

BEFORE THE MOTOR VEHICLE DEALER BOARD

STATE OF COLORADO

Case No. OAC – Case #2011-006

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF: **GLOBAL SOURCE, LLC.**
 d/b/a G & G AUTO BROKERS
 MOTOR VEHICLE DEALER
 LICENSE # 40354

Respondent.

IT IS HEREBY STIPULATED & AGREED by and between the Colorado Department of Revenue, Auto Industry Division (“Division”), Motor Vehicle Dealer Board (“Board”) and Global Source, LLC., d/b/a G & G Auto Brokers, (“Respondent”) (collectively the “Parties”) in lieu of further legal action:

1. The Board has jurisdiction over the Respondent and the subject matter of this Stipulation and Final Agency 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. The 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 in the Notice of Duty to Answer, Notice to Set, and Notice of Charges filed with the Office of Administrative Courts June 16, 2011:

- A. Charge I, One (1) Count – SUMMARY: The license of a used motor vehicle dealer may be denied, revoked or suspended for defrauding any buyer, seller, motor vehicle salesperson, or financial institution to such person’s damage. §12-6-118(3)(e), C.R.S.
- B. Charge II, One (1) Count – SUMMARY: The license of a used motor vehicle dealer may be denied, revoked or suspended for willful misrepresentation, circumvention, or concealment of or failure to disclose, through whatsoever subterfuge, or device, any of the material particulars or the nature thereof to be stated or furnished to the buyer. § 12-6-118(3)(i), C.R.S.
- C. Charge III, One (1) Count – SUMMARY: The license of a used motor vehicle dealer may be denied, revoked or suspended 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; to wit: Regulation 1 CCR 204-10 Rule 8, Proof of Ownership. Vehicles held by dealers or

wholesalers to be junked or parted out must be marked "JUNK" on the face of the title. The "JUNK" notation is to be dated and identified as to who declared the vehicle junk. The title must be submitted to the Department of Revenue, Motor Vehicle Business Group, Title Section, 1881 Pierce Street, Lakewood, Colorado 80214. A photocopy of the title marked "JUNK" either in the name of the dealership or wholesaler, or assigned to the dealership or wholesaler, shall be kept with the vehicle to serve as proof of ownership. The purchaser of any component parts which are identified with a vehicle identification number shall be given a photocopy of the "JUNK" title with the sales receipt. §12-6-118(3)(o), C.R.S.; to wit: 1 CCR 204-10 Rule 8(7).

- D. Charge IV, One (1) Count – SUMMARY: The license of a used motor vehicle dealer may be denied, revoked or suspended 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; to wit: 1 CCR 205-1 Regulation 12-6-104(3)(k). A copy of all disclosures must be given to the purchaser at the time of the consummation of the sale. § 12-6-118(3)(o), C.R.S.; to wit: 1 CCR 205-1 Regulation 12-6-104(3)(k).
- E. Charge V, One (1) Count - SUMMARY: The license of a used motor vehicle dealer may be denied, revoked or suspended 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; to wit: § 42-6-112, C.R.S., initial registration of a motor vehicle - dealer responsibility to timely forward certificate of title to purchaser or holder of a chattel mortgage. In order to facilitate initial registration of a vehicle, a dealer of motor vehicles shall have not more than thirty days after the date of sale of such vehicle to deliver or facilitate the delivery of the certificate of title to a purchaser or the holder of a chattel mortgage on such motor vehicle, subject to section 42-6-109. § 12-6-118(3)(o), C.R.S., to wit: § 42-6-112, C.R.S.
- F. Charge VI, One (1) Count - SUMMARY: The license of a used motor vehicle dealer may be denied, revoked or suspended for having made a fraudulent or illegal sale, transaction, or repossession. § 12-6-118(3)(h), C.R.S.
- G. Charge VII, One (1) Count - SUMMARY: The license of a used motor vehicle dealer may be denied, revoked or suspended 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; to wit: 1 CCR 205-1 Regulation 12-6-118(3)(i), a copy of the completed contract form shall be

given to the purchaser when signed by both parties. § 12-6-118(3)(o), C.R.S.; to wit: 1 CCR 205-1 Regulation 12-6-118(3)(i).

- H. Charge VIII, One (1) Count - SUMMARY: The license of a used motor vehicle dealer may be denied, revoked or suspended 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; to wit: § 6-1-708(1)(b), C.R.S. A person engages in a deceptive trade practice when, in the course of such person's business, vocation, or occupation, such person: fails to disclose in writing, prior to sale, to the purchaser that a motor vehicle is a salvage vehicle, as defined in section 42-6-102(17), C.R.S., or that a vehicle was repurchased by or returned to the manufacturer from a previous owner for inability to conform the motor vehicle to the manufacturer's warranty in accordance with article 10 of title 42, C.R.S., or with any other state or federal motor vehicle warranty law or knowingly fails to disclose in writing, prior to sale, to the purchaser that a motor vehicle has sustained material damage at any one time from any one incident. § 12-6-118(3)(o), C.R.S.; to wit: § 6-1-708(1)(b),C.R.S.
- I. Charge IX, One (1) Count – SUMMARY: The license of a used motor vehicle dealer may be denied, revoked or suspended for violating any state or federal statute or regulation issued thereunder dealing with odometers; to wit: 49 CFR 580.8. Dealers and distributors of motor vehicles who are required by this part to execute an odometer disclosure statement shall retain for five years a photostat, carbon, or other facsimile copy of each odometer mileage statement which they issue and receive. They shall retain all odometer disclosure statements at their primary place of business in an order that is appropriate to business requirements and that permits systematic retrieval. § 12-6-118(3)(s), C.R.S.; to wit: 49 CFR 580.8.
- J. Charge X, One (1) Count – SUMMARY: The license of a used motor vehicle dealer may be denied, revoked or suspended 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; to wit: 1 CCR 205-1 Regulation 12-6-104(3)(k). These disclosures are required by Colorado law unless the buyer has already been given a copy of a completed retail installment sales contract that includes all disclosures required by federal and state laws. §12-6-118(3)(o), C.R.S.; to wit 1 CCR 205-1 Regulation 12-6-104(3)(k).
- K. Charge XI, One (1) Count – SUMMARY: The license of a used motor vehicle dealer may be denied, revoked or suspended 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; to wit: Title 42, Article 4, C.R.S. Section 300, et seq., specifically, 42-4-304 (3)(b)(1) The certification of emissions control will be issued to the vehicle owner at the time of sale or transfer...; 42-4-309(3)(a) Any person licensed as a motor vehicle dealer pursuant to article 6 of title 12, C.R.S., in whose name twenty or more motor vehicles are registered or inventoried or consigned for retail sale in this state which are required to be inspected shall comply with the requirements of section 42-4-310 for the issuance of a certificate of emissions compliance at the time of the retail sale of any such vehicle; and 42-4-309(6)(a) On and after June 1, 1996, a motor vehicle dealer or a used motor vehicle dealer licensed pursuant to article 6 of title 12, C.R.S., that sells any vehicle subject to the provisions of the enhanced emissions program may comply with the provisions of sections 42-4-304(3)(d) and 42-4-310 by providing the consumer of the vehicle a voucher purchased by the dealer from the contractor for the centralized enhanced emissions program, with or without charge to the consumer, up to the maximum amount charged for an emissions inspection at an enhanced inspection center. Such voucher shall cover the cost of an emissions inspection of the vehicle at an enhanced inspection center and shall entitle the consumer to such an emissions inspection. § 12-6-118(3)(o), C.R.S.; to wit: §§ 42-4-304(3)(b)(1), -309(3)(a) and -309(6)(a), C.R.S.

- L. Charge XII, One (1) Count – SUMMARY: The license of a used motor vehicle dealer may be denied, revoked or suspended 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; to wit: 1 CCR 204-10 Rule 34 2.7. Temporary permits shall not be issued to vehicles which are sold as “Tow Away” or to vehicles which are not roadworthy. § 12-6-118(3)(o), C.R.S.; to wit: 1 CCR 204-10 Rule 34 2.7.

- M. Charge XIII, One (1) Count – SUMMARY: The license of a used motor vehicle dealer may be denied, revoked or suspended for violating any state or federal statute or regulation issued thereunder dealing with odometers; to wit: 49 CFR 580.8. Dealers and distributors of motor vehicles who are required by this part to execute an odometer disclosure statement shall retain for five years a photostat, carbon, or other facsimile copy of each odometer mileage statement which they issue and receive. They shall retain all odometer disclosure statements at their primary place of business in an order that is appropriate to business requirements and that permits systematic retrieval. § 12-6-118(3)(s), C.R.S.; to wit: 49 CFR 580.8.

4. Based on the foregoing, the Board summarily suspended the Respondent’s used motor vehicle dealer license effective June 10, 2011 and filed the current case in the Office of Administrative Courts on June 16, 2011. The case went to hearing on April 25, 2012, and the Department of Revenue filed Exceptions to the Initial Decision on October 24, 2012, and the case has been set for oral arguments before the Board, anticipating review by the Board of the Initial Decision.

5. The Respondent understands that:
 - A. The Respondent has the right to be represented by an attorney of the Respondent's choice, at the Respondent's expense;
 - B. The Respondent has the right to complete the Exceptions process through oral argument before the Board;
 - C. By entering into this Stipulation and Final Agency Order, the Respondent is knowingly and voluntarily giving up the right to complete the Exceptions process, to make an oral argument before the Board, admits the facts contained in the Stipulation and Final Agency Order and, relieves the Board of its burden of proving such facts; and,
 - E. The Respondent is knowingly and voluntarily giving up the right to judicial review of this matter.

