

STATE OF NEW JERSEY



DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF BANKING

CONSENT ORDER NO. AR17-1502059

IN THE MATTER OF:)
)
GIO'S AUTO SALES, LLC) CONSENT ORDER
REF. NO. 1502059 AND)
GIORIVER CASTILLO)

GIO'S AUTO SALES, LLC)
ATTN: GIORIVER CASTILLO)
374 NEW STREET)
PERTH AMBOY, NJ 08861)

THIS MATTER having been opened by the Office of Consumer Finance within the Division of Banking of the Department of Banking and Insurance ("Department"), State of New Jersey, upon information that Gio's Auto Sales, LLC ("Licensee"), licensed as a motor vehicle installment seller pursuant to N.J.S.A. 17:16C-1 et seq. (the "Act"), may have violated certain provisions of the Act and other applicable law; and

WHEREAS, pursuant to N.J.S.A. 17:1C-33, the Legislature found and declared that the Division of Banking has a statutory obligation to protect the interests of New Jersey consumers and to oversee the financial industry that it licenses, and in order to maintain adequate oversight and performance of its regulatory responsibilities, it is necessary to establish a dedicated funding mechanism; and

WHEREAS, pursuant to N.J.S.A. 17:1C-35a, on or before August 15th in each year, the Director of the Division of Budget and Accounting shall ascertain and certify to the Commissioner of the Department ("Commissioner") the total amount of expenses incurred with respect to the special functions of the Division of Banking relative to financial regulation in the preceding fiscal year; and

WHEREAS, pursuant to N.J.S.A. 17:1C-35b (1), no later than September 1st of each year, the Commissioner shall issue the assessment for the amount of expenses incurred; and

WHEREAS, pursuant to N.J.S.A. 17:1C-35b (2) and 46, assessments shall be distributed among all regulated entities in accordance with regulations promulgated by the Commissioner; and

WHEREAS, pursuant to N.J.A.C. 3:1-7.6(a), individuals or entities licensed by the Department are required to file an annual report for the preceding year on or before April 1 of each year; and

WHEREAS, as a matter of administrative accommodation, the Department requires annual reports to be filed by May 1 of each year; and

WHEREAS, pursuant to N.J.S.A. 17:16C-10 and 19, and N.J.A.C. 3:1-7.6, the Commissioner is authorized to take action on the license of a licensee who fails to file an annual report, and impose a fine of not more than \$100 per day for each day the annual report is not filed; and

IT APPEARING that, by letter dated January 31, 2017, the Department reminded the Licensee that it was required to file its 2016 annual report by May 1, 2017; and

IT FURTHER APPEARING that the Department sent five e-mail notices to the Licensee, dated February 20, 2017, March 20, 2017, April 7, 2017, April 13, 2017, and April 24, 2017,

advising that the 2016 annual report had not yet been filed, and that it must be submitted by May 1, 2017 to avoid liability for penalties for late filing; and

IT FURTHER APPEARING that the Licensee failed to file an annual report by May 1, 2017; and

IT FURTHER APPEARING that the Department sent an e-mail notice to the Licensee dated May 2nd, 2017 advising that the 2016 annual report was not filed by May 1, and that it must be submitted immediately to avoid liability for penalties; and

IT FURTHER APPEARING that on June 7, 2017, the Commissioner issued to the Licensee a Notice of Violation, Conditional Order Suspending License and Imposing Fines, and Contingent Final Order, Order No. AR17-1502059 (the "Order"); and

IT FURTHER APPEARING that, on or about September 29, 2017, the Licensee submitted a response to the Order and did not request a hearing, as an alternative submitted a request for a payment plan; and

IT FURTHER APPEARING that the Licensee filed its annual report on August 2, 2017; and

IT FURTHER APPEARING that the Licensee acknowledges that it has been provided with notice that it would have had the opportunity for a plenary hearing before the Office of Administrative Law in connection with the Order; and that it knowingly and voluntarily waives its right to a plenary hearing in this matter; and

IT FURTHER APPEARING that this matter should be resolved upon the consent of the parties without resort to a formal hearing; and

IT FURTHER APPEARING that good cause exists to enter into this Consent Order; and
NOW, THEREFORE, IT IS on this 30th day of October, 2017:

ORDERED AND AGREED that Licensee admits and accepts responsibility for the actions described above in violation of N.J.S.A. 17:16C-10 and 19, and N.J.A.C. 3:1-7.6; and

IT IS FURTHER ORDERED AND AGREED that, pursuant to N.J.A.C. 3:1-7.6, the Licensee shall pay an administrative penalty in the amount of \$2,000.00 for the violations admitted to herein, which administrative penalty shall be paid in **(6) Six** installments, as follows: **\$500** upon execution of this Consent Order, and **\$250** to be received no later than, **November 1, 2017, December 1, 2017, January 2, 2018, February 2, 2018, March 2, 2018 and final payment on or by April 4, 2018**, respectively; and

IT IS FURTHER ORDERED AND AGREED that the Licensee shall make such payments by certified check, cashier's check or money order made payable to the "Treasurer, State of New Jersey", and shall remit same to:

New Jersey Department of Banking and Insurance
Office of Consumer Finance
20 West State Street, 5th Floor
P.O. Box 040
Trenton, NJ 08625-0040
ATTENTION: Adrian M. Ellison

AND, IT IS FURTHER ORDERED AND AGREED that in the event that any of the installment payments are not received by **November 1, 2017, December 1, 2017, January 2, 2018, February 2, 2018, March 2, 2018 and final payment on or by April 4, 2018**, the Licensee may be deemed in violation of this Consent Order, and the entire \$2,000 penalty will become immediately due and owing, less a credit for any payment made, and the Licensee's license may be immediately suspended without further action until the full outstanding payment is received, and the Commissioner may impose other penalties available by law; and IT IS FURTHER ORDERED AND AGREED that the provisions of this Consent Order represent a

final agency decision and constitute final resolution of the violations contained in Order No. AR17-1502059, and that this Consent Order may be docketed with the Clerk of the Superior Court as provided in the Penalty Enforcement Law, N.J.S.A. 2A:58-10 et seq. Consented to as to

Form, Content and Entry:

Gio's Auto Sales, LLC

By: 

Dated: 10/24/17

RICHARD J. BADALATO, COMMISSIONER
NEW JERSEY DEPARTMENT OF
BANKING AND INSURANCE

By:



Thomas M. Hunt, Assistant Division Director
Office of Consumer Finance