

FEB 21 2008

DEPT. OF FINANCIAL
INSTITUTIONS**ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

In the Matter of the Unlicensed Activity of:

No. 08F-BD031-BNK

**ATLAS AUTO SALES AND JAMAL LULU,
OWNER**
1046 East 22nd Street
Tucson, AZ 85716**CONSENT ORDER**

Petitioners.

On January 2, 2008, the Arizona Department of Financial Institutions ("Department") issued an Order to Cease and Desist; Notice of Opportunity for Hearing; and Consent to Entry of Order, ordering Petitioners to cease violating Arizona law. Wishing to resolve this matter in lieu of an administrative hearing, Petitioners do not contest the following Findings of Fact and Conclusions of Law, and consent to the entry of the following Order.

FINDINGS OF FACT

1. Petitioner Atlas Auto Sales ("Atlas") is not and was not at any time material herein authorized to transact business in Arizona as a motor vehicle dealer within the meaning of A.R.S. §§ 44-281, *et seq.* The nature of Atlas' business is that of a motor vehicle dealer within the meaning of A.R.S. § 44-281(3).

2. Petitioner Jamal Lulu ("Mr. Lulu") is the Owner of Atlas. Mr. Lulu is not and was not at any time material herein authorized to transact business in Arizona as motor vehicle dealer within the meaning of A.R.S. §§ 44-281, *et seq.*

3. Neither Atlas nor Mr. Lulu are exempt from licensure as a motor vehicle dealