

STATE OF COLORADO OFFICE OF ADMINISTRATIVE COURTS 1525 Sherman Street, 4 th Floor Denver, Colorado 80203 MVDB Case Nos. 14-1043, 14-1214, 15-0039	
COLORADO DEP'T OF REVENUE, MOTOR VEHICLE DEALER BOARD, Petitioner, v. COLORADO CAR COMPANY LICENSE NUMBER 7363, Respondent.	
Cynthia H. Coffman, Attorney General Y. E. SCOTT, Reg. No. 20342, Temporary Assistant Attorney General* MAMIE LING, Reg. No. 49483, Assistant Attorney General Fellow* 1300 Broadway, 8 th Floor Denver, CO 80203 Telephone: 720-508-6344 (Scott), -6358 (Ling) FAX: 720-508-6038 E-Mail: ye.scott@coag.gov, mamie.ling@coag.gov *Counsel of Record	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> CASE NUMBER: MV 20170002
STIPULATION AND FINAL AGENCY ORDER	

IT IS HEREBY STIPULATED & AGREED by and between the Colorado Department of Revenue, Motor Vehicle Dealer Board ("Board") and Colorado Car Company, ("Respondent") (collectively the "Parties") in lieu of further legal action:

1. The Board has jurisdiction over Respondent and the subject matter of this Stipulation and Final Agency Order ("Order") as set forth in article 6 of Title 12, C.R.S. and the Administrative Procedure Act, article 4 of Title 24, C.R.S.
2. Respondent has been licensed as a motor vehicle dealer in the State of Colorado at all times relevant herein.
3. The Board has alleged that Respondent violated the following:
 - A. Two (2) counts of willfully violating state law respecting commerce or motor vehicles by failing to timely forward the certificate of title to the

purchaser or holder of a chattel mortgage in order to facilitate the initial registration of a vehicle within 30 days of sale in violation of section 12-6-118(3)(o), C.R.S., To Wit: section 42-6-112, C.R.S.

- B. One (1) count of having defrauded a secured creditor by defeating, impairing, or rendering worthless or unenforceable any security interest, selling, assigning, transferring, conveying, pledging, encumbering, concealing, destroying, or disposing of any collateral subject to a security interest in violation of section 12-6-118(3)(o), C.R.S., To Wit: section 18-5-206(1), C.R.S.
- C. Two (2) counts of willfully violating any lawful rule or regulation respecting commerce or motor vehicles promulgated by any licensing or regulating authority pertaining to motor vehicles by issuing two temporary registration permits that were not upon the consummation of the sale of a motor vehicle in violation of section 12-6-118(3)(o), C.R.S., To Wit: 1 Colo. Code Regs. 204-10, Rule 34(2.3) (effective 12/30/2013).
- D. One (1) count of having defrauded any buyer, seller, motor vehicle salesperson, or financial institution to such person's damage in violation of section 12-6-118(3)(e), C.R.S.
- E. One (1) count of having made a fraudulent or illegal sale, transaction, or repossession in violation of section 12-6-118(3)(h), C.R.S.
- F. One (1) count of theft in violation of section 12-6-118(3)(o), C.R.S., To Wit: sections 18-4-401(1)(a) and (1.5), C.R.S.
- G. One (1) count that Respondent has demonstrated an unfitness of financial character or record in violation of section 12-6-118(6)(c), C.R.S. and 1 Colo. Code Regs. 205-1, Reg. 12-6-118(6)(c).
- H. Three (3) counts of having engaged in the business for which licensed motor vehicle dealers or used motor vehicle dealers are licensed without maintaining a principal place of business at all times as required by Part 1 of Article 6, Title 12, C.R.S., failing to notify the Board when it ceased to possess a principal place of business, and failing to notify the Board in writing upon making any change to its site or location of its principal place of business, in violation of section 12-6-118(3)(c), C.R.S., To Wit: sections 12-6-102(16) and 12-6-116(1), C.R.S.
- I. One (1) count of engaging in such business through employment of an unlicensed motor vehicle salesperson in violation of section 12-6-118(3)(n), C.R.S.