5. The 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 four (4) counts contained in the Initial Decision from the Office of Administrative Courts dated June 12, 2012.

- A. Charge III, One (1) Count – SUMMARY: The license of a used motor vehicle dealer may be denied, revoked or suspended 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; to wit: Regulation 1 CCR 204-10 Rule 8, Proof of Ownership. Vehicles held by dealers or wholesalers to be junked or parted out must be marked "JUNK" on the face of the title. The "JUNK" notation is to be dated and identified as to who declared the vehicle junk. The title must be submitted to the Department of Revenue, Motor Vehicle Business Group, Title Section, 1881 Pierce Street, Lakewood, Colorado 80214. A photocopy of the title marked "JUNK" either in the name of the dealership or wholesaler, or assigned to the dealership or wholesaler, shall be kept with the vehicle to serve as proof of ownership. The purchaser of any component parts which are identified with a vehicle identification number shall be given a photocopy of the "JUNK" title with the sales receipt. §12-6-118(3)(o), C.R.S.; to wit: 1 CCR 204-10 Rule 8(7).
- B. Charge V, One (1) Count - SUMMARY: The license of a used motor vehicle dealer may be denied, revoked or suspended 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

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; to wit: § 42-6-112, C.R.S., initial registration of a motor vehicle - dealer responsibility to timely forward certificate of title to purchaser or holder of a chattel mortgage. In order to facilitate initial registration of a vehicle, a dealer of motor vehicles shall have not more than thirty days after the date of sale of such vehicle to deliver or facilitate the delivery of the certificate of title to a purchaser or the holder of a chattel mortgage on such motor vehicle, subject to section 42-6-109. § 12-6-118(3)(o), C.R.S., to wit: § 42-6-112, C.R.S.

- C. Charge XI, One (1) Count – SUMMARY: The license of a used motor vehicle dealer may be denied, revoked or suspended 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; to wit: Title 42, Article 4, C.R.S. Section 300, et seq., specifically, 42-4-304 (3)(b)(I) The certification of emissions control will be issued to the vehicle owner at the time of sale or transfer...; 42-4-309(3)(a) Any person licensed as a motor vehicle dealer pursuant to article 6 of title 12, C.R.S., in whose name twenty or more motor vehicles are registered or inventoried or consigned for retail sale in this state which are required to be inspected shall comply with the requirements of section 42-4-310 for the issuance of a certificate of emissions compliance at the time of the retail sale of any such vehicle; and 42-4-309(6)(a) On and after June 1, 1996, a motor vehicle dealer or a used motor vehicle dealer licensed pursuant to article 6 of title 12, C.R.S., that sells any vehicle subject to the provisions of the enhanced emissions program may comply with the provisions of sections 42-4-304(3)(d) and 42-4-310 by providing the consumer of the vehicle a voucher purchased by the dealer from the contractor for the centralized enhanced emissions program, with or without charge to the consumer, up to the maximum amount charged for an emissions inspection at an enhanced inspection center. Such voucher shall cover the cost of an emissions inspection of the vehicle at an enhanced inspection center and shall entitle the consumer to such an emissions inspection. § 12-6-118(3)(o), C.R.S.; to wit: §§ 42-4-304(3)(b)(I), -309(3)(a) and -309(6)(a), C.R.S.
- D. Charge XII, One (1) Count – SUMMARY: The license of a used motor vehicle dealer may be denied, revoked or suspended 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; to wit: 1 CCR 204-10 Rule 34 2.7. Temporary permits shall not be issued to vehicles which are sold as “Tow Away” or to vehicles which are not roadworthy. § 12-6-118(3)(o), C.R.S.; to wit: 1 CCR 204-10 Rule 34 2.7.

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

- A. Pursuant to § 12-6-104 (3) (e) (1) C.R.S., The Respondent shall receive a Letter of Reprimand from the Board. The letter of reprimand is a part of the licensee's record with the board for a period of two years after issuance and may be considered in aggravation of any subsequent violation by the licensee.
- B. The Board agrees that the allegations and admissions contained within this Stipulation and Final Agency Order, taken singularly, will not become a basis for denial of future licensure as a motor vehicle dealer.
- C. The Respondent acknowledges that any future application to become a motor vehicle dealer will require the Respondent to meet the current threshold licensing guidelines of the Board related to licensing, criminal, and financial fitness.
- D. The Respondent acknowledges the requirement to report the general details within this Stipulation and Final Agency Order as "prior Board action" on all future licensure applications.
- E. Upon re-licensure, the Respondent agrees to cooperate with any and all compliance inspections and/or investigations conducted by the Auto Industry Division to ensure compliance with all state and federal laws and regulations related to the motor vehicle dealer industry and commerce.

