 31, 2017, Ms. Gil acknowledged to Criminal Investigator Dexter that her motor vehicle salesperson license had expired at the time she sold the 2002 Nissan, VIN: [redacted] "2002 Nissan"), to Kristin Boerner on behalf of the Respondent on or about May 20, 2017.

158. During the period of time between April 1, 2017 and July 24, 2017, Ms. Gil sold the following vehicles listed in Chart C in the Notice of Charges, without a motor vehicle salesperson license, including the 2002 Nissan sold to Ms. Boerner on or about May 20, 2017.

159. On or about September 15, 2017, the Respondent's owner, Mr. Knyazhev, informed Investigator Dexter that Ms. Gil was paid on commission only.

160. An email sent by the Respondent on October 2, 2017, however, stated that Ms. Gil was compensated at a rate of $300.00 a week in addition to commission.

161. The Respondent's October 2, 2017 email also explained that Ms. Gil receives a 1099 form at the end of the year.

162. The Respondent violated section 12-6-109(2), C.R.S. when it knowingly allowed Viridiana Gil to exercise the privileges of a motor vehicle salesperson, when she was not licensed as motor vehicle salesperson, by selling the fourteen (14) motor vehicles listed in Chart C in the Notice of Charges on behalf of the Respondent.

b. <u>Charge III, Counts 15 through 23</u>

163. Following a complaint about unlicensed sales activity, Criminal Investigator Macias visited 14820 E. 21st Avenue, Aurora, CO on or about February 9, 2018.

164. On that date, Investigator Macias observed five motor vehicles parked in front of the residence at 14820 E. 21st Avenue, Aurora CO, all displaying temporary permits.

165. Investigator Macias also observed multiple motor vehicles in the backyard at 14820 E. 21st Avenue, Aurora, CO.

166. Investigator Macias's search on the Starfish database revealed that the temporary permits being displayed on the five vehicles parked in front of the residence at 14820 E. 21st Avenue, Aurora, CO were all issued to the Respondent.

167. According to Quick Tags, three of the five temporary permits for the five vehicles were issued by Loveland Auto Auction, Inc. ("LAA") while the other two were issued by Dealers Auto Auction of the Rockies ("DAAR") to the Respondent.

168. The invoice for the 2008 Subaru, VIN[redacted] showed that on or about January 19, 2018, The Respondent, through its salesperson, Noel Salgado, purchased the 2008 Subaru from Greeley Nissan through LAA for $3,100.00.

169. The invoice for the 2007 Lincoln, VIN:[redacted] showed that on or about February 2, 2018, the Respondent, through its owner Valery Knyazhev, purchased the 2007 Lincoln from Weld County Auto Sales through LAA for $4,200.00.

170. The invoice for the 2007 Chevrolet, VIN:[redacted] showed that on or about February 9, 2018, the Respondent, through Mr. Salgado, purchased the 2007 Chevrolet from Meridian Trust Federal Credit through LAA for $6,500.00.

171. The invoice for the 2007 Hyundai, VIN:[redacted] showed that on or about February 8, 2018, the Respondent, through its salesperson Viridiana Gil, purchased the 2007 Hyundai from Santa Fe Mart through DAAR for $1,400.00.

172. The invoice for the 2004 Chevrolet, VIN:[redacted] showed that on or about February 8, 2018, the Respondent, through Ms. Gil, purchased the 2004 Chevrolet from Brighton Auto Sales Inc. through DAAR for $4,400.00.

173. On or about February 22, 2018, Investigator Macias observed two motor vehicles parked in front of 14820 E. 21st Avenue, Aurora, CO displaying temporary permits along with several vehicles displayed as if for sale in the backyard.

174. Upon contact with Maribel Pinon Chavez at 14820 E. 21st Avenue, Aurora, CO on or about February 22, 2018, Ms. Pinon Chavez told Investigator Macias that all the vehicles belonged to her.

175. Between January 1, 2007 and September 11, 2018, Ms. Pinon Chavez did not hold a motor vehicle salesperson's license.

176. At no time did Ms. Pinon Chavez hold a motor vehicle salesperson's license in association with the Respondent.

177. On that same date, Ms. Pinon Chavez also explained to Investigator Macias that she had purchased them with her own money in order to sell them from her home at 14820 E. 21st Avenue, Aurora, CO.

178. On that same date, Ms. Pinon Chavez admitted to Investigator Macias that she used the Respondent's used motor vehicle dealer account/license at motor vehicle auctions to purchase the vehicles.

179. On that same date, Ms. Pinon Chavez admitted to Investigator Macias that she signed for the vehicles at the auctions subsequent to purchasing them using The Respondent's used motor vehicle dealer account/license.

180. Ms. Pinon Chavez also explained to Investigator Macias that the Respondent charged her every time she purchased a vehicle at the auction.

181. On that same date, Ms. Pinon Chavez told Investigator Macias that every time she sold a vehicle she took her customers to the Respondent's place of business so one of the Respondent's motor vehicle salespersons could complete the purchase paperwork for her, thereby making it appear as though the buyer purchased the vehicle from the Respondent.

182. On that same date, Ms. Pinon Chavez identified the Respondent's motor vehicle salespersons involved in the scheme as Viridiana Gil, Jose Rivera-Segura, and Salvador Parra Aparicio.

183. On that same date, Ms. Pinon Chavez admitted to Investigator Macias that she had purchased at auction and then sold approximately twenty (20) motor vehicles in this manner since October 2017 because her motor vehicle salesperson license expired in 2006.

184. During his interaction with Ms. Pinon Chavez on or about February 22, 2018, Investigator Macias counted sixteen (16) vehicles parked on the property, all of which displayed temporary permits that had been issued to the Respondent by various auto auctions.

185. On or about February 23, 2018, Investigator Macias issued to Ms. Pinon Chavez criminal summons #4280 on sixteen (16) counts for violation of

section 12-6-120(2), C.R.S. (Unlawful Acts: Acting as a dealer without being duly licensed).

186. On or about February 28, 2018, the Respondent's salesperson Viridiana Gil admitted to Investigator Macias that Ms. Pinon Chavez would buy motor vehicles at auction using the Respondent's used motor vehicle dealer license.

187. On that same date, Ms. Gil further admitted that she knew Ms. Pinon Chavez sold the motor vehicles she purchased at auction using the Respondent's used motor vehicle dealer's license.

188. On that same date, Ms. Gil also admitted that the Respondent's motor vehicle salespeople performed the dealership paperwork for Ms. Pinon Chavez's customers, thereby making it appear as though the buyer purchased the vehicle from the Respondent.

189. On that same date, Ms. Gil told Investigator Macias that Mr. Rivera-Segura and Mr. Parra Aparicio also did contract paperwork for Ms. Pinon Chavez.

190. On that same date, Ms. Gil provided nine (9) deal jackets for motor vehicles Ms. Pinon Chavez purchased at auction and then sold, utilizing the Respondent for the final dealership paperwork, as detailed in Chart D in the Notice of Charges.

191. On or about February 28, 2018, Mr. Knyazhev, the Respondent's owner, admitted to Investigator Macias that he knew Ms. Pinon Chavez.

192. Mr. Knyazhev told Investigator Macias that he stored motor vehicles with Ms. Pinon Chavez but denied letting her use the Respondent's used motor vehicle dealer license to purchase motor vehicles.

193. Mr. Knyazhev also denied that the Respondent accepted payment from Ms. Pinon Chavez for the privilege of purchasing motor vehicles at auction utilizing the Respondent's used motor vehicle dealer license.

194. On or about February 28, 2018, the Respondent's salesperson, Salvador Parra Aparicio, admitted to Investigator Macias that he helped Ms. Pinon Chavez complete contract paperwork for the sale of several vehicles using the Respondent's documents.

195. On May 22, 2018, following the issuance of the criminal summons #4280, Ms. Pinon Chavez pled guilty in Adams County Court case no. 18M887, *People v. Maribel Pinon Chavez* to one count of acting as an unlicensed seller pursuant to section 12-6-120(2), C.R.S.

196. On or about June 14, 2018, Ms. Pinon Chavez explained to Investigator Macias how she would buy vehicles from LAA using the Respondent's used motor vehicle dealer's license.

197. Ms. Pinon Chavez further stated that she did not pay any money at the auction but rather would pay the Respondent for vehicles when she sold each vehicle.

198. Ms. Pinon Chavez also explained to Investigator Macias that she would give the money in cash to a "David."

199. Ms. Pinon Chavez stated to Investigator Macias that she also gave money to Ms. Gil, Mr. Parra Aparicio, Mr. Rivera-Segura, and Mr. Salgado.

200. Ms. Pinon Chavez stated she paid the Respondent for every motor vehicle she purchased at auction and paid the Respondent's motor vehicle salespersons to draw up the contract paperwork.

201. Ms. Pinon Chavez explained that the customers she took to the Respondent would pay approximately $299.00 or $300.00 to the Respondent's motor vehicle salesperson directly when they were signing the contract paperwork.

202. Ms. Pinon Chavez also explained to Investigator Macias that the payment to the Respondent's salesperson for each vehicle she sold was reflected on the Buyer's Order as a Delivery and Handling Fee for the Respondent.

203. On or about June 14, 2018, Ms. Pinon Chavez also confirmed to Investigator Macias that the nine (9) deal jackets provided to AID by Ms. Gil were for motor vehicles she purchased at auction and then sold from her home.

204. Ms. Pinon Chavez also confirmed that the contract paperwork for the nine vehicles was completed by the Respondent's motor vehicle salespersons.

205. Without a valid used motor vehicle dealer or motor vehicle salesperson license, Ms. Pinon Chavez acted as a "used motor vehicle dealer," as defined by section 12-6-102(27), C.R.S., when she negotiated and sold the nine (9) motor vehicles on dates between June 24, 2017 and February 9, 2018, listed in Chart D in the Notice of Charges, using the Respondent's paperwork to document the sales.

206. The Respondent violated section 12-6-109(2), C.R.S. by knowingly allowing Ms. Pinon Chavez to exercise the privileges of a motor vehicle salesperson or a used motor vehicle dealer, when she was not licensed as motor vehicle salesperson or a used motor vehicle dealer, by selling the nine (9) motor vehicles on

dates between June 24, 2017 and February 9, 2018, listed in Chart D in the Notice of Charges.

c. Charge III, Counts 24 through 34

207. On or about June 14, 2018, Ms. Pinon Chavez admitted to Investigator Macias she purchased motor vehicles from various auctioneers, as reflected in Chart E in the Notice of Charges, on dates between November 1, 2017 through February 8, 2018, utilizing the Respondent's used motor vehicle dealer license privileges.

208. Without a valid used motor vehicle dealer or motor vehicle salesperson license, Ms. Pinon Chavez acted as a "motor vehicle salesperson," as defined by section 12-6-102(20), C.R.S., on behalf of the Respondent when purchasing motor vehicles listed in Chart E in the Notice of Charges at auction using the Respondent's used motor vehicle dealer license.

209. The Respondent violated section 12-6-109(2), C.R.S. when it knowingly allowed Maribel Pinon Chavez to exercise the privileges of a motor vehicle salesperson or a used motor vehicle dealer, when she was not licensed as motor vehicle salesperson or a used motor vehicle dealer, by buying the eleven (11) motor vehicles listed in Chart E in the Notice of Charges on behalf of the Respondent.

d. Charge III, Count 35

210. According to Colorado Certificate of Title #[redacted], the Respondent purchased a 2005 Chrysler Sebring, VIN: [redacted] ("2005 Chrysler"), from Larry H Miller Nissan Highlands Ranch on October 26, 2015.

211. On or about January 28, 2016, Sarah Martin purchased the 2005 Chrysler from Alex Tae for $1,000.00.

212. As of January 28, 2016, Ms. Martin believed Mr. Tae owned the 2005 Chrysler.

213. On or about January 28, 2016, Mr. Tae and Ms. Martin agreed he would fix some mechanical issues with the 2005 Chrysler for an additional $2,000.00.

214. On or about January 30, 2016, Ms. Martin met Mr. Tae at 1898 E. 69th Ave, Denver, CO to take possession of the 2005 Chrysler.

215. 1898 E. 69th Ave., Denver, CO is not a licensed location for The Respondent.

216. As of January 2016, the Respondent's authorized address on its used motor vehicle dealer license was 8260 Brighton Rd., Commerce City, CO 80022.

217. On or about January 30, 2016, Mr. Tae requested Ms. Martin sign a hand-written bill of sale in the name of the previous owner, Casandra Marquez, which Ms. Martin did not sign.

218. On or about January 30, 2016, Ms. Martin's mother, Kim Martin, wrote out a second bill of sale, stating Ms. Martin was purchasing the vehicle from Mr. Tae for $3,000.00, which Mr. Tae did not sign.

219. On or about February 1, 2016, Ms. Martin met with Mr. Tae and Chris Loggins in a parking lot in downtown Denver.

220. During the meeting on or about February 1, 2016, Mr. Loggins had Ms. Martin sign documents indicating the Respondent sold the 2005 Chrysler to Ms. Martin as of January 29, 2016.

221. The following documents that Ms. Martin signed on or about February 1, 2016 indicate that the Respondent sold the 2005 Chrysler to Ms. Martin as of January 29, 2016:

a. Colorado Certificate of Title [redacted] for the 2005 Chrysler;
b. A Buyer's Order for the 2005 Chrysler;
c. A Standard Sales Tax Receipt for the 2005 Chrysler;
d. Application for Title and/or Registration for the 2005 Chrysler; and
e. A Buyer's Guide for the 2005 Chrysler.

222. Ms. Martin was unable to title the 2005 Chrysler with the Division of Motor Vehicles because she did not have a Power of Attorney from the previous owner.

223. Ms. Martin never went to the Respondent's authorized address at 8260 Brighton Rd., Commerce City, CO 80022 as part of her purchase of the 2005 Chrysler.

224. As of January/February 2016, the Respondent did not employ Alex Tae as a licensed motor vehicle salesperson.

225. As of January/February 2016, Mr. Tae was not a licensed motor vehicle salesperson in Colorado.

226. Without a valid motor vehicle salesperson license, Mr. Tae acted as a "motor vehicle salesperson," as defined by section 12-6-102(20), C.R.S., on behalf of

the Respondent when he negotiated and sold the 2005 Chrysler to Ms. Martin before receiving payment from Ms. Martin for the 2005 Chrysler.

227. The Respondent violated section 12-6-109(2), C.R.S. when it knowingly allowed Alex Tae, who was not licensed as a motor vehicle salesperson, to exercise the privilege of a motor vehicle salesperson on the Respondent's behalf in its sale of the 2005 Chrysler to Ms. Martin.

e. Charge III, Count 36

228. As detailed in paragraphs 210 through 226 above, Chris Loggins was involved in the sale of 2005 Chrysler to Ms. Martin, and specifically had Ms. Martin sign documents indicating the Respondent sold the 2005 Chrysler to Ms. Martin.

229. As of January/February 2016, the Respondent did not employ Chris Loggins as a licensed motor vehicle salesperson.

230. As of January/February 2016, Mr. Loggins was not a licensed motor vehicle salesperson in Colorado.

231. As of April 2016, Mr. Loggins was the owner of 780 Towing and Recovery.

232. As of April 2016, Mr. Loggins towed motor vehicles on behalf of the Respondent.

233. Without a valid motor vehicle salesperson license, Mr. Loggins acted as a "motor vehicle salesperson," as defined by section 12-6-102(20), C.R.S., on behalf of the Respondent when he negotiated and sold the 2005 Chrysler to Ms. Martin and had Ms. Martin sign documents indicating the Respondent sold the 2005 Chrysler to Ms. Martin as of January 29, 2016.

234. The Respondent violated section 12-6-109(2), C.R.S. when it knowingly allowed Chris Loggins, who was not licensed as a motor vehicle salesperson, to exercise the privilege of a motor vehicle salesperson on the Respondent's behalf in its sale of the 2005 Chrysler to Ms. Martin.

f. Charge III, Count 37

235. John Daiter, who was employed and paid by the Respondent as a title clerk as of March 2016, signed the back of the Colorado Certificate of Title [redacted] transferring ownership of the 2005 Chrysler to Ms. Martin as of January 29, 2016.

236. Mr. Daiter also signed the Application for Title and/or Registration dated January 29, 2016 concerning the Respondent's sale of the 2005 Chrysler to Ms. Martin.

237. Mr. Daiter also signed the Standard Sales Tax Receipt concerning the Respondent's sale (dated January 29, 2016) of the 2005 Chrysler to Ms. Martin.

238. Mr. Daiter was not a licensed motor vehicle salesperson as of January 2016.

239. Mr. Daiter was not a licensed motor vehicle salesperson as of February 2016.

240. Without a valid motor vehicle salesperson license, Mr. Daiter acted as a "motor vehicle salesperson," as defined by section 12-6-102(20), C.R.S., on behalf of the Respondent when he signed the back of the Colorado Certificate of Title #[redacted] the Application for Title and/or Registration dated January 29, 2016, and the Standard Sales Tax Receipt associated with the sale of the 2005 Chrysler to Ms. Martin.

241. The Respondent violated section 12-6-109(2), C.R.S. when it knowingly allowed John Daiter, who was not licensed as a motor vehicle salesperson, to exercise the privilege of a motor vehicle salesperson on the Respondent's behalf by selling its 2005 Chrysler to Ms. Martin.

VII. Charge IV –Employment of an Unlicensed Motor Vehicle Salesperson

242. There are fifteen (15) counts of the Respondent engaging in the sale of motor vehicle through employment of an unlicensed motor vehicle salesperson in violation of section 12-6-118(3)(n), C.R.S. under Charge IV in the Notice of Charges.

a. Charge IV, Counts 1 through 14:

243. As detailed in paragraphs 154 through 161 above, Ms. Gil admitted to Criminal Investigator Macias on August 31, 2017 that she did not have a motor vehicle salesperson license during the period of time between April 1, 2017 through July 24, 2017 when she sold the motor vehicles listed in Chart C in the Notice of Charges on the Respondent's behalf for compensation by the Respondent.

244. During the period of time between April 1, 2017 through July 24, 2017, Ms. Gil was employed by the Respondent as a motor vehicles salesperson despite not holding a current motor vehicles salesperson license.

245. The Respondent violated section 12-6-118(3)(n), C.R.S. when it engaged in the sale of motor vehicles, as listed in Chart C in the Notice of Charges, through employment of an unlicensed motor vehicle salesperson, Ms. Gil, during the period of time between April 1, 2017 through July 24, 2017.

b. Charge IV, Count 15

246. As detailed in paragraphs 235 through 240 above, John Daiter, who worked for the Respondent as a title clerk as of March 2016, signed the back of the Colorado Certificate of Title #[redacted] the Application for Title and/or Registration, and the Standard Sales Tax Receipt as part of the sale of the 2005 Chrysler to Ms. Martin in January 2016.

247. The Respondent violated section 12-6-118(3)(n), C.R.S. when it engaged in selling the 2005 Chrysler to Ms. Martin through its employee John Daiter, who was an unlicensed motor vehicle salesperson at the time of the sale.

VIII. Charge V – Offering False Instrument for Recording

248. There are four (4) counts of the Respondent offering a false instrument for recording in violation of section 18-5-114, C.R.S. under Charge V in the Notice of Charges. [8]

a. Charge V, Count 1

249. As detailed in paragraphs 33 through 79 above, on or about March 21, 2017, the Respondent sold a 2002 Acura, VIN:[redacted] "2002 Acura"), to Guadalupe Vargas.

250. The Respondent's motor vehicles salesperson Mr. Parra Aparicio presented Disclosure Statement #1, concerning the Respondent's sale of the 2002 Acura to Ms. Vargas, to Investigator Dexter, who is a public employee, on September 6, 2017, knowing the document would be registered, filed, or recorded or become a part of the records of the State of Colorado when he gave it to Investigator Dexter.

[8] As mentioned in a footnote 5 above, the criminal statute cited under Charge V in the Notice of Charges references section 18-8-306, C.R.S., but quotes the language in subsection (3) of section 18-5-114, C.R.S. regarding the offering of a false instrument for recording. All four counts under Charge V in the Notice of Charges, however, involve allegations that the Respondent offered false instruments for recording and specifically allege the Respondent violated section 18-5-114(3), C.R.S in paragraphs 272, 273, 279, 280, 284, 285, 289 and 290. As such, the Board determines the reference to section 18-8-306, C.R.S. under Charge V was an inadvertent, clear, and obvious error that, because the specific allegations in paragraphs 272, 273, 279, 280, 284, 285, 289 and 290 in the Notice of Charges correctly cite section 18-5-114(3), C.R.S., did not materially prejudice any substantial rights of the Respondent.

251. Mr. Parra Aparicio stated he sold the 2002 Acura to Ms. Vargas on behalf of the Respondent.

252. Mr. Parra Aparicio knew Disclosure Statement #1 contained materially false information because: (1) he was present at the time of the sale of the 2002 Acura to Ms. Vargas on or about March 21, 2017, (2) Ms. Vargas had not signed Disclosure Statement #1, and (3) Ms. Vargas' purported signature was not in fact her signature.

253. On or about September 11, 2017, Ms. Vargas told Criminal Investigator Dexter that she had never seen Disclosure Statement #1 before.

254. On or about September 11, 2017, Ms. Vargas told Criminal Investigator Dexter that she did not sign Disclosure Statement #1.

255. The Respondent violated section 18-5-114(3), C.R.S. when it offered the Disclosure Statement #1 to Investigator Dexter via its salesperson, Mr. Parra Aparicio, who knew the document contained materially false information and that Disclosure Statement #1 would become part of the records of AID.

b. Charge V, Count 2

256. As detailed in paragraphs 106 through 131 above, on or around March 22, 2016, the Respondent sold a 2008 Honda Accord, VIN No. [redacted] "2008 Accord"), to Mr. Figueroa.

257. Mr. Aviles told Investigator Dexter that originally the Respondent's sale of the 2008 Accord to Mr. Figueroa was completed under the table and that he created the fabricated Deal Jacket in February 2017 after he learned that Mr. Figueroa had been arrested in anticipation of inquiries about the sale of the 2008 Accord to Mr. Figueroa.

258. Mr. Aviles provided false information when he gave the Deal Jacket to Investigator Dexter, who is a public employee, initially indicating that the Deal Jacket was completed on March 22, 2016, but subsequently admitting he created the Deal Jacket in February 2017.

259. Mr. Aviles, as an agent of the Respondent, knew the Deal Jacket, containing the materially false information, would be registered, filed, or recorded or become a part of the records of the State of Colorado when he gave it to Investigator Dexter.

260. The Respondent violated section 18-5-114(3), C.R.S. by offering a false instrument for recording when it, through its motor vehicle salesperson Mr. Aviles,

knowingly provided the Deal Jacket with material false information to Investigator Dexter.

c. Charge V, Count 3

261. As detailed in paragraphs 106 through 131 above, on or around March 22, 2016, the Respondent sold a 2008 Honda Accord to Mr. Figueroa.

262. As part of that sale, Mr. Aviles, as an agent of the Respondent, provided materially false information to Investigator Dexter, who is a public employee, when he initially gave Investigator Dexter the Buyer's Order without disclosing that Mr. Figueroa's signature was not in fact signed by Mr. Figueroa.

263. Mr. Aviles, as an agent of the Respondent, knew the Buyer's Order for the 2008 Accord, containing the material false information, would be registered, filed, or recorded or become a part of the records of the State of Colorado when he gave the Deal Jacket to Investigator Dexter.

264. The Respondent violated section 18-5-114(3), C.R.S. by offering a false instrument for recording when it, through its motor vehicle salesperson Mr. Aviles, knowingly provided the Buyer's Order for the 2008 Accord with material false information to Investigator Dexter.

d. Charge V, Count 4

265. As detailed in paragraphs 106 through 131 above, on or around March 22, 2016, the Respondent sold a 2008 Honda Accord to Mr. Figueroa.