- J. Three (3) counts of willfully violating any state law respecting commerce or motor vehicles, or any lawful rule or regulation respecting commerce of motor vehicles promulgated by any licensing or regulating authority pertaining to motor vehicles by failing to keep the books and records of such dealer available for inspection Monday through Friday between 9 AM and 5 PM at its principal place of business, and by failing to keep and maintain the books and records of motor vehicles within Colorado, in violation of section 12-6-118(3)(c), C.R.S., To Wit: section 12-6-102(16), C.R.S. and 1 Colo. Code Regs. 205-1, Reg. 12-6-102(16)(3).

4. The Respondent understands that:

- A. Respondent has the right to be represented by an attorney of the Respondent's choice, at the Respondent's expense [and is so represented];
- B. Respondent has the right to a formal hearing in accordance with article 6 of Title 12, C.R.S.;
- C. By entering into this Order, Respondent knowingly and voluntarily waives the right to a hearing, and relieves the Board of its burden of proving the violations alleged herein;
- D. Respondent knowingly and voluntarily waives the right to present a defense by oral and documentary evidence, and to cross-examine witnesses who would testify on behalf of the Board; and,
- E. Respondent knowingly and voluntarily waives the right to judicial review of this matter.

5. Respondent acknowledges receipt of sufficient notice, sufficient advisement of rights, and sufficient process in the proceedings of this case, and desires to resolve all issues which were the subject of the investigation by entering into this Stipulation and Final Agency Order.

6. The Respondent admits to the following:

- A. Two (2) counts of willfully violating state law respecting commerce or motor vehicles by failing to timely forward the certificate of title to the purchaser or holder of a chattel mortgage in order to facilitate the initial registration of a vehicle within 30 days of sale in violation of section 12-6-118(3)(o), C.R.S., To Wit: section 42-6-112, C.R.S.;

- B. One (1) count of defrauding a secured creditor by defeating, impairing, or rendering worthless or unenforceable any security interest, selling, assigning, transferring, conveying, pledging, encumbering, concealing, destroying, or disposing of any collateral subject to a security interest in violation of section 12-6-118(3)(o), C.R.S., To Wit: section 18-5-206(1), C.R.S.;
- C. One (1) count of defrauding any buyer, seller, motor vehicle salesperson, or financial institution to such person's damage in violation of section 12-6-118(3)(e), C.R.S.;
- D. One (1) count of having made a fraudulent or illegal sale, transaction, or repossession in violation of section 12-6-118(3)(h), C.R.S.

7. Respondent agrees, in lieu of subsequent administrative proceedings, to submit to the following sanctions:

- A. Respondent has relinquished its license. The relinquishment shall have the same force and effect of a Board Order of Revocation;
- B. Respondent shall be fined \$25,000.00 for the admissions in paragraph 6 above;
- C. Respondent shall pay the fine as follows:
 - i. \$5,000.00 paid as follows: \$100.00 when the stipulation is approved by the Board, with monthly payments of \$445.46 for eleven (11) consecutive months thereafter. All payments due and payable on the 1st of each month,
 - ii. \$20,000.00 of the fine shall be held in abeyance and payable only if Respondent applies for, and is granted, any type of license that the Board is authorized to issue concerning motor vehicles or powersports vehicles;

8. This Stipulation and Final Agency Order constitutes a finding by the Board that the Respondent has engaged in fraudulent conduct that supports the opening of Respondent's surety bond for the purpose of reimbursement of any loss or damage suffered by any retail consumer. Respondent agrees not to oppose the opening of the surety bond.

9. If Respondent applies for a motor vehicle or powersports license at any time in the future, the Respondent must comply with all requirements for Board

licensure then in effect, in addition to complying with all terms and conditions of this Stipulation.

10. Respondent shall not engage in any act that would require licensure by the State of Colorado unless Respondent obtains the appropriate licensure.

11. Respondent agrees to strictly adhere to and to completely fulfill all requirements established in this Order.

12. This Order will not become an order of the Board unless and until the Board approves it. If this Order is not approved by the Board, it is void, and the Parties shall not be bound by any provisions hereof or admissions herein.

13. Each Party shall bear its own costs and fees incurred in this action.

14. This Order is the complete integration of all understandings between the parties. No addition, deletion, or amendment, shall have any force or affect whatsoever, except as mutually agreed to in a writing signed by both Parties.

