

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Unlicensed Activity of:

No. 11F-BD118-SBD

3 **WHOLESALE MOTOR COMPANY, INC.**  
4 **AND DON J. PFEFFER, PRESIDENT**  
5 6167 E. Speedway Blvd.  
6 Tucson, AZ 85712

**ORDER TO CEASE AND DESIST;  
NOTICE OF OPPORTUNITY FOR  
HEARING; CONSENT TO ENTRY OF  
ORDER**

Respondents.

7 The Superintendent of Financial Institutions for the State of Arizona (the "Superintendent"),  
8 makes the following Findings of Fact and Conclusions of Law and enters the following Order  
9 pursuant to Arizona Revised Statutes ("A.R.S.") § 6-137.

10 Pursuant to Titles 6 and 41 of the Arizona Revised Statutes and Title 20, Chapter 4 of the  
11 Arizona Administrative Code ("A.A.C."), Respondents are hereby notified that they are entitled to a  
12 hearing to contest the allegations set forth in this Order. The Request for Hearing shall be filed with  
13 the Arizona Department of Financial Institutions (the "Department") pursuant to A.R.S. § 6-137(D)  
14 within **thirty (30) days** of service of this Order and shall identify with specificity the action or order  
15 for which review is sought in accordance with A.R.S. § 41-1092.03(B).

16 Pursuant to A.R.S. §§ 41-1092.01(D) and 41-1092.03(B), any person may appear on his or  
17 her own behalf or by counsel. If Respondents are represented by counsel, the information required  
18 by A.R.S. § 41-1092.03(B) shall be included in the Request for Hearing. Upon the filing of a  
19 Request for Hearing, the Department shall issue a Notice of Hearing scheduling the matter for  
20 hearing in accordance with A.R.S. § 41-1092.05. **Persons with disabilities may request**  
21 **reasonable accommodations such as interpreters, alternative formats, or assistance with**  
22 **physical accessibility.** Requests for special accommodations must be made as early as possible to  
23 allow time to arrange the accommodations. If accommodations are required, call the Office of  
24 Administrative Hearings at (602) 542-9826.

25 Respondents have the right to request an Informal Settlement Conference, pursuant to A.R.S.  
26 § 41-1092.06, by filing a written request no later than **twenty (20) days** before the scheduled

1 hearing. The conference will be held within **fifteen (15) days** after receipt of your request. If an  
2 Informal Settlement Conference is requested, a person with the authority to act on behalf of the  
3 Department will be present (the "Department Representative"). Please note that in requesting an  
4 Informal Settlement Conference, Respondents waive any right to object to the participation of the  
5 Department Representative in the final administrative decision of this matter, if it is not settled. In  
6 addition, any written or oral statement made by Respondents at such informal settlement conference,  
7 including written documentation created or expressed solely for purposes of settlement negotiations,  
8 is inadmissible in any subsequent administrative hearing. (See A.R.S. § 41-1092.06 for rules  
9 regarding informal settlement conferences.) Conversely, any written or oral statement made by  
10 Respondents outside an Informal Settlement Conference is not barred from being admitted by the  
11 Department in any subsequent hearing.

12 If Respondents do not request a hearing, this Order shall become final. If Respondents  
13 request a hearing, the purpose of the hearing shall be to determine if grounds exist for: (1) the  
14 issuance of an order pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the  
15 violative conduct and to take the appropriate affirmative actions, within a reasonable period of time  
16 prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts,  
17 practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S.  
18 § 6-132; and (3) an order or any other remedy necessary or proper for the enforcement of statutes  
19 and rules regulating motor vehicle dealers pursuant to A.R.S. §§ 6-123 and 6-131.

#### 20 **FINDINGS OF FACT**

21 1. Respondent Wholesale Motor Company, Inc. ("WMC") is an Arizona corporation that is  
22 not and was not, at any time material herein, authorized to transact business in Arizona as a motor  
23 vehicle dealer within the meaning of A.R.S. § 44-281, *et seq.* The nature of WMC's business is that  
24 of a motor vehicle dealer within the meaning of A.R.S. § 44-281(3).

25 2. Respondent Don J. Pfeffer ("Mr. Pfeffer") is the President of WMC and is not and was  
26 not, at any time material herein, authorized to transact business in Arizona as a motor vehicle dealer

1 within the meaning of A.R.S. § 44-281, *et seq.*

2 3. WMC and Mr. Pfeffer are not exempt from licensure as a motor vehicle dealer within  
3 the meaning of A.R.S. § 44-282(G).

4 4. On March 14, 2011, the Department received a detailed complaint from P.G., a Tucson  
5 resident, filed against WMC, stating that on January 17, 2011, P.G. purchased a used vehicle from  
6 WMC, was charged unnecessary fees, and that WMC forged his signature on the GAP insurance  
7 addendum. P.G. further stated the vehicle selling price was approximately \$9,000.00, but WMC  
8 increased the final price to \$10,600.00.