266. As part of that sale, Mr. Aviles, as an agent of the Respondent, provided materially false information to Investigator Dexter, who is a public employee, when he initially gave Investigator Dexter Form DR 2434 without disclosing that Mr. Figueroa's signature was not in fact signed by Mr. Figueroa.

267. Mr. Aviles, as an agent of the Respondent, knew the Form DR 2434 for the 2008 Accord, containing the material false information, would be registered, filed, or recorded or become a part of the records of the State of Colorado when he gave the Deal Jacket to Investigator Dexter.

268. The Respondent violated section 18-5-114(3), C.R.S. by offering a false instrument for recording when it, through its motor vehicle salesperson Mr. Aviles, knowingly provided the Form DR 2434 for the 2008 Accord with material false information to Investigator Dexter.

IX. Charge VI – Attempt to Influence Public Servant by Means of Deceit

269. There are four (4) counts of the Respondent attempting to influence a public servant by means of deceit in violation of section 18-8-306 C.R.S. under Charge VI in the Notice of Charges.

a. Charge VI, Count 1

270. As detailed in paragraphs 106 through 132 and 256 through 259 above, on or around March 22, 2016, the Respondent sold a 2008 Honda Accord to Mr. Figueroa.

271. Mr. Aviles, as a salesperson and an agent of the Respondent, attempted to influence Investigator Dexter, who is a public servant, by deceit with the intent to alter or affect Investigator Dexter's decision/opinion/action regarding his investigation, when he initially misrepresented to Investigator Dexter that the Deal Jacket, reflecting the Respondent's sale of the 2008 Accord to Mr. Figueroa, was completed on March 22, 2016.

272. Mr. Aviles subsequently admitted he created the Dealer Jacket for the sale of the 2008 Accord to Mr. Figueroa in February 2017.

273. The Respondent attempted to influence a public servant by means of deceit in violation of section 18-8-306, C.R.S. when it, through its agent Mr. Aviles, initially misrepresented to Investigator Dexter that the Deal Jacket, reflecting the Respondent's sale of the 2008 Accord to Mr. Figueroa, was completed on March 22, 2016.

b. Charge VI, Count 2

274. As detailed in paragraphs 106 through 131 and 261 through 263 above, on or around March 22, 2016, the Respondent sold a 2008 Honda Accord to Mr. Figueroa.

275. Mr. Aviles initially indicated to Investigator Dexter that Julio Cesar Figueroa signed the Buyer's Order and Form DR 2434 for Mr. Figueroa's purchase of the 2008 Accord from the Respondent.

276. Mr. Aviles subsequently admitted to Investigator Dexter he signed the Buyer's Order in the Deal Jacket for Mr. Figueroa.

277. Mr. Aviles, as an agent of the Respondent, attempted to influence Investigator Dexter, who is a public servant, by deceit with the intent to alter or affect Investigator Dexter's decision/opinion/action regarding his investigation,

when the Respondent initially told Investigator Dexter that Mr. Figueroa signed the Buyer's Order in the Deal Jacket relating to the Respondent's sale of the 2008 Accord to Mr. Figueroa.

278. The Respondent attempted to influence a public servant by means of deceit in violation of section 18-8-306, C.R.S. when it, through its agent Mr. Aviles, initially misrepresented to Investigator Dexter that Mr. Figueroa signed the Buyer's Order in the Deal Jacket relating to the Respondent's sale of the 2008 Accord to Mr. Figueroa.

c. Charge VI, Count 3

279. As detailed in paragraphs 106 through 131 and 265 through 267 above, on or around March 22, 2016, the Respondent sold a 2008 Honda Accord to Mr. Figueroa.

280. Mr. Aviles subsequently admitted to Investigator Dexter he signed the Form DR 2434 in the Deal Jacket for Mr. Figueroa.

281. Mr. Aviles, as an agent of the Respondent, attempted to influence Investigator Dexter, who is a public servant, by deceit with the intent to alter or affect Investigator Dexter's decision/opinion/action regarding his investigation, when the Respondent initially told Investigator Dexter that Mr. Figueroa signed the Form DR 2434 in the Deal Jacket relating to the Respondent's sale of the 2008 Accord to Mr. Figueroa.

282. The Respondent attempted to influence a public servant by means of deceit in violation of section 18-8-306, C.R.S. when it, through its agent Mr. Aviles, initially misrepresented to Investigator Dexter that Mr. Figueroa signed DR 2434 in the Deal Jacket relating to the Respondent's sale of the 2008 Accord to Mr. Figueroa.

d. Charge VI, Count 4

283. As detailed in paragraphs 33 through 79 and 249 through 255 above, on or about March 21, 2017, the Respondent sold a 2002 Acura to Ms. Vargas.

284. On or about September 6, 2017, Mr. Parra Aparicio, as an agent of the Respondent, attempted to influence Investigator Dexter, who is a public servant, by deceit with the intent to alter or affect Investigator Dexter's decision/opinion/action regarding his investigation, when he misrepresented to Investigator Dexter that Disclosure Statement #1 contained Ms. Vargas' signature acknowledging her receipt

of the information from the Respondent that the 2002 Acura had a salvage brand title.

285. On that same date, Mr. Parra Aparicio, as an agent of the Respondent, attempted to influence Investigator Dexter by deceit with the intent to alter or affect Investigator Dexter's decision/opinion/action regarding his investigation, when he misrepresented to Investigator Dexter that Disclosure Statement #1 was originally completed on March 21, 2017 – the date Ms. Vargas purchased the 2002 Acura.

286. The Respondent attempted to influence a public servant by means of deceit in violation of section 18-8-306, C.R.S. when it, through its agent Mr. Parra Aparicio, initially misrepresented to Investigator Dexter that Disclosure Statement #1 contained Ms. Vargas' signature and was completed on or about March 21, 2017.

X. Charge VII – Forgery

287. There are two (2) counts of the Respondent committing forgery with intent to defraud in violation of section 18-5-102(1)(c), C.R.S. under Charge VII in the Notice of Charges.

a. Charge VII, Count 1

288. As detailed in paragraphs 33 through 79, 249 through 254 and 283 through 285 above, on or about March 21, 2017, the Respondent sold a 2002 Acura to Ms. Vargas.

289. On or about August 31, 2017, Mr. Parra Aparicio told Investigator Dexter that he had personally issued Disclosure Statement #1 to Ms. Vargas on March 21, 2017 when the Respondent sold the 2002 Acura to Ms. Vargas.

290. Forensic Handwriting and Document Examiner Robert Hoff reported to Investigator Dexter on or about September 7, 2017, that Ms. Vargas' reported signature on Disclosure Statement #1 was a "traced forgery," meaning it was a reproduction of a known signature of Ms. Vargas present on the third page of the Buyers Guide for the 2002 Acura.

291. On or about September 11, 2017, Ms. Vargas confirmed to Investigator Dexter that her reported signature on Disclosure Statement #1 was not hers.

292. She stated she had never seen Disclosure Statement #1 prior to September 11, 2017.

293. The Respondent, through an employee and/or agent, forged Ms. Vargas' signature on the Disclosure Statement #1 between March 21, 2017 and September 6, 2017.

294. The Respondent forged Ms. Vargas' signature on the Disclosure Statement #1, through an employee or agent, with the intent to defraud Investigator Dexter into believing the document contained a valid signature from Ms. Vargas in violation of section 18-5-102(1)(c), C.R.S.

b. Charge VII, Count 2

295. As detailed in paragraphs 33 through 79, 249 through 254, 283 through 285, and 288 through 293 above, on or about March 21, 2017, the Respondent sold a 2002 Acura, VIN: [redacted] ("2002 Acura"), to Ms. Vargas.

296. On or about October 13, 2017, Investigator Dexter ran VIN: [redacted] or the 2002 Acura through Colorado's Webextender database to examine the title history and determine if the Respondent had officially submitted Disclosure Statement # 1 to the State of Colorado.

297. Based on his search, Investigator Dexter discovered a number of documents that had been officially submitted to the State on or about October 5, 2017, all related to the 2002 Acura sold to Ms. Vargas on March 21, 2017.

298. During his review of the Webextender documents on or about October 13, 2017, Investigator Dexter discovered Disclosure Statement #2.

299. When Investigator Dexter compared Disclosure Statement #2 to Disclosure Statement #1, he identified the following discrepancies:

i. Disclosure Statement # 1 lacked a title number in the title number box, but one was present in Disclosure Statement # 2;
ii. Disclosure Statement #1 had computer-generated checkmarks for both the "Rebuilt from Salvage" title box and the "Type of Damage, Collision" box, whereas Disclosure Statement # 2 showed clearly-handwritten "X" marks in those boxes;
iii. the Disclosure Statement # 1's seller's signature showed "Salvador Parra," whereas the Disclosure Statement # 2's seller's signature showed "Noel Salgado;" and
iv. Ms. Vargas' signature on Disclosure Statement # 1 was different from Ms. Vargas' signature on Disclosure Statement #2, and the signature on Disclosure Statement # 2 was inconsistent with any known signature of Ms. Vargas.

300. On October 16, 2017, Ms. Vargas stated to Investigator Dexter that she did not sign her purported signature on Disclosure Statement #2.

301. On or about October 18, 2017, handwriting expert Hoff concluded that Ms. Vargas' suspected signature on Disclosure Statement #2 was a "simulated forgery."

302. The Respondent, through an employee and/or agent, forged Ms. Vargas' signature on Disclosure Statement #2 between March 21, 2017 and October 5, 2017, with the intent to defraud the State of Colorado into believing Ms. Vargas signed the document and the Respondent had properly disclosed all material particulars to Ms. Vargas during the purchase of the 2002 Acura.

303. The Respondent forged Ms. Vargas' signature on Disclosure Statement #2 in Webxtender with the intent to defraud the State of Colorado into believing the document contained a valid signature from Ms. Vargas in violation of section 18-5-102(1)(c), C.R.S.

XI. Charge VIII – Failure to Obtain Off-Premise Permit

304. There is one (1) count of the Respondent's failure to obtain an off-premise permit prior to the sale of a motor vehicle in violation of 1 CCR 205-1 Regulation 12-6-102(16) (effective date 8/14/2015) under Charge VIII in the Notice of Charges.

305. As detailed in paragraphs 210 through 226 above, the Respondent sold a 2005 Chrysler Sebring, VIN: [redacted] ("2005 Chrysler"), to Sarah Martin.

306. On or about January 30, 2016, Ms. Martin met Mr. Tae at 1898 E. 69th Ave, Denver, CO to pick up the 2005 Chrysler.

307. 1898 E. 69th Ave., Denver, CO is not a licensed location for the Respondent.

308. As of January 2016, the Respondent's authorized address on its used motor vehicle dealer license was 8260 Brighton Rd., Commerce City, CO 80022.

309. During the meeting in downtown Denver with Chris Loggins on or about February 1, 2016, Ms. Martin signed documents indicating the Respondent sold the 2005 Chrysler to her as of January 29, 2016.

310. The Respondent failed to obtain an off-premise permit to offer, display and sell motor vehicles away from its authorized place of business when Mr. Tae sold the 2005 Chrysler to Ms. Martin on behalf of the Respondent in January 2016.

311. The Respondent violated 1 CCR 205-1 Regulation 12-6-102(16) (effective date 8/14/2015) by failing to obtain an off-premise permit prior to offering, displaying and selling the 2005 Chrysler to Ms. Martin on or about January 29, 2016.

XII. Charge IX – Failure to List Interest Rate

312. There is one (1) count of the Respondent's failure to complete Disclosure Form DR 2434 in violation of 1 CCR 205-1 Regulation 12-6-104(3)(k)(C)(7) under Charge IX in the Notice of Charges.

313. On or about May 6, 2017, the Respondent sold Steven Simmons a 2004 Subaru, VIN: [redacted] "2004 Subaru") for $2,500.00.

