

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of

Department of Insurance and Financial Services

Petitioner,

v

Enforcement Case No. 23-17222-CF

Kelsey Mitchell

Respondent.

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ISSUED AND ENTERED

on May 16, 2024
by **Joseph A. Garcia**
Special Deputy Director

ORDER OF PROHIBITION

I. INTRODUCTION

This case concerns unlicensed activity and the filing of fraudulent documents in connection with installment sales transactions regulated under the Consumer Financial Services Act, MCL 487.2051, *et seq.* (the CFSA).

At all pertinent times, Kelsey Mitchell (Respondent) was a member of Elite World Wide Auto Group (Elite), a domestic limited liability company organized in 2020.

On March 8, 2023, Elite received an installment seller license under the Motor Vehicle Sales Finance Act, MCL 492.101, *et seq.* An installment seller is a person engaged in the business of selling, offering for sale, hiring, or leasing motor vehicles under installment sale contracts. Installment sellers are required to comply with the terms of the CFSA.

Both the Motor Vehicle Sales Finance Act and the CFSA are administered by the Director of the Department of Insurance and Financial Services (DIFS).

On March 27, 2023, DIFS staff received an inquiry from a California lender, Western Funding, Inc., expressing concerns about installment sales contracts they had received from Elite. A DIFS investigation concluded that Respondent had violated the CFSA.

DIFS staff served on the Respondent a Notice of Intent to Prohibit and Statement of Factual Allegations describing the violations. A formal administrative hearing was scheduled. The Respondent failed to respond or to appear for the hearing. The Petitioner requested a default judgment be entered against the Respondent.

On March 5, 2024, Administrative Law Judge Thomas A. Halick issued a Proposal for Decision (PFD) recommending that the Director grant Petitioner's default motion and issue an Order of Prohibition against the Respondent.

With one exception, the factual findings in the PFD are in accordance with the preponderance of the evidence and the conclusions of law are supported by reasoned opinion. The date of the inquiry from Western Funding to DIFS staff, referenced on page 6 of the PFD was March 27, 2023, not March 13, 2023. See Exhibit 2. With that correction, the PFD is adopted and the Petitioner's Motion for Summary Decision is granted.

II. FINDINGS OF FACT

1. Although Elite did not become licensed until March 8, 2023, it originated installment contracts on February 27, 2023, and March 1, 2023. These transactions were initiated by Respondent in concert with another Elite member, Aaron Mitchell.
2. Respondent, also in concert with Aaron Mitchell, submitted to Western Funding a license that included Elite's name and address but displayed the license number for "Stealth Auto LLC," an inactive installment seller. The license document also displayed an effective date of October 13, 2022, and identified Patrick McPharlin, as the Director of DIFS. Neither Elite nor Stealth Auto had an installment seller license on October 13, 2022. Moreover, Patrick McPharlin has not occupied the position of Director of DIFS since 2018. (Respondent had previously worked at Stealth Auto.)

III. CONCLUSIONS OF LAW

1. Section 3(1) of the CFSA, MCL 487.2053, provides:

A person shall not engage in a business activity unless the person is licensed under the appropriate financial licensing act, or by this act.
2. Section 10(2) of the CFSA, MCL 487.2060, provides in pertinent part:

The commissioner may suspend, revoke, or refuse to renew a license under this act if the commissioner finds 1 or more of the following:

* * *

(b) The licensee has violated a provision of this act or a rule promulgated under this act, or an order of the commissioner.

* * *

(f) The licensee has falsified a record required by this act to be maintained in connection with the business regulated by this act.

* * *

(i) The licensee has defrauded a consumer or willfully failed to perform a written agreement with a consumer.
3. By engaging in installment sales transactions without the required license, Respondent violated Section 3(1) of the CFSA.

4. By providing a forged installment seller license to a sales finance company, Respondent violated Section 10(2).

5. Section 10g of the CFSA, MCL 487.2060g, provides in pertinent part:

(1) If in the opinion of the commissioner a person has engaged in fraud or money laundering, the commissioner may serve upon that person a written notice of intention to prohibit that person from being employed by, an agent of, or control person of a licensee under this act or a licensee or registrant under a financial licensing act.

(2) A notice issued under subsection (1) shall contain a statement of the facts supporting the prohibition and, except as provided under subsection (7), set a hearing to be held not more than 60 days after the date of the notice. If the person does not appear at the hearing, he or she is considered to have consented to the issuance of an order in accordance with the notice.

(3) If after a hearing held under subsection (2) the commissioner finds that any of the grounds specified in the notice have been established, the commissioner may issue an order of suspension or prohibition from being a licensee or registrant or from being employed by, an agent of, or control person of any licensee under this act or a licensee or registrant under a financial licensing act.

6. Section 10e of the CFSA, MCL 487.2060e, provides:

A summary suspension order, cease and desist order, or injunctive relief issued or granted in relation to a license shall be in addition to an informal conference, criminal prosecution, or proceeding to deny, revoke, or suspend a license, or any other legal action.

IV. ORDER

Based on the Findings of Fact and Conclusions of Law above, it is ordered that:

- A. The Petitioner's motion for default is granted.
- B. Respondent shall **CEASE** and **DESIST** from violating the CFSA.
- C. Respondent is prohibited from being a licensee or registrant or from being employed by, an agent of, or control person of any licensee under the CFSA or a licensee or registrant under a financial licensing act.

- D. The Director retains jurisdiction over the matters contained herein and has the authority to issue such further orders as shall be deemed just, necessary, and appropriate in accordance with the Code.

Anita G. Fox, Director
For the Director:



Joseph A. Garcia
Special Deputy Director