9 5. On or about March 23, 2011, the Department sent a letter to Respondents, stating that  
10 the Department had reason to believe that WMC was operating in Arizona without the benefit of a  
11 motor vehicle dealer license. The Department gave Respondents an opportunity to respond by  
12 April 3, 2011, to present their plans to resolve the complaint filed by P.G. The Department also  
13 requested general ledgers showing the number of vehicles indirectly financed by outside lenders as  
14 well as the number and total dollars outstanding of any and all contracts financed in-house by WMC.

15 6. On or about April 3, 2011, Mr. Pfeffer submitted to the Department copies of general  
16 ledgers which disclosed that between January 1, 2010 and February 28, 2011, Respondents indirectly  
17 financed a total of forty one (41) vehicles with a total of six (6) sales finance companies, without the  
18 benefit of a motor vehicle dealer license.

19 7. Mr. Pfeffer verbally stated to the Department that WMC has not financed any contracts  
20 on an in-house basis.

21 8. On April 12, 2011, Respondents submitted to the Department a new Motor Vehicle  
22 Dealer License Application, which is pending.

23 9. These Findings of Fact shall also serve as Conclusions of Law.

24 **CONCLUSIONS OF LAW**

25 1. Pursuant to Title 6 and Title 44, Chapter 2.1 of the Arizona Revised Statutes (A.R.S.)  
26 §§ 44-281 *et seq.*, the Superintendent has the authority and duty to regulate all persons engaged in

1 the motor vehicle dealer business and with the enforcement of statutes, rules, and regulations relating  
2 to motor vehicle dealers.

3 2. The conduct of WMC and Mr. Pfeffer, as alleged above, constitutes the conduct of  
4 engaging in the business of a motor vehicle dealer in the State of Arizona without having first  
5 applied for and obtained from the Department a motor vehicle dealer license under Chapter 2.1 of  
6 Title 44, in violation of A.R.S. § 44-282(A).

7 3. Neither WMC nor Mr. Pfeffer meet any of the exemptions to the licensing requirements  
8 set forth in A.R.S. § 44-282(G).

9 4. Pursuant to A.R.S. § 6-132, Respondents' violations of the aforementioned statutes are  
10 grounds for a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation for  
11 each day.

12 5. The violations, set forth above, constitute grounds for: (1) the issuance of an order  
13 pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the violative conduct and  
14 to take the appropriate affirmative actions, within a reasonable period of time prescribed by the  
15 Superintendent, to correct the conditions resulting from the unlawful acts, practices, and  
16 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; and (3) an  
17 order or any other remedy necessary or proper for the enforcement of statutes and rules regulating  
18 motor vehicle dealers pursuant to A.R.S. §§ 6-123 and 6-131.

19 **ORDER**

20 1. WMC and Mr. Pfeffer shall immediately stop all motor vehicle dealer activity in  
21 Arizona until such time as WMC and Mr. Pfeffer have obtained a motor vehicle dealer license from  
22 the Superintendent as prescribed by A.R.S. § 44-282.

23 2. WMC and Mr. Pfeffer shall immediately pay to the Department a civil money penalty in  
24 the amount of **five thousand dollars (\$5,000.00)**. WMC and Mr. Pfeffer are jointly and severally  
25 liable for payment of the civil money penalty.

26 3. WMC and Mr. Pfeffer shall comply with all Arizona statutes and rules regulating

1 Arizona motor vehicle dealers (A.R.S. § 44-281 *et seq.*).

2 4. The provisions of this Order shall be binding upon respondents, their employees, agents,  
3 and other persons participating in the conduct of the affairs of Respondents.

4 5. This Order shall become effective upon service, and shall remain effective and  
5 enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated,  
6 or set aside.

7 SO ORDERED this 26th day of April, 2011.

8 Lauren W. Kingry  
9 Superintendent of Financial Institutions

10  
11 By   
12 Robert D. Charlton  
13 Assistant Superintendent of Financial Institutions

13 **CONSENT TO ENTRY OF ORDER**

14 1. Respondents acknowledge that they have been served with a copy of the foregoing  
15 Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, have read the  
16 same, are aware of their right to an administrative hearing in this matter, and have waived the same.

17 2. Respondents admit the jurisdiction of the Superintendent and consent to the entry of  
18 the foregoing Findings of Fact, Conclusions of Law, and Order.

19 3. Respondents state that no promise of any kind or nature has been made to induce  
20 them to consent to the entry of this Order, and that they have done so voluntarily.

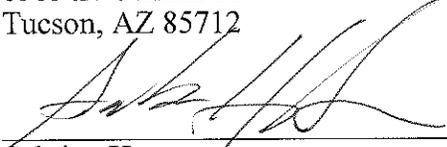
21 4. Respondents agree to immediately cease from engaging in the violative conduct set  
22 forth in the Findings of Fact and Conclusions of Law.

23 5. Respondents acknowledge that the acceptance of this Agreement by the  
24 Superintendent is solely to settle this matter and does not preclude this Department, any other agency  
25 or officer of this state or subdivision thereof from instituting other proceedings as may be  
26 appropriate now or in the future.



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Vicki Haws, Statutory Agent for  
Wholesale Motor Company, Inc.  
6563 E. Celsius Pl.  
Tucson, AZ 85712



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Sabrina Hampton  
# 1724805