314. The Respondent financed the sale of the 2004 Subaru to Mr. Simmons as a Buy Here Pay Here.

315. The Respondent's salesperson Noel Salgado signed the Buyer's Order on behalf of the Respondent as part of the Respondent's sale of the 2004 Subaru to Mr. Simmons on or about May 6, 2017.

316. Mr. Salgado also signed the DR 2434 – "Disclosures Required as Part of a Motor Vehicle/Powersports Vehicle Sale" form on behalf of the Respondent as part of its sale of the 2004 Subaru to Mr. Simmons on or about May 6, 2017.

317. The Respondent's salesperson Salvador Parra Aparicio told Criminal Investigator Frank Macias on July 19, 2018 that the Respondent did not charge interest on the Respondent's financing of the sale of the 2004 Subaru to Mr. Simmons.

318. As part of the sale of the 2004 Subaru to Mr. Simmons, the Respondent issued a DR 2434 – "Disclosures Required as Part of a Motor Vehicle/Powersports Vehicle Sale" form, but the Respondent did not complete the "credit sale" section on that form.

319. The "credit sale" section on the form for the sale of the 2004 Subaru to Mr. Simmons includes "0.00%" listed as the annual percentage rate of interest.

320. There are no initials or signatures on behalf of the Respondent in the check box for paragraph "E. CREDIT SALE," under the "credit sale" section of the

DR Form 2434 – "Disclosures Required as Part of a Motor Vehicle/Powersports Vehicle Sale."

321. There are no initials or signatures on behalf of the Respondent or Mr. Simmons in the check boxes for paragraph "E.1. CANCELLATION," under the "credit sale" section of the DR Form 2434 – "Disclosures Required as Part of a Motor Vehicle/Powersports Vehicle Sale."

322. There are no initials or signatures on behalf of the Respondent or Mr. Simmons in the check boxes for paragraph "E.2. FEES," under the "credit sale" section of the DR Form 2434 – "Disclosures Required as Part of a Motor Vehicle/Powersports Vehicle Sale."

323. There are no initials or signatures on behalf of the Respondent or Mr. Simmons in the check boxes for paragraph "E.3. COSTS," under the "credit sale" section of the DR Form 2434 – "Disclosures Required as Part of a Motor Vehicle/Powersports Vehicle Sale."

324. The lack of initials and/or signatures by the Respondent's representative and Mr. Simmons in the four areas of the "credit sale" section detailed in the four allegations immediately demonstrate the Respondent's failure to complete the "credit sale" section on the DR 2434 – "Disclosures Required as Part of a Motor Vehicle/Powersports Vehicle Sale" form.

325. Pursuant to 1 CCR 205-1 Regulation 12-6-104(3)(k)(C)(7), a used motor vehicle dealer must complete a disclosure form with an interest rate that the used motor vehicle dealer reasonably believes can be obtained based on the creditworthiness of the prospective buyer.

326. The Respondent violated 1 CCR 205-1 Regulation 12-6-104(3)(k)(C)(7) when it, through its agent, failed to complete the "credit sale" section on the DR 2434 – "Disclosures Required as Part of a Motor Vehicle/Powersports Vehicle Sale" form as part of its sale of the 2004 Subaru to Mr. Simmons.

XIII. Charge X – Impermissible Multiple Temporary Registration Permits

327. There are three (3) counts of the Respondent's inappropriately issuing temporary registration permits in violation of 1 CCR 204-10 Rule 34 2.9 under Charge X in the Notice of Charges.

a. Charge X, Count 1

328. As detailed in paragraphs 313 through 326 above, the Respondent sold Steven Simmons a 2004 Subaru on or about May 6, 2017.

329. The Respondent issued five temporary permits to Mr. Simmons, following its sale of the 2004 Subaru to Mr. Simmons, between approximately May 6, 2017 and February 9, 2018.

330. The Respondent issued the initial temporary permit (serial number [redacted] to Mr. Simmons for the 2004 Subaru on May 6, 2017.

331. The Respondent issued the second temporary permit (serial number [redacted]) to Mr. Simmons for the 2004 Subaru on July 17, 2017.

332. The Respondent issued the third temporary permit (serial number [redacted] to Mr. Simmons for the 2004 Subaru on September 15, 2017.

[redacted] The Respondent issued the fourth temporary permit (serial number [redacted] to Mr. Simmons for the 2004 Subaru on November 22, 2017.

[redacted] The Respondent issued the fifth temporary permit (serial number [redacted] to Mr. Simmons for the 2004 Subaru on February 9, 2018.

335. Pursuant to 1 CCR 204-10 Rule 34 2.9, a temporary registration permit is not renewable.

336. Pursuant to 1 CCR 204-10 Rule 34 2.9, a used motor vehicle dealer may issue a second temporary registration permit only when the circumstance outlined in section 42-3-203(3)(d), C.R.S. are met.

337. 1 CCR 204-10 Rule 34 2.9 does not permit a used motor vehicle dealer to issue more than an initial temporary registration permit and a second temporary registration permit when the circumstance outlined in section 42-3-203(3)(d), C.R.S. are met.

338. Section 42-3-203, C.R.S. (2017) does not permit a used motor vehicle dealer to issue more than a second temporary registration permit.

339. The Respondent was not authorized to issue the third temporary permit (serial number [redacted] to Mr. Simmons for the 2004 Subaru on September 15, 2017.

340. The Respondent violated violation of 1 CCR 204-10 Rule 34 2.9 when it issued a third temporary permit to Mr. Simmons for the 2004 Subaru on September 15, 2017.

b. Charge X, Count 2

341. As detailed in paragraphs 313 through 326 and 328 through 339 above, the Respondent sold Steven Simmons a 2004 Subaru on or about May 6, 2017.

342. The Respondent was not authorized to issue the fourth temporary permit (serial numbe[redacted]o Mr. Simmons for the 2004 Subaru on November 22, 2017.

343. The Respondent violated violation of 1 CCR 204-10 Rule 34 2.9 when it issued a fourth temporary permit to Mr. Simmons for the 2004 Subaru on November 22, 2017.

c. Charge X, Count 3

344. As detailed in paragraphs 313 through 326, 328 through 339, and 341 through 342 above, the Respondent sold Steven Simmons a 2004 Subaru on or about May 6, 2017.

345. The Respondent was not authorized to issue the fifth temporary permit (serial number O053673) to Mr. Simmons for the 2004 Subaru on February 9, 2018.

346. The Respondent violated violation of 1 CCR 204-10 Rule 34 2.9 when it issued a fifth temporary permit to Mr. Simmons for the 2004 Subaru on February 9, 2018.

XIV. Charge XI – Failure to Provide Title within Thirty (30) Days

347. There are nine (9) counts of the Respondent's failure to deliver title within thirty (30) days of sale in accordance with section 42-6-112, C.R.S. under Charge XI alleged in the Notice of Charges.

a. Charge XI, Count 1

348. As detailed in paragraphs 313 through 325 above, the Respondent sold Steven Simmons a 2004 Subaru on or about May 6, 2017.

349. The Respondent did not provide Mr. Simmons with or facilitate delivery of the certificate of title to the 2004 Subaru within thirty (30) days after the sale of the vehicle to Mr. Simmons on or about May 6, 2017.

350. The Respondent's salesperson Viridiana Gil told Investigator Macias on or about July 19, 2018, that the Respondent gave the title for the 2004 Subaru along with all of the title paperwork to Mr. Simmons approximately sixty (60) days

after the Respondent sold the 2004 Subaru to Mr. Simmons because that is when his temporary permit was set to expire.

351. Ms. Gil also told Criminal Investigator Macias on or about July 19, 2018, that the Respondent's standard practice at the time was to give the title to a vehicle to the customer when the customer was ready to get their license plate.

352. The Respondent's failure to provide Mr. Simmons with or to facilitate delivery of the certificate of title to the 2004 Subaru within thirty (30) days after the sale of the vehicle to Mr. Simmons on or about May 6, 2017, constitutes a violation of section 42-6-112, C.R.S.

b. Charge XI, Counts 2 through 9

353. As detailed in paragraphs 81 through 100 and 133 above, the Respondent failed to provide the Chart A Consumers with or to facilitate delivery of the certificates of title to the motor vehicles listed in Chart A in the Notice of Charges within thirty (30) days after the sale of each of the vehicles to the Chart A Consumers in violation of section 42-6-112, C.R.S.

XV. Charge XII - Failure to Disclose Material Particular

354. There is one (1) count of failure to disclose material particulars during a sale of a motor vehicle in accordance with 1 CCR 205-1 Regulation 12-6-118(3)(i)(B) under Charge XII alleged in the Notice of Charges.

355. As detailed in paragraphs 33 through 79 above, the Respondent sold a 2002 Acura to Ms. Vargas in February 2017.

356. Approximately a month prior to selling the 2002 Acura to Ms. Vargas on or about February 20, 2017, the Respondent, through its employees/agents, knew that the 2002 Acura had a salvage brand title based on Disclosure Statement #3.

357. On that date, the Respondent also knew that the 2002 Acura had been rebuilt from salvage after sustaining collision damage.

358. The designation of the 2002 Acura as a "Salvage vehicle" as defined in Colorado "Certificate of Title Act," part 1 of article 6 of title 42, C.R.S. constitutes as material particular under 1 CCR 205-1, Regulation 12-6-118(3)(i)(D)(1) (effective date 04/15/2016).

359. The Respondent violated 1 CCR 205-1 Regulation 12-6-118(3)(i)(B) by intentionally failing to inform Ms. Vargas in writing of the salvage brand title

designation on her 2002 Acura as a material particular when Ms. Vargas purchased the 2002 Acura.

XVI. Charge XIII - Issuing Temporary Permits Prior to Sale

360. There are three (3) counts of issuing temporary permits without a sale in violation of 1 CCR 204-10 Rule 34 2.3 under Charge XIII alleged in the Notice of Charges.

a. Charge XIII, Counts 1 through 3

361. The Respondent issued three separate temporary tags for the motor vehicles listed in Chart F in the Notice of Charges prior to the consummation of a sale.

362. The Respondent owner, Valery Knyazhev, admitted to Criminal Investigator Frank Macias by email on September 28, 2017 that the Respondent issued multiple temporary tags on individual motor vehicles prior to consummation of sale.

363. Specifically, the Respondent issued temporary tags (see Column B in Chart F in the Notice of Charges) to the motor vehicles listed in Chart F prior to the dates that the Respondent actually sold each motor vehicle.

364. The Respondent violated 1 CCR 204-10 Rule 34 2.3 when it issued the temporary permits to each individual listed in Chart F in the Notice of Charges when those individuals had not yet purchased the associated motor vehicle.

XVII. Charge XIV - Failure to Provide Copies of Retail Installment Sales Contracts to Consumers

365. There are four (4) counts of the Respondent failing to provide consumers with a written agreement reflecting a consumer credit transaction, specifically a Retail Installment Sales Contract ("RISC"), in violation of section 5-3-108, C.R.S. under Charge XIV alleged in the Notice of Charges.

a. Charge XIV, Counts 1 through 4

366. The Respondent sold a 2008 Jeep, VIN: [redacted] ("2008 Jeep") to Ciara Mendoza on or about November 4, 2016.

367. As part of its sale of the 2008 Jeep to Ms. Mendoza, the Respondent provided in-house financing to Ms. Mendoza to finalize her purchase, but the Respondent had not provided Ms. Mendoza with a copy of the RISC.

368. The Respondent also failed to provide copies of RISCs to other consumers to whom the Respondent had sold motor vehicles using in-house financing through the dealership.

369. The Respondent admitted on or about September 15, 2017 to Investigator Macias, through its owner, Mr. Knyazhev, that while the Respondent entered into in-house financing with some of its consumers, the Respondent did not complete a RISC for that financing.

370. The Respondent sold the four (4) motor vehicles listed in Chart G in the Notice of Charges, with in-house financing through the Respondent, but failed to provide the motor vehicle consumers listed in Chart G with a copy of a RISC.

