
BEFORE THE MOTOR VEHICLE DEALER BOARD

STATE OF COLORADO

Case Nos. BD 12-0979; 12-1172; 14-0249; 14-0607; 14-1296; and 15-1488

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF: **MASINI MOTORS, LLC,**

Used Motor Vehicle Dealer License Number 3028,

Respondent.

IT IS HEREBY STIPULATED AND AGREED to by and between the Colorado Department of Revenue, Motor Vehicle Dealer Board ("Board") and USA Enterprises, LLC. ("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 ("Stipulation") 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 used motor vehicle dealer in the State of Colorado at all times relevant herein.

3. The Board has alleged that Respondent violated:

A. Section 12-6-118(3)(d), C.R.S, multiple counts of defrauding any buyer, seller, motor vehicle salesperson, or financial institution to such person's damage.

B. Section 12-6-118(3)(g), C.R.S. and 1 C.C.R. 205-1 Regulation 12-6-118 (3)(g)(8), 1 count of failing, upon request of the Board, to provide all required information concerning financial and management associations and interests of other persons in the business.

C. Section 12-6-118 (3) (h), C.R.S. multiple counts of having made a fraudulent or illegal sale, transaction, or repossession.

D. Section 12-6-118 (3) (i), C.R.S. multiple counts of willful misrepresentation, circumvention, or concealment of or failure to disclose, through whatsoever subterfuge or device, any of the material particulars or the nature thereof required to be stated or furnished to the buyer.

Regulation 12-6-118 (3) (i). A copy of the completed contract form shall be given to the purchaser when signed by both parties. A dealer, wholesaler, or auction dealer shall disclose on the contract form when a motor vehicle is known by the dealer, wholesaler or auction dealer to be a salvage vehicle as defined in C.R.S. 42-6-102(10.6), or when a motor vehicle is known to have sustained material damage at any one time from any one incident.

E. Section 12-6-118(3)(o), C.R.S., multiple counts of willfully violating any state or federal law or regulation respecting commerce or motor vehicles, specifically, section 6-1-708 (1), C.R.S. Motor vehicle sales and leases - deceptive trade practice. A person engages in a deceptive trade practice when, in the course of

such person's business, vocation, or occupation, such person, 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.

F. Section 12-6-118(6)(c), C.R.S., 1 count of unfitness of financial character.

4. Respondent understands that:

A. Respondent has the right to be represented by an attorney of the Respondent's choice, at 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 Stipulation, Respondent is knowingly and voluntarily giving up the right to a hearing, admits the facts contained in this Stipulation, and relieves the Board of its burden of proving such facts;

D. Respondent is knowingly and voluntarily giving up 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 is knowingly and voluntarily giving up 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.

6. Respondent admits to:

A. One (1) count of defrauding any buyer, seller, motor vehicle salesperson, or financial institution to such person's damage pursuant to § 12-6-118(3)(d), C.R.S.

7. Based upon this admission, the Board is authorized to impose the sanctions set forth in this Stipulation.

8. Respondent agrees, in lieu of subsequent administrative proceedings, to submit to the following sanction:

A. Respondent is assessed a fine of \$10,000.00.

B. \$5,000.00 of Respondent's fine shall be due and payable in ten (10) continuous monthly installments of \$500 each month beginning the month following the date this Stipulation is approved by the Board.

C. The remaining \$5,000 shall be held in abeyance and payable upon application of Respondent for any license authorized by the Motor Vehicle Dealer Board.

D. The Respondent shall immediately voluntarily surrender motor vehicle dealer license # 3028 and all rights and privileges that adhere thereto. Such surrender shall have the same force and effect as a revocation ordered by the Board

9. This Stipulation and Final Agency Order constitutes a finding by the Board that the Respondent has engaged in fraudulent conduct. Respondent agrees not to oppose the opening of the surety bond based upon the finding of fraud.

10. Upon satisfaction of the terms and conditions of this stipulation, including the monetary payments due, all other counts shall be deemed dismissed with prejudice.

11. Respondent shall not engage in any act that would require licensure by the State of Colorado until Respondent first obtains the appropriate licensure.

12. Respondent agrees to strictly adhere to and to completely fulfill all requirements established in this Stipulation.

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

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

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

16. 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 which are not inconsistent with its terms.

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

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

19. This Stipulation 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 cannot be appealed. Respondent agrees that any violation of this Stipulation 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, this Stipulation shall be admissible as

evidence. In the event an alleged violation of this Stipulation 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 shall remain operative and in full force and effect. The pendency of any disciplinary action pursuant to this Stipulation shall not affect the obligation of Respondent to continue to comply with the terms of this Stipulation during the pendency of and after the conclusion of such disciplinary action.

20. This Stipulation is a public record in the Board's custody at all times.

21. Effective Date. This Stipulation shall become an order of the Board when accepted by the Board and signed by an authorized representative of the Board.

22. This Stipulation is a full and final resolution of Case Numbers BD12-0979; BD12-1172; BD14-0249; BD14-0607; BD14-1296; and BD15-1488. This Stipulation does not resolve any other cases, complaints or matters, known or unknown to the Parties, as of the effective date of this Stipulation.

23. Respondent shall immediately provide in writing to the Board any change of Respondent's legal address, in order for any notice required under this Stipulation or any necessary follow-up to this Stipulation to be made in a timely and efficient manner. Any notice required under this Stipulation 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:

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

B. Respondent:

Masini Motors, LLC.
5255 E. 48TH Ave., Unit B
Commerce City, Colorado 80216

24. Should any term or provision of this Stipulation 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.

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

26. Respondent warrants that it possesses the legal authority to enter into this Stipulation 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

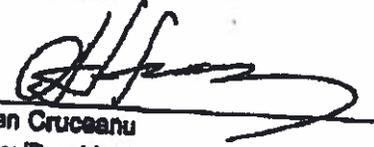
Masini Motors, LLC Stipulation and Final Agency Order

signatory to execute this Stipulation and to bind Respondent to its terms. The person executing this Stipulation on behalf of Respondent warrants that such person has full authorization to execute this Stipulation.

AGREED TO BY:

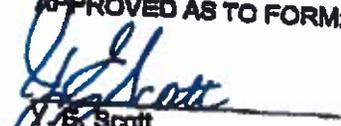

Bruce A. Zolay
Director/Executive Secretary
Motor Vehicle Dealer Board

4/19/16
Date


Stefan Cruceanu
Owner/President
Masini Motors, LLC.
Respondent

4-12-16
Date

APPROVED AS TO FORM:


J. Scott
Senior Assistant Attorney General

13 April 2016
Date


Michael G. McKinnon
Attorney for Respondent

4/13/16
Date

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Masini Motors, LLC Stipulation and Final Agency Order

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

ORDERED AND ENTERED this 19th day of APRIL, 2016.

COLORADO MOTOR VEHICLE DEALER BOARD

BY: Joe Gebhardt
Jason Wagner, President

JOE GEBHARDT, VICE 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 19th day of May, 2016 addressed as follows:

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

Michael G. McKinnon, Esq.
5984 South Prince Street, Suite 100
Littleton, CO 80120

Kevin Ciddell-Zimmer

cc: Bruce A. Zulauf, Executive Secretary
Colorado Motor Vehicle Dealer Board