15. The Parties agree to cooperate fully and to execute any and all supplementary documents and to take all additional actions necessary or appropriate to give full force and effect to the terms and intent of this Order.

16. The provisions of this Order shall be enforceable by the Parties before the Colorado Motor Vehicle Dealer Board, by any lawful remedy.

17. Respondent expressly acknowledges having read and understood completely the terms of this Order. Respondent enters this Order knowingly and voluntarily, after the opportunity to consult with counsel, and with full understanding of the legal consequences of this Order. Respondent expressly states the terms of this Order are fair, conscionable, and appropriate to reach a full and final resolution of this disciplinary matter.

18. This Order and all its terms shall have the same force and effect as an order entered by the Board after hearing pursuant to article 6 of Title 12, C.R.S. except that this Order cannot be appealed.

19. Respondent agrees that any violation of this Order may constitute grounds for disciplinary action and, if proven, may constitute a basis for further sanctions or for any other remedy authorized by law.

20. If this matter is referred to hearing for violation of this Order, this Order shall be admissible as evidence.

21. If an alleged violation of this Order is taken to hearing and the facts that constitute the violation are not proven, the Board shall not impose any additional sanction, and this Order shall remain operative and in full force and effect. Respondent must comply with the terms of this Order during the pendency of, and after the conclusion of, such disciplinary action.

22. Once effective, this Order becomes a public record in the Board's custody at all times.

23. Effective Date. This Order becomes an order of the Board when accepted by the Board and signed by an authorized representative of the Board.

24. This Order is a full and final resolution of case numbers BD14-1043, 14-1214, and 15-0039. This Order does not resolve any other cases, complaints or matters, known or unknown to the Parties, as of the effective date of this Stipulation and Final Agency Order.

25. Respondent shall immediately provide written notice to the Board of any change of Respondent's address. Any notice required under this Order shall be valid if provided, in writing, to the last known written address provided to the Board by Respondent, which currently is:

Colorado Car Company
Scott Klostreich, Owner
1457 Ammons Street, Suite 105
Lakewood, CO 80214

or;

The temporary address provided orally in response to this matter of:

Scott Klostreich
[REDACTED]

26. All correspondence and notices to the Board must be provided to the Board at the following address:

Colorado Department of Revenue,
Auto Industry Division
Attention: Bruce A. Zulauf,
Division Director/Executive Secretary
1881 Pierce Street, Suite 112
Lakewood, Colorado 80214

27. Should any term or provision of this Order be declared invalid or become inoperative for any reason, such invalidity or failure does not affect the validity of any other term or provision hereof.

28. This Order may be signed in counterparts, each of which has full force and effect upon execution by all Parties.

29. Respondent warrants that it possesses the legal authority to enter into this Order and that it has taken all actions required by its procedures, by-laws, and/or applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Order and to bind Respondent to its terms.

30. The person executing this Order on behalf of Respondent warrants that such person has full authorization to execute this Stipulation and Final Agency Order.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.
SIGNATURE PAGE TO FOLLOW.**

AGREED TO BY:



Bruce A. Zulauf
Director/Executive Secretary
Auto Industry Division
Motor Vehicle Dealer Board

5/16/17
Date

FOR THE RESPONDENT:



Scott Klostreich, Owner
Colorado Car Company, LLC.

4-26-2017
Date

APPROVED AS TO FORM:



Y. E. Scott, Attorney for the Board

2 May 2017
Date

The Order is approved and its terms are hereby adopted as an Order of this Board.

ORDERED AND ENTERED this 16th day of MAY, 2017.

MOTOR VEHICLE DEALER BOARD

BY: Joe Gebhardt
Joseph Gebhardt, President

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within STIPULATION AND FINAL AGENCY ORDER upon all parties herein by depositing copies of same in the United States mail, first-class postage prepaid, at Denver, Colorado, this 16th day of May 2017, addressed as follows:

Colorado Car Company
Scott Klostreich, Owner
1457 Ammons Street,
Suite 105
Lakewood, CO 80214

Scott Klostreich
[Redacted]

John Ciddul-Young

CC: Bruce Zulauf, Executive Secretary
Colorado Motor Vehicle Dealer Board
(For Board File)