371. The Respondent is obligated to provide a copy of a RISC to the consumer to whom it has provided in-house financing at or before the time credit is extended, pursuant to section 5-3-108, C.R.S.

372. The Respondent's consumer credit transactions referenced in Chart G in the Notice of Charges are not valid or enforceable in Colorado because the terms of the transactions were not provided to the Chart G consumers.

373. A copy of the RISC should have been provided by law to the Chart G consumers at or before the time the credit was extended.

374. The Respondent violated section 5-3-108, C.R.S. when it failed to provide the consumers listed in Chart G in the Notice of Charges with copies of a RISC entered into by the Respondent and the Chart G consumers.

XVIII. Charge XV – Failure to Maintain Records Regarding Credit Transactions

375. There are four (4) counts of the Respondent failing to maintain records pertaining to a consumer credit transaction in violation of section 5-3-109, C.R.S. under Charge XV alleged in the Notice of Charges.

a. Charge XV, Counts 1 through 4

376. As detailed in paragraphs 366 through 373 above, the Respondent sold the four (4) motor vehicles listed in Chart G in the Notice of Charges with in-house financing through the Respondent, but failed to maintain records of the Retail Installment Sales Contract ("RISC") entered into with each consumer listed in Chart G.

377. The Respondent, by financing the purchases by the consumers listed in Chart G of the four (4) motor vehicles listed in Chart G, was a creditor which failed to maintain its records using generally accepted accounting principles and practices in a manner that would make the records reasonably available when required for examination.

378. The Respondent violated section 5-3-109, C.R.S. by failing to maintain a copy of the RISC in its records for each of the credit transactions listed in Chart G in the Notice of Charges

XIX. Charge XVI - Drafts not honored for payment – Check #1854

379. There is one (1) count of the Respondent failing to honor a check in violation of section 44-20-130(1), C.R.S. under Charge XVI alleged in the Notice of Charges.

380. As detailed in paragraphs 144 through 150 above, the Respondent issued Check [redacted] to Loveland Auto Auction ("LAA") on or about November 30, 2018 for $32,905.00.

381. On or about December 3, 2018, Check [redacted] was not honored due to the Respondent having nonsufficient funds.

382. As of February 22, 2019, the Respondent had not paid the $32,905.00 to LAA to compensate for Check [redacted] that was not honored due to nonsufficient funds.

383. The Respondent violated section 44-20-130(1), C.R.S. when it failed to honor its Check [redacted] LAA.

XX. Charge XVII – Fraud by Check

384. There are eight (8) counts of the Respondent committing fraud by check with the intent to defraud by issuing a check knowing it had insufficient funds in violation of section 18-5-205(2), C.R.S. under Charge XVII alleged in the Notice of Charges.

a. Charge XVII, Count 1 – Fraud by Check # [redacted]

385. As detailed in paragraphs 144 through 150 and 380 through [redacted] above, The Respondent issued Check # [redacted] to LAA for $32,905.00. That Check # [redacted] was not honored due to the Respondent having nonsufficient funds.

386. Because Check # [redacted] was returned due to nonsufficient funds within thirty (30) days after the Respondent issued it, the Respondent is presumed to know that it had insufficient funds at the time it issued Check [redacted] on or around November 30, 2018.

387. The evidence surrounding the issuance of Check # [redacted] shows the Respondent had the specific intent to defraud LAA when it issued Check # [redacted]

388. The Respondent's issuance of a Check [redacted] with the intent to defraud LAA when the Respondent knew it lacked sufficient funds to pay the check constitutes a violation of section 18-5-205(2), C.R.S.

b. Charge XVII, Counts 2 through 8 – Fraud by Check (Chart B Checks)

389. As detailed in paragraphs 135 through 142 above, the Respondent issued seven separate checks to LAA as listed in Chart B in the Notice of Charges. Those seven checks, listed in Chart B, were not honored due to the Respondent having nonsufficient funds.

390. Because each of the checks listed in Chart B in the Notice of Charges was returned due to nonsufficient funds within thirty (30) days after the Respondent issued it, the Respondent is presumed to know that it had insufficient funds at the time it issued each check listed in Chart B.

391. The evidence surrounding the issuance of each of the checks listed in Chart B in the Notice of Charges shows the Respondent had the specific intent to defraud LAA when it issued each check.

392. The Respondent's issuance of each of the seven checks listed in Chart B with the intent to defraud LAA when the Respondent knew it lacked sufficient funds to pay the check constitutes a violation of section 18-5-205(2), C.R.S.

XXI. Charge XVIII – Unfitness of Financial Character

393. There is one (1) count of the Respondent's unfitness of financial character in violation of section 44-20-121(7)(c), C.R.S. under Charge XVIII alleged in the Notice of Charges.

394. As detailed in paragraphs 135 through 150 and 385 through 392 above, between December 2016 and November 30, 2018, the Respondent issued to LAA the seven checks listed in Chart B in the Notice of Charges as well as Check [redacted] which were not honored due to the Respondent having nonsufficient funds.

395. As of February 22, 2019, the Respondent had not paid the $32,905.00 to LAA to compensate for Check [redacted] that was not honored due to nonsufficient funds.

396. The Respondent's failure to have sufficient funds to pay its obligations demonstrates unfitness of financial character in violation of section 44-20-121(7)(c), C.R.S.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board concludes as a matter of law that:

1. The Board has jurisdiction over the Respondent and its used motor vehicle dealer license, as well as the subject matter of this action pursuant to Article 6 of Title 12, C.R.S [now Article 20 of Title 44, C.R.S.].

2. The Board provided the Respondent with proper notice of the charges in the May 8, 2019 Notice of Duty to Answer, Notice of Hearing and Notice of Charges. The Board served the Respondent with the Notice of Charges on May 8, 2019. The Notice of Charges complied with the requirements of sections 24-4-104(3)(a) and 24-4-105(2)(a), C.R.S.

3. The Respondent failed to answer the Notice of Charges required by section 24-4-105(2)(b), C.R.S.

4. The Respondent has received timely notice of the time, place, and nature of this matter; of all matters of fact and law asserted; and of all matters required by section 24-4-105(2)(a), C.R.S. in the manner required by that section.

5. By failing to file an Answer within thirty (30) days of the service of the Notice of Charges on May 8, 2019, the Respondent admitted all of the facts and associated liabilities alleged in the Notice of Charges. The Board's subsequent issuance of the Entry of Default was proper and established the Respondent's liabilities as set out in the Notice of Charges.

6. The Board has authority to order disciplinary action, up to and including revocation, against a used motor vehicle dealer license pursuant to section 12-6-118, C.R.S. [now section 44-20-121, C.R.S.]

I. Charge I – Defrauding Consumers

7. Based upon Charge I, the Board may deny, suspend, or revoke a used motor vehicle dealer's license for defrauding any buyer, seller, motor vehicle

salesperson, or financial institution to such person's damage. § 44-20-121(3)(d), C.R.S. [formerly § 12-6-118(3)(e), C.R.S. prior to October 1, 2018].[9]

8. To establish a violation for defrauding a retail buyer to such person's damage, the Board must show all the elements of a fraudulent business practice and proof of damage. *Colo. Motor Vehicle Dealer Bd. v. Butterfield*, 9 P.3d 1148, 152 (Colo. App. 2000).

9. The Board has presented a prima facie showing in counts 1 through 9 under Charge I, listed in paragraphs 33 through 101 of the findings of fact and Chart A in the Notice of Charges, that the Respondent defrauded buyers to each buyer's damage.

10. With respect to count 1, the Respondent's defrauding of Ms. Vargas to her damage subjects the Respondent's license to discipline pursuant to section 12-6-118(3)(e), C.R.S.

11. With respect to counts 2 through 9, the Respondent's defrauding of each of the consumers listed in Chart A in the Notice of Charges to each consumer's damage subjects the Respondent's license to discipline pursuant to section 44-20-121(3)(d), C.R.S.

12. Because the Respondent defrauded buyers to their damage in counts 1 through 9 of Charge I, as shown in paragraphs 33 through 101 of the finding of facts and Chart A in the Notice of Charges, the Board may fine and revoke the Respondent's used motor vehicle dealer license.

13. Additionally, as noted in paragraph 102 of the findings of fact, the Respondent engaged in "fraud" with respect to counts 1 through 9 under Charge I for purposes of claims against the Respondent's bond, pursuant to section 44-20-112(2)(b), C.R.S. [formerly section 12-6-111(2)(b), C.R.S.].

II. <u>Charge II – Fraudulent Sale</u>

14. Based upon Charge II, the Board may deny, suspend, or revoke a used motor vehicle dealer's license for having made a fraudulent or illegal, sale,

[9] Count 1 references the Title 12 framework [section 12-6-118(3)(e), C.R.S.] because the pertinent factual allegations occurred prior to October 1, 2018, while counts 2 through 9 reference the Title 44 framework [section 44-20-121(3)(d), C.R.S.] because the pertinent factual allegations occurred on or after October 1, 2018.

transaction, or repossession. § 44-20-121(3)(g), C.R.S. [formerly § 12-6-118(3)(h), C.R.S. prior to October 1, 2018].[10]

15. To establish a violation for having indulged in fraudulent business practices, the Board must show that: (1) the Respondent made a false representation or failed to disclose a material fact; (2) the Respondent knew the representation was false or that disclosure should be made; (3) the party to whom to representation was made did not know of its falsity or was unaware of the undisclosed fact; and, (4) the Respondent's conduct was undertaken with intent that it be acted upon. *Butterfield*, 9 P.3d at 1152.

16. The Board has presented a prima facie showing in counts 1 through 18 under Charge II, listed in paragraphs 103 through 151 of the findings of fact and Charts A and B in the Notice of Charges, demonstrating the Respondent made a fraudulent or illegal sale, transaction, or repossession.

17. With respect to count 1, the Respondent's fraudulent sale to Ms. Vargas to her damage subjects the Respondent's license to discipline pursuant to section 12-6-118(3)(h), C.R.S.

18. With respect to count 2, the Respondent's fraudulent sale to Julio Cesar Figueroa subjects the Respondent's license to discipline pursuant to section 12-6-118(3)(h), C.R.S.

19. With respect to counts 3 through 10, the Respondent's fraudulent transactions/sales to the damage of the Chart A consumers subjects the Respondent's license to discipline pursuant to section 44-20-121(3)(g), C.R.S.

20. With respect to counts 11 through 17, the Respondent's fraudulent transactions/sales involving the issuance of seven checks to LAA that were returned due to nonsufficient funds subjects the Respondent's license to discipline pursuant to section 12-6-118(3)(h), C.R.S.

21. With respect to count 18, the Respondent's fraudulent transaction/sale involving the issuance of the Respondent's Check [redacted] to LAA that was returned due to nonsufficient funds subjects the Respondent's license to discipline pursuant to section 44-20-121(3)(g), C.R.S.

22. Because the Respondent engaged in fraudulent sales and transactions, as shown in paragraphs 103 through 151 of the findings of fact and Charts A and B

[10] Counts 1, 2 and 11 through 17 reference the Title 12 framework [section 12-6-118(3)(h), C.R.S.] because the pertinent factual allegations occurred prior to October 1, 2018, while counts 3 through10 and 18 reference the Title 44 framework [section 44-20-121(3)(g), C.R.S.] because the pertinent factual allegations occurred on or after October 1, 2018.

in the Notice of Charges, the Board may fine and revoke the Respondent's used motor vehicle dealer license.

23. Additionally, as noted in paragraph 152 of the findings of fact, the Respondent engaged in fraudulent sales and transactions with respect to counts 1 through 18 under Charge II for purposes of claims against bond pursuant to section 44-20-112(2)(b), C.R.S. [formerly section 12-6-111(2)(b), C.R.S.].

