COLORADO DEPARTMENT OF REVENUE HEARINGS DIVISION

ON BEHALF OF THE COLORADO MOTOR VEHICLE DEALER BOARD
Case No. BD15-1182

STIPULATION AND FINAL ORDER

IN THE MATTER OF: **TIMOTHY STEVES**
Motor Vehicle Salesperson Number: 187343

Respondent.

IT IS HEREBY STIPULATED AND AGREED UPON by and between the Colorado Department of Revenue, Motor Vehicle Dealer Board ("Board") and Timothy Steves, ("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 salesperson in the State of Colorado at all times relevant.

3. The Board has alleged that Respondent violated the following:

   A. One (1) count of § 12-6-118(5)(f), C.R.S. The license of a motor vehicle salesperson may be denied, revoked, or suspended for indulging in any fraudulent business practice.

   B. One (1) count of § 12-6-118(5)(n), C.R.S The license of a motor vehicle salesperson may be denied, revoked, or suspended for defrauding any retail buyer to such person's damage.

   C. Three (3) counts of § 12-6-118 (5)(q), C.R.S., The license of a motor vehicle salesperson may be denied, revoked, or suspended, if the Respondent willfully violated 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.

Count 1 <u>Forgery</u> – A person commits forgery, if with the 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 present 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.

Count 2 Identity Theft – A person commits identity theft if he or she knowingly uses the personal identifying information, financial identifying information or financial device of another without permission or lawful authority with the intent to obtain cash, credit, property, service, or any other thing of value or to make a financial payment. § 18-5-902(1)(a), C.R.S.

Count 3 Identity Theft – A person commits identity theft if he or she with the intent to defraud, falsely makes, completes, alters, or utters a written instrument or financial device containing any personal identifying information or financial identifying information of another. § 18-5-902(1)(c), C.R.S.

4. 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 a formal hearing in accordance with article 6 of Title 12, C.R.S.;

C. By entering into this Stipulation and Final Agency Order, the Respondent is knowingly and voluntarily giving up the right to a hearing, admits the facts contained in this Stipulation and Final Agency Order, and relieves the Board of its burden of proving such facts;

D. The 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. 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 one (1) count of § 12-6-118 5(c), C.R.S., The license of a motor vehicle salesperson may be denied, suspended, or revoked for failure to comply with any provision of this part 1 or any rule or regulation promulgated by the Board or executive director under this part 1.

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

A. The Respondent shall pay a fine of $500.00. The Respondent agrees $100.00 of the $500.00 fine shall be due and payable within 60 days from the date of the approval of this Stipulation by the Board and $100.00 due and payable upon renewal or reapplication of his salesperson license. The remaining balance, amounting to $300.00, will be held in abeyance for a period of one (1) year following renewal or reissuance of Respondent's salesperson license, provided there are no additional violations of the statutes and regulations pertaining to motor vehicles and commerce committed by the Respondent during the one (1) year period.

B. The Respondent agrees to a one (1) year probation period following renewal or reissuance of Respondent's salesperson license.

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.

16. 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.

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

18. 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.

19. This Stipulation and Final Agency Order is a full and final resolution of case number BD15-1182. 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.

20. 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:

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:

Timothy Steves
[redacted]

21. 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.

22. 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.

23. 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. Zunauf
Director/Executive Secretary
Auto Industry Division
Motor Vehicle Dealer Board

5/17/16
Date

FOR THE RESPONDENT:

Timothy Steves

5/10/16
Date

APPROVED AS TO FORM:

Y. E. Scott
Attorney for the Colorado
Motor Vehicle Dealer Board

17 May 2016
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 17 day of May, 2016.

COLORADO MOTOR VEHICLE BOARD

BY: _____
Jason Wagner, 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 18th day of May 2016, addressed as follows:

Timothy Steves
1208 Freedom Way
Castle Rock, CO 80109

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

Arleen Criddell-Tapanen
Assistant to Director

cc: Bruce A. Zulauf, Executive Secretary
Colorado Motor Vehicle Dealer Board
Director, Auto Industry Division
1881 Pierce Street, Room 112
Lakewood, CO 80214
(Placed in Board File)