8. The Respondent agrees to strictly adhere to and to completely fulfill all requirements established in this Stipulation and Final Agency Order.

9. The Respondent is aware that this Stipulation and Final Agency Order will not become an order of the Board unless and until the Board approves it. If this Stipulation and Final Agency Order is not approved by the Board, it is void, and the Respondent shall not be bound by any provisions hereof or admissions herein.

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

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

12. The Parties agree to cooperate fully and to execute any and all supplementary documents and to take all additional actions that may be necessary or appropriate to give full force and effect to the basic terms and intent of this Stipulation and Final Agency Order and which are not inconsistent with its terms.

13. The provisions of this Stipulation and Final Agency Order shall be enforceable by the Parties before the Colorado Motor Vehicle Dealer Board, by any lawful remedy.

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

15. This Stipulation and Final Agency 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 Stipulation and Final Agency Order cannot be appealed. The Respondent agrees that any violation of this Stipulation and Final Agency Order may constitute grounds for disciplinary proceedings pursuant to the Motor Vehicle Dealer Licensing Law and if proven may constitute a basis for further disciplinary action or for any other remedy authorized by law. In the event this matter is referred to hearing for violation of this Stipulation and Final Agency Order, this Stipulation and Final Agency Order shall be admissible as evidence. In the event an alleged violation of this Stipulation and Final Agency Order is taken to hearing and the facts that constitute the violation are determined not to be proven, the Board shall not take any disciplinary action, and this Stipulation and Final Agency Order shall remain operative and in full force and effect. The pendency of any disciplinary action pursuant to this Stipulation and Final Agency Order shall not affect the obligation of the Respondent to continue to comply with the terms of this Stipulation and Final Agency Order during the pendency of and after the conclusion of such disciplinary action.

16. This Stipulation and Final Agency Order is a public record in the Board's custody at all times.

17. Effective Date. This Stipulation and Final Agency Order shall become an order of the Board when accepted by the Board and signed by an authorized representative of the Board.

18. This Stipulation and Final Agency Order is a full and final resolution of case number OAC case# MV2011-0006. This Stipulation and Final Agency 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.

19. The Respondent shall immediately provide in writing to the Board any change of the Respondent's legal address, in order for any notice required under this Stipulation and Final Agency Order or any necessary follow-up to this Stipulation and Final Agency Order to be made in a timely and efficient manner. Any notice required under this Stipulation and Final Agency Order shall be valid only if provided, in writing, to the Parties at their respective legal addresses, which the Parties acknowledge are currently as follows:

A. Board/Division:

Colorado Department of Revenue, Auto Industry Division
Attention: Bruce A. Zulauf, Division Director/Executive Secretary

1881 Pierce Street, Suite 112
Lakewood, Colorado 80214

B. Respondent:
Global Source, LLC
d/b/a G & G Auto Brokers
6885 East 48th Avenue
Denver, CO 80216

20. Should any term or provision of this Stipulation and Final Agency Order be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof.

21. This Stipulation and Final Agency Order may be signed in counterparts, each of which will have full force and effect upon execution by all Parties.

22. The Respondent warrants that it possesses the legal authority to enter into this Stipulation and Final Agency 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 Stipulation and Final Agency Order and to bind the Respondent to its terms. The person executing this Stipulation and Final Agency Order on behalf of the Respondent warrants that such person has full authorization to execute this Stipulation and Final Agency Order.

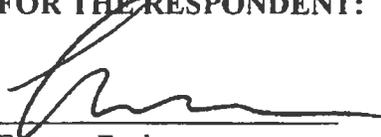
AGREED TO BY:



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

3/12/2013
Date

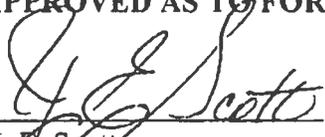
FOR THE RESPONDENT:



Eugene Fouks
Global Source, LLC
d/b/a G & G Auto Brokers

3-12-13
Date

APPROVED AS TO FORM:



Y. E. Scott
Senior Assistant Attorney General
Office of the Attorney General
1300 Broadway Street 8th Floor
Denver, CO 80203

13 March 2013
Date

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

ORDERED AND ENTERED this 14th day of March, 2013.

COLORADO MOTOR VEHICLE BOARD

BY: 

Beau Smith, President
JASON WALKER, VP

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, and personal service (as noted), this 5th day of April 2013, addressed as follows:

Eugene Fouks
G & G Auto Brokers
6885 East 48th Avenue
Denver, CO 80216

Bruce A. Zulauf, Executive Secretary
Colorado Motor Vehicle Dealer Board
Director, Auto Industry Division
1881 Pierce Street, Room 112
Lakewood, CO 80214

Y. E. Scott
Senior Assistant Attorney General
1300 Broadway Street 8th Floor
Denver, CO 80203