III. Charge III – Unlicensed Sales

24. Based upon Charge III, the Board may deny, suspend, or revoke the used motor vehicle dealer's license for violating any of the terms and provisions of part 1 of Article 6 of Title 12 [now part 1 of Article 20 of Title 44] (hereafter "part 1") or any rule or regulation promulgated by the board under part 1. § 12-6-118(3)(c), C.R.S. [now § 44-20-121(3)(b), C.R.S.].[11] Each license issued under part 1 is separate and distinct. It is a violation of part 1 for a person to exercise any of the privileges granted under a license that the person does not hold, or for a licensee to knowingly allow such an exercise of privileges. § 12-6-109(2), C.R.S. [now § 44-20-110(2), C.R.S.]. "Motor vehicle salesperson" means a natural person who, for a salary, commission, or compensation of any kind, is employed either directly or indirectly, regularly or occasionally, by a motor vehicle dealer or used motor vehicle dealer to sell, lease, purchase, or exchange or to negotiate for the sale, lease, purchase, or exchange of motor vehicles. § 12-6-102(20), C.R.S. [now § 44-20-102(19), C.R.S.].

25. The Board has presented a prima facie showing in counts 1 through 37 under Charge III, listed in paragraphs 153 through 241 of the findings of fact and Charts C, D and E in the Notice of Charges, demonstrating the Respondent knowingly allowed multiple unlicensed motor vehicle salespersons to exercise privileges they did not hold.

26. With respect to counts 1 through 14, the Respondent's violation of section 12-6-109(2), C.R.S. by knowingly allowing Viridiana Gil to exercise the privileges of a motor vehicle salesperson, when she was not licensed as motor vehicle salesperson, by selling the fourteen (14) motor vehicles listed in Chart C in the Notice of Charges subjects the Respondent's license to discipline pursuant to section 12-6-118(3)(c), C.R.S.

27. With respect to counts 15 through 23, the Respondent's violation of section 12-6-109(2), C.R.S. by knowingly allowing Ms. Pinon Chavez to exercise the

[11] Counts 1 through 37 reference the Title 12 framework [section 12-6-118(3)(c), C.R.S.] because the pertinent factual allegations occurred prior to October 1, 2018.

privileges of a motor vehicle salesperson or a used motor vehicle dealer, when she was not licensed as a motor vehicle salesperson or a used motor vehicle dealer, by selling the nine (9) motor vehicles on dates between June 24, 2017 and February 9, 2018, listed in Chart D in the Notice of Charges subjects the Respondent's license to discipline pursuant to section 12-6-118(3)(c), C.R.S.

28. With respect to counts 24 through 34, the Respondent's violation of section 12-6-109(2), C.R.S. by knowingly allowing Ms. Pinon Chavez to exercise the privileges of a motor vehicle salesperson or a used motor vehicle dealer, when she was not licensed as a motor vehicle salesperson or a used motor vehicle dealer, by buying the eleven (11) motor vehicles listed in Chart E in the Notice of Charges on behalf of the Respondent subjects the Respondent's license to discipline pursuant to section 12-6-118(3)(c), C.R.S.

29. With respect to count 35, the Respondent's violation of section 12-6-109(2), C.R.S. by knowingly allowing Alex Tae, who was not licensed as a motor vehicle salesperson, to exercise the privilege of a motor vehicle salesperson on the Respondent's behalf by selling the 2005 Chrysler to Ms. Martin subjects the Respondent's license to discipline pursuant to section 12-6-118(3)(c), C.R.S.

30. With respect to count 36, the Respondent's violation of section 12-6-109(2), C.R.S. by knowingly allowing Chris Loggins, who was not licensed as a motor vehicle salesperson, to exercise the privilege of a motor vehicle salesperson on the Respondent's behalf by selling the 2005 Chrysler to Ms. Martin subjects the Respondent's license to discipline pursuant to section 12-6-118(3)(c), C.R.S.

31. With respect to count 37, the Respondent's violation of section 12-6-109(2), C.R.S. by knowingly allowing John Daiter, who was not licensed as a motor vehicle salesperson, to exercise the privilege of a motor vehicle salesperson on the Respondent's behalf by selling the 2005 Chrysler to Ms. Martin subjects the Respondent's license to discipline pursuant to section 12-6-118(3)(c), C.R.S.

32. As a result of these violations of section 12-6-109(2), C.R.S. [now section 44-20-110(2), C.R.S.] by the Respondent, the Board may fine and revoke the Respondent's used motor vehicle dealer license pursuant to section 12-6-118(3)(c), C.R.S. [now section 44-20-121(3)(b), C.R.S.].

IV. <u>Charge IV – Employment of an Unlicensed Motor Vehicle Salesperson</u>

33. Based upon Charge IV, the Board may deny, suspend, or revoke a used motor vehicle dealer's license for engaging in such business through employment of

an unlicensed motor vehicle salesperson. § 12-6-118(3)(n) [now § 44-20-121(3)(l)].[12] "Motor vehicle salesperson" means a natural person who, for a salary, commission, or compensation of any kind, is employed either directly or indirectly, regularly or occasionally, by a motor vehicle dealer or used motor vehicle dealer to sell, lease, purchase, or exchange or to negotiate for the sale, lease, purchase, or exchange of motor vehicles. § 12-6-102(20), C.R.S. [now § 44-20-102(19), C.R.S.].

34. The Board has presented a prima facie showing in counts 1 through 15 of Charge IV, listed in paragraphs 242 through 247 of the findings of fact, that the Respondent employed an unlicensed motor vehicle salesperson.

35. With respect to counts 1 through 14, the Respondent's violation of section 12-6-118(3)(n), C.R.S. by engaging in the sale of motor vehicles, as listed in Chart C in the Notice of Charges, through employment of an unlicensed motor vehicle salesperson, Ms. Gil, during the period of time between April 1, 2017 through July 24, 2017 subjects the Respondent's license to discipline pursuant to section 12-6-118(3)(n), C.R.S.

36. With respect to count 15, the Respondent's violation of section 12-6-118(3)(n), C.R.S. by engaging in the sale of the 2005 Chrysler to Ms. Martin through employment of an unlicensed motor vehicle salesperson, John Daiter, subjects the Respondent's license to discipline pursuant to section 12-6-118(3)(n), C.R.S.

37. As a result of these violations of section 12-6-118(3)(n) [now section 44-20-121(3)(l) by the Respondent, the Board may fine and revoke the Respondent's used motor vehicle dealer license.

V. <u>Charge V – Offering a False Instrument for Recording</u>

38. Based upon Charge V, the Board may deny, suspend, or revoke a used motor vehicle dealer's license for willfully violating any state or federal law respecting commerce or motor vehicles, or any lawful rule respecting commerce or motor vehicles promulgated by any licensing or regulating authority pertaining to motor vehicles, under circumstances in which the act constituting the violation directly and necessarily involves commerce or motor vehicles. § 12-6-118(3)(o), C.R.S. [now § 44-20-121(3)(m), C.R.S.] [13] A person commits offering a false instrument for recording in the second degree if, knowing that a written instrument relating to or affecting real or personal property or directly affecting contractual relationships contains a material false statement or material false information, he

[12] Counts 1 through 15 reference the Title 12 framework [section 12-6-118(3)(n), C.R.S.] because the pertinent factual allegations occurred prior to October 1, 2018.

[13] Counts 1 through 4 reference the Title 12 framework [section 12-6-118(3)(o), C.R.S.] because the pertinent factual allegations occurred prior to October 1, 2018.

presents or offers it to a public office or a public employee, with knowledge or belief that it will be registered, filed or recorded or become part of the records of that public office or public employee. § 18-5-114(3), C.R.S. [14]

39. The Board has presented a prima facie showing in counts 1 through 4 under Charge V, addressed in paragraphs 248 through 268 of the findings of fact, that the Respondent offered to State of Colorado officials written instruments affecting real or personal property knowing that the instruments contained material false statements or material false information with the knowledge or belief that the instruments would be registered, filed, or recorded.

40. With respect to count 1, the Respondent's violation of section 18-5-114(3), C.R.S. by offering Disclosure Statement #1 to Investigator Dexter via its salesperson, Mr. Parra Aparicio, who knew the document contained materially false information and that Disclosure Statement #1 would become part of the records of the state subjects the Respondent's license to discipline pursuant to section 12-6-118(3)(o), C.R.S.

41. With respect to count 2, the Respondent's violation of section 18-5-114(3), C.R.S. by offering a false instrument for recording when it, through its motor vehicle salesperson Mr. Aviles, knowingly provided the Deal Jacket for the 2008 Accord with material false information to Investigator Dexter subjects the Respondent's license to discipline pursuant to section 12-6-118(3)(o), C.R.S.

42. With respect to count 3, the Respondent's violation of section 18-5-114(3), C.R.S. by offering a false instrument for recording when it, through its motor vehicle salesperson Mr. Aviles, knowingly provided the Buyer's Order for the 2008 Accord with material false information to Investigator Dexter subjects the Respondent's license to discipline pursuant to section 12-6-118(3)(o), C.R.S.

43. With respect to count 4, the Respondent's violation of section 18-5-114(3), C.R.S. by offering a false instrument for recording when it, through its motor vehicle salesperson Mr. Aviles, knowingly provided the DR Form 2434 for the 2008 Accord with material false information to Investigator Dexter subjects the Respondent's license to discipline pursuant to section 12-6-118(3)(o), C.R.S.

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[14] As mentioned in a footnotes 5 and 8 above, the criminal statute cited under Charge V in the Notice of Charges references section 18-8-306, C.R.S., but quotes the language in subsection (3) of section 18-5-114, C.R.S. regarding the offering of a false instrument for recording. All four counts under Charge V in the Notice of Charges, however, involve allegations that the Respondent offered false instruments for recording and specifically allege the Respondent violated section 18-5-114(3), C.R.S in paragraphs 272, 273, 279, 280, 284, 285, 289 and 290. As such, the Board determines the reference to section 18-8-306, C.R.S. under Charge V was an inadvertent, clear, and obvious error that, because the specific allegations in paragraphs 272, 273, 279, 280, 284, 285, 289 and 290 in the Notice of Charges correctly cite section 18-5-114(3), C.R.S., did not materially prejudice any substantial rights of the Respondent.

44. As a result of these violations of section 18-5-114(3), C.R.S. by the Respondent, the Board may fine and revoke the Respondent's used motor vehicle dealer license pursuant to section 12-6-118(3)(o), C.R.S. [now section 44-20-121(3)(m), C.R.S.].

VI. Charge VI – Attempt to Influence a Public Servant

45. Based upon Charge VI, the Board may deny, suspend, or revoke a used motor vehicle dealer's license for willfully violating any state or federal law respecting commerce or motor vehicles, or any lawful rule respecting commerce or motor vehicles promulgated by any licensing or regulating authority pertaining to motor vehicles, under circumstances in which the act constituting the violation directly and necessarily involves commerce or motor vehicles. § 12-6-118(3)(o), C.R.S. [now § 44-20-121(3)(m), C.R.S.][15] Any person who attempts to influence any public servant by means of deceit or by threat of violence or economic reprisal against any person or property, with the intent thereby to alter or affect the public servant's decision, vote, opinion, or action concerning any matter which is to be considered or performed by him or the agency or body of which is a member, commits a class 4 felony. § 18-8-306, C.R.S.

46. The Board has presented a prima facie showing in counts 1 through 4 under Charge VI, addressed in paragraphs 269 through 286 of the findings of fact, that the Respondent attempted to influence a public servant, Auto Industry Division Criminal Investigator Josh Dexter, by means of deceit, with the intent thereby to alter or affect Investigator Dexter's decision concerning a matter which was to be performed by him on behalf of the Board.

47. With respect to count 1, the Respondent's attempt to influence a public servant by means of deceit in violation of section 18-8-306, C.R.S. when it, through its agent Mr. Aviles, initially misrepresented to Investigator Dexter that the Deal Jacket, reflecting the Respondent's sale of the 2008 Accord to Mr. Figueroa, was completed on March 22, 2016 subjects the Respondent's license to discipline pursuant to section 12-6-118(3)(o), C.R.S.

48. With respect to count 2, the Respondent's attempt to influence a public servant by means of deceit in violation of section 18-8-306, C.R.S. when it, through its agent Mr. Aviles, initially misrepresented to Investigator Dexter that Mr. Figueroa signed the Buyer's Order in the Deal Jacket relating to the Respondent's sale of the 2008 Accord to Mr. Figueroa subjects the Respondent's license to discipline pursuant to section 12-6-118(3)(o), C.R.S.

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[15] Counts 1 through 4 reference the Title 12 framework [section 12-6-118(3)(o), C.R.S.] because the pertinent factual allegations occurred prior to October 1, 2018.

49. With respect to count 3, the Respondent's attempt to influence a public servant by means of deceit in violation of section 18-8-306, C.R.S. when it, through its agent Mr. Aviles, initially misrepresented to Investigator Dexter that Mr. Figueroa signed DR 2434 in the Deal Jacket relating to the Respondent's sale of the 2008 Accord to Mr. Figueroa subjects the Respondent's license to discipline pursuant to section 12-6-118(3)(o), C.R.S.

50. With respect to count 4, the Respondent's attempt to influence a public servant by means of deceit in violation of section 18-8-306, C.R.S. when it, through its agent Mr. Parra Aparicio, initially misrepresented to Investigator Dexter that Disclosure Statement #1 contained Ms. Vargas' signature and was completed on or about March 21, 2017 subjects the Respondent's license to discipline pursuant to section 12-6-118(3)(o), C.R.S.

51. As a result of these violations of section 18-8-306, C.R.S. by the Respondent, the Board may fine and revoke the Respondent's used motor vehicle dealer license pursuant to section 12-6-118(3)(o), C.R.S. [now section 44-20-121(3)(m), C.R.S.].

VII. Charge VII – Forgery

52. Based upon Charge VII, the Board may deny, suspend, or revoke a used motor vehicle dealer's license for willfully violating any state or federal law respecting commerce or motor vehicles, or any lawful rule respecting commerce or motor vehicles promulgated by any licensing or regulating authority pertaining to motor vehicles, under circumstances in which the act constituting the violation directly and necessarily involves commerce or motor vehicles. § 12-6-118(3)(o), C.R.S. [now § 44-20-121(3)(m), C.R.S.].[16] A person commits forgery, if, with intent to defraud, such person falsely makes, completes, alters, or utters a written instrument which is or purports to be, or which is calculated to become or to represent if completed a deed, will, codicil, contract, assignment, commercial instrument, promissory note, check, or other instrument which does or may evidence, create, transfer, terminate, or otherwise affect a legal right, interest, obligation, or status. § 18-5-102(1)(c), C.R.S.

53. The Board has presented a prima facie showing in counts 1 through 2 under Charge VII, listed in paragraphs 287 through 303 of the findings of fact and in the Notice of Charges, that the Respondent committed forgery when, with the intent to defraud, the Respondent falsely made a written instrument which was or

[16] Counts 1 through 2 reference the Title 12 framework [section 12-6-118(3)(o), C.R.S.] because the pertinent factual allegations occurred prior to October 1, 2018.

purported to be an instrument which evidenced, created, or otherwise affected a legal right, interest, obligation or status.

54. With respect to count 1, the Respondent's violation of section 18-5-102(1)(c), C.R.S. based on its forgery of Ms. Vargas' signature on the Disclosure Statement #1, through an employee or agent, with the intent to defraud Investigator Dexter into believing the document contained a valid signature from Ms. Vargas subjects the Respondent's license to discipline pursuant to section 12-6-118(3)(o), C.R.S.

55. With respect to count 2, the Respondent's violation of section 18-5-102(1)(c), C.R.S. based on its forgery of Ms. Vargas' signature in Disclosure Statement #2 in Webxtender, through an employee or agent, with the intent to defraud the State of Colorado into believing the document contained a valid signature from Ms. Vargas subjects the Respondent's license to discipline pursuant to section 12-6-118(3)(o), C.R.S.

56. As a result of these violations of section 18-5-102(1)(c), C.R.S. by the Respondent, the Board may fine and revoke the Respondent's used motor vehicle dealer license pursuant to section 12-6-118(3)(o), C.R.S. [now section 44-20-121(3)(m), C.R.S.].

VIII. Charge VIII – Failure to Obtain Off-Premise Permit

57. Based upon Charge VIII, the Board may deny, suspend, or revoke a used motor vehicle dealer's license for violating any of the terms and provisions of part 1 of Article 6 of Title 12 [now part 1 of Article 20 of Title 44] (hereafter "part 1") or any rule or regulation promulgated by the board under part 1. § 12-6-118(3)(c), C.R.S. [now § 44-20-121(3)(b), C.R.S.].[17] A motor vehicle dealer or used motor vehicle dealer shall obtain an off-premise permit to offer, display and sell motor vehicles away from the dealer's place of business. A request for an off-premise permit shall be made in writing prior to the event and shall list the location and the date(s) of the sale. The permit shall be posted for inspection at the sale. 1 CCR 205-1 Regulation 12-6-102(16) (effective date 8/14/2015)

58. The Board has presented a prima facie showing in count 1 under Charge VIII, listed in paragraphs 304 through 311 of the findings of fact, that the Respondent violated 1 CCR 205-1 Regulation 12-6-102(16) (effective date 8/14/2015) by failing to obtain an off-premise permit prior to offering, displaying and selling the 2005 Chrysler to Ms. Martin on or about January 29, 2016.

[17] Count 1 references the Title 12 framework [section 12-6-118(3)(c), C.R.S.] because the pertinent factual allegations occurred prior to October 1, 2018.

59. As a result of these violations of 1 CCR 205-1 Regulation 12-6-102(16) by the Respondent, the Board may fine and revoke the Respondent's used motor vehicle dealer license pursuant to section 12-6-118(3)(c) [now section 44-20-121(3)(b), C.R.S.].

IX. Charge IX – Failure to Complete DR Form 2434

60. Based upon Charge IX, the Board may deny, suspend, or revoke a used motor vehicle dealer's license for willfully violating any state or federal law respecting commerce or motor vehicles or any lawful rule or regulation respecting commerce or motor vehicles promulgated by any licensing or regulating authority pertaining to motor vehicles, under circumstances in which the act constituting the violation directly and necessarily involves commerce or motor vehicles. § 12-6-118(3)(o), C.R.S. [now § 44-20-121(3)(m), C.R.S.].[18] A Dealer must complete a disclosure form with an interest rate that the Dealer reasonably believes can be obtained based on the creditworthiness of the prospective buyer. 1 CCR 205-1 Regulation 12-6-104(3)(k)(C)(7) (effective date 4/15/2016).

61. The Board has presented a prima facie showing in count 1 under Charge IX, as listed in paragraphs 312 through 326 of the findings of fact, that The Respondent violated 1 CCR 205-1 Regulation 12-6-104(3)(k)(C)(7) (effective date 4/15/2016) by failing complete the "credit sale" section on the DR 2434 – "Disclosures Required as Part of a Motor Vehicle/Powersports Vehicle Sale" form as part of its sale of the 2004 Subaru to Mr. Simmons.

62. Due to the Respondent's violation of 1 CCR 205-1 Regulation 12-6-104(3)(k)(C)(7) by the Respondent, the Board may fine and revoke the Respondent's used motor vehicle dealer license pursuant to section 12-6-118(3)(o), C.R.S. [now section 44-20-121(3)(m), C.R.S.].

X. Charge X – Issuance of Multiple Temporary Registration Permits

63. Based upon Charge X, the Board may deny, suspend, or revoke a used motor vehicle dealer's license for willfully violating any state or federal law respecting commerce or motor vehicles or any lawful rule or regulation respecting commerce or motor vehicles promulgated by any licensing or regulating authority pertaining to motor vehicles, under circumstances in which the act constituting the violation directly and necessarily involves commerce or motor vehicles. § 12-6-118(3)(o), C.R.S. [now § 44-20-121(3)(m), C.R.S.].[19] A Temporary Registration

[18] Count 1 references the Title 12 framework [section 12-6-118(3)(o), C.R.S.] because the pertinent factual allegations occurred prior to October 1, 2018.

[19] Count 1 references the Title 12 framework [section 12-6-118(3)(o), C.R.S.] because the pertinent factual allegations occurred prior to October 1, 2018.

Permit is not renewable, but when circumstances outlined in section 42-3-203(3)(d), C.R.S., are met, the Dealer may issue a second Temporary Registration Permit pursuant to the requirements in this rule. 1 CCR 204-10 Rule 34 2.9 (effective dated 3/2/2017).

64. The Board has presented a prima facie showing in counts 1 through 3 under Charge X, as listed in paragraphs 327 through 346 of the findings of fact, that the Respondent issued multiple temporary registration permits to Mr. Simmons, beyond the number permitted, in violation of 1 CCR 204-10 Rule 34 2.9 and thereby § 12-6-118(3)(o), C.R.S.

65. Due to the Respondent's violation of 1 CCR 204-10 Rule 34 2.9, the Board may fine and revoke the Respondent's used motor vehicle dealer license pursuant to section 12-6-118(3)(o), C.R.S. [now section 44-20-121(3)(m), C.R.S.].

XI. Charge XI – Failure to Deliver Title within 30 Days of Sale

66. Based upon Charge XI, the Board may deny, suspend, or revoke a used motor vehicle dealer's license for willfully violating any state or federal law respecting commerce or motor vehicles, or any lawful rule or regulation respecting commerce or motor vehicles promulgated by any licensing or regulating authority pertaining to motor vehicles, under circumstances in which the act constituting the violation directly and necessarily involves commerce or motor vehicles pursuant to section 12-6-118(3)(o), C.R.S. [now section 44-20-121(3)(m), C.R.S.].[20] It is a violation of state law respecting commerce or motor vehicles if a motor vehicle dealer fails to deliver or facilitate the delivery of the certificate of title to the purchaser of the motor vehicle within thirty days after the sale. § 42-6-112, C.R.S.

67. The Board has presented a prima facie showing in counts 1 through 9 under Charge XI, as listed in paragraphs 347 through 353 of the findings of fact, that the Respondent failed to deliver or facilitate delivery of the certificates of title to Mr. Simmons and to the consumers and financiers for the vehicles listed in Chart A in the Notice of Charges within thirty (30) days following the dates of sale in violation of section 42-6-112, C.R.S.

68. The Respondent's violation of section 42-6-112, C.R.S. subjects the Respondent's license to discipline pursuant section 12-6-118(3)(o), C.R.S. with respect to count 1 and section 44-20-121(3)(m), C.R.S. with respect to counts 2 through 9. As such, the Board may fine and revoke the Respondent's used motor vehicle dealer license.

[20] Count 1 references the Title 12 framework [section 12-6-118(3)(o), C.R.S.] because the pertinent factual allegations occurred prior to October 1, 2018, while counts 2 through 9 reference the Title 44 framework [section 44-20-121(3)(m), C.R.S.] because the pertinent factual allegations occurred on or after October 1, 2018.

XII. Charge XII – Failure to Disclose Material Particulars in Writing

69. Based upon Charge XII, the Board may deny, suspend, or revoke a used motor vehicle dealer's license for violating any of the terms and provisions of part 1 of Article 6 of Title 12 [now part 1 of Article 20 of Title 44] (hereafter "part 1") or any rule or regulation promulgated by the board under part 1. § 12-6-118(3)(c), C.R.S. [now § 44-20-121(3)(b), C.R.S.].[21] Prior to executing a contract, the used motor vehicle dealer shall produce a written document disclosing all known material particulars, which the used motor vehicle dealer and buyer must sign. The used motor vehicle dealer must provide a signed copy of the contract and the disclosure document to the buyer at the time of sale, and retain a copy of the contract and the disclosure document. 1 CCR 205-1, Board Regulation 12-6-118(3)(i)(B) (effective date 04/15/2016).

70. The Board has presented a prima facie showing in count 1 under Charge XII, as listed in paragraphs 354 through 359 of the findings of fact, that the Respondent violated 1 CCR 205-1 Regulation 12-6-118(3)(i)(B) by intentionally failing to inform Ms. Vargas in writing of the salvage brand title designation on her 2002 Acura as a material particular when Ms. Vargas purchased 2002 Acura.

71. Due to the Respondent's violation of 1 CCR 205-1 Regulation 12-6-118(3)(i)(B), the Board may fine and revoke the Respondent's used motor vehicle dealer license pursuant to section 12-6-118(3)(c) [now section 44-20-121(3)(b), C.R.S.].

XIII. Charge XIII - Issuing Temporary Permits Prior to Sale

72. Based upon Charge XIII, the Board may deny, suspend, or revoke a used motor vehicle dealer's license for willfully violating any state or federal law respecting commerce or motor vehicles, or any lawful rule or regulation respecting commerce or motor vehicles promulgated by any licensing or regulating authority pertaining to motor vehicles, under circumstances in which the act constituting the violation directly and necessarily involves commerce or motor vehicles pursuant to section 12-6-118(3)(o), C.R.S. [now section 44-20-121(3)(m), C.R.S.].[22] Temporary permits and dealer stubs shall be issued by used motor vehicle dealers upon consummation of a sale. Used motor vehicle dealers shall not loan, give, borrow, sell, exchange or issue permits for or with another dealer, individual, business, company, or corporation. 1 CCR 204-10 Rule 34 2.3.

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[21] Count 1 references the Title 12 framework [section 12-6-118(3)(c), C.R.S.] because the pertinent factual allegations occurred prior to October 1, 2018.

[22] Counts 1 through 3 reference the Title 12 framework [section 12-6-118(3)(o), C.R.S.] because the pertinent factual allegations occurred prior to October 1, 2018.

73. The Board has presented a prima facie showing in counts 1 through 3 under Charge XIII, as listed in paragraphs 360 through 364 of the findings of fact and Chart F in the Notice of Charges, that the Respondent violated 1 CCR 204-10 Rule 34 2.3 by issuing temporary permits to the consumers listed in Chart F when those individuals had not yet purchased the associated motor vehicle listed in Chart F.

74. Due to the Respondent's violation of 1 CCR 204-10 Rule 34 2.3, the Board may fine and revoke the Respondent's used motor vehicle dealer license pursuant to section 12-6-118(3)(o), C.R.S. [now section 44-20-121(3)(m), C.R.S.].

XIV. Charge XIV – Failure to Provide Copies of Consumer Credit Transactions to Consumers

75. Based upon Charge XIV, the Board may deny, suspend, or revoke a used motor vehicle dealer's license for willfully violating any state or federal law respecting commerce or motor vehicles, or any lawful rule or regulation respecting commerce or motor vehicles promulgated by any licensing or regulating authority pertaining to motor vehicles, under circumstances in which the act constituting the violation directly and necessarily involves commerce or motor vehicles pursuant to section 12-6-118(3)(o), C.R.S. [now section 44-20-121(3)(m), C.R.S.].[23] No consumer credit transaction shall be valid or enforceable in this state unless its terms are contained in a written agreement and a copy is provided to the consumer at or before the time credit is extended. A creditor may provide the copy to the consumer in a form other than paper upon the consumer's written authorization. § 5-3-108, C.R.S.

76. The Board has presented a prima facie showing in counts 1 through 4 under Charge XIV, as listed in paragraphs 365 through 374 of the findings of fact and Chart G in the Notice of Charges, that the Respondent violated section 5-3-108, C.R.S. by failing to provide the consumers listed in Chart G with copies of a RISC (written agreement of consumer credit transaction) entered into by the Respondent and the Chart G consumers.

77. Due to the Respondent's violation of section 5-3-108, C.R.S., the Board may fine and revoke the Respondent's used motor vehicle dealer license pursuant to section 12-6-118(3)(o), C.R.S. [now section 44-20-121(3)(m), C.R.S.].

XV. Charge XV – Failure to Maintain Copy of Credit Transaction Records

[23] Counts 1 through 4 reference the Title 12 framework [section 12-6-118(3)(o), C.R.S.] because the pertinent factual allegations occurred prior to October 1, 2018.

78. Based upon Charge XV, the Board may deny, suspend, or revoke a used motor vehicle dealer's license for willfully violating any state or federal law respecting commerce or motor vehicles, or any lawful rule or regulation respecting commerce or motor vehicles promulgated by any licensing or regulating authority pertaining to motor vehicles, under circumstances in which the act constituting the violation directly and necessarily involves commerce or motor vehicles pursuant to section 12-6-118(3)(o), C.R.S. [now section 44-20-121(3)(m), C.R.S.].[24] Every creditor shall maintain records in conformity with this code, rules adopted thereunder, and generally accepted accounting principles and practices in a manner that will establish that the creditor is complying with the provisions of this code. The record-keeping system of a creditor shall be sufficient if the creditor makes the required information reasonably available. The records pertaining to any credit transaction need not be preserved for more than four years after making the final entry relating to the transaction, but, in the case of a revolving credit account, the four years is measured from the date of each entry. § 5-3-109, C.R.S.

79. The Board has presented a prima facie showing in counts 1 through 4 under Charge XV, as listed in paragraphs 375 through 378 of the findings of fact and in Chart G in the Notice of Charge, that the Respondent violated section 5-3-109, C.R.S. by failing to maintain a copy of the RISC (reflecting a credit transaction) in its records for each of the transactions listed in Chart G.

80. Due to the Respondent's violation of section 5-3-109, C.R.S., the Board may fine and revoke the Respondent's used motor vehicle dealer license pursuant to section 12-6-118(3)(o), C.R.S. [now section 44-20-121(3)(m), C.R.S.].

XVI. Charge XVI – Draft Not Honored for Payment

81. Based upon Charge XVI, if a used motor vehicle dealer issues a draft or check to another motor vehicle dealer, wholesaler, used motor vehicle dealer, motor vehicle auction house, or consignor and fails to honor such draft or check, the Board may suspend the used motor vehicle dealer's license pursuant to section 44-20-104(3)(e)(I). § 44-20-130(1), C.R.S.

82. The Board has presented a prima facie showing in count 1 under Charge XVI, as listed in paragraphs 379 through 383 of the findings of fact, that the Respondent failed to honor its check #[redacted] in violation of section 44-20-130(1), C.R.S.

[24] Counts 1 through 4 reference the Title 12 framework [section 12-6-118(3)(o), C.R.S.] because the pertinent factual allegations occurred prior to October 1, 2018.

83. The Respondent's violation of section 44-20-130(1), C.R.S. subjects the Respondent's used motor vehicle dealer license to discipline and suspension pursuant to section 44-20-104(3)(e)(I), C.R.S.

XVII. Charge XVII – Fraud by Check

84. Based upon Charge XVII, the Board may deny, suspend, or revoke a used motor vehicle dealer's license for willfully violating any state or federal law respecting commerce or motor vehicles, or any lawful rule or regulation respecting commerce or motor vehicles promulgated by any licensing or regulating authority pertaining to motor vehicles, under circumstances in which the act constituting the violation directly and necessarily involves commerce or motor vehicles pursuant to section 12-6-118(3)(o), C.R.S. [now section 44-20-121(3)(m), C.R.S.].[25] A person commits fraud by check when he or she, knowing he/she has insufficient funds with the drawee, issues a check for the payment of services, wages, salary, commissions, labor, rent, money, property, or other thing of value with the intent to defraud. § 18-5-205(2), C.R.S.

85. The Board has presented a prima facie showing in counts 1 through 8 under Charge XVII, as listed in paragraphs 384 through 392 of the findings of fact and Chart B in the Notice of Charges, that the Respondent committed fraud by check when it, knowing it had insufficient funds, issued eight separate checks to LAA for the purchase of motor vehicles with the intent to defraud in violation of section 18-5-205(2), C.R.S.

86. Due to the Respondent's violation of section 18-5-205(2), C.R.S. the Board may fine and revoke the Respondent's used motor vehicle dealer license pursuant to section 12-6-118(3)(o), C.R.S. [now § 44-20-121(3)(m), C.R.S.].

XVIII. Charge XVIII – Unfitness of Financial Character

87. Based upon Charge XVIII, the Board may deny, suspend, or revoke a used motor vehicle dealer's license upon showing that the motor vehicle dealer's financial character or record is unfit. § 44-20-121(7)(c), C.R.S.

88. The Board has presented a prima facie showing in count 1 under Charge XVIII, as listed in paragraphs 393 through 3967 of the findings of fact and Chart B in the Notice of Charges, that the Respondent failed to demonstrate fitness of financial character or record in violation of section 44-20-121(7)(c), C.R.S.

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[25] Count 1 references the Title 44 framework [section 44-20-121(3)(m), C.R.S.] because the pertinent factual allegations occurred on or after October 1, 2018, while counts 2 through 8 reference the Title 12 framework [section 12-6-118(3)(o), C.R.S.] because the pertinent factual allegations occurred prior to October 1, 2018.

89. Due to the Respondent's unfitness of financial character and record and its violation of section 44-20-121(7)(c), C.R.S., the Board may fine and revoke the Respondent's used motor vehicle dealer license pursuant to section 44-20-121(7)(c), C.R.S.

SANCTION

In the Notice of Charges, the Office of the Colorado Attorney General requested on behalf of the Board that the Respondent's used motor vehicle dealer license be suspended, revoked, fined, or subject to any other sanction authorized by law based upon the violations alleged. Pursuant to the provisions of section 44-20-104(3)(m)(I)(A), C.R.S. [formerly section 12-6-104(3)(m)(I)(A), C.R.S.], the Board may impose a fine of ten thousand dollars ($10,000) for each offense by a used motor vehicle dealer who sells vehicles weighing above one thousand five hundred pounds. The Attorney General's Office alleged on behalf of the Board one hundred twenty-five (125) counts against the Respondent, requesting a fine of one thousand dollars ($1,000) for each count – totaling one hundred twenty-five thousand dollars ($125,000). Finally, the Attorney General's Office requested on behalf of the Board a finding that the Respondent engaged in fraudulent conduct under Charges I and II in order to support the opening of the Respondent's surety bond for purposes of reimbursement of any loss or damage suffered by any retail consumer.

The Respondent failed to answer the Notice of Charges. There is no information before the Board indicating that some sanction other than revocation of the Respondent's motor vehicle dealer license and the assessment of fine for each count/offense is appropriate in this case. The Respondent's failure to participate in this proceeding demonstrates a lack of interest in maintaining its used motor vehicle dealer license.

Therefore, based on the foregoing, it is the FINAL ORDER of this Board that the Respondent's used motor vehicle dealer license #41741 is hereby REVOKED and that the Respondent is fined one hundred twenty-five thousand dollars ($125,000) (i.e., one thousand dollars ($1,000) for each of the one hundred twenty-five (125) counts/offenses in accordance with section 44-20-104(3)(m)(I)(A), C.R.S. [formerly section 12-6-104(3)(m)(I)(A), C.R.S.]) The Board also finds that the Respondent engaged in fraudulent conduct under Charges I and II for purposes of opening the Respondent's surety bond.

ORDERED and Entered this 22nd day of October, 2019

COLORADO MOTOR VEHICLE DEALER BOARD

By: _____

Chris Rouze, Acting Executive Secretary
Colorado Motor Vehicle Dealer Board

CERTIFICATE OF SERVICE

This is to certify that on October 23, 2019, I have duly served the within **Final Order of Default Judgment** upon all parties herein by depositing copies of same in the United States mail, first-class postage prepaid, at Denver, Colorado, addressed as follows:

Hi Tech Auto Care LLC
8260 Brighton Rd.
Commerce City, CO 80022

Valery Knyazhev
[redacted]

Bradford Jones, Senior Assistant Attorney General I
Aaron Neptune, Assistant Attorney General
Colorado Department of Law
1300 Broadway, 8th Floor
Denver, CO 80203

Legal Assistant
Auto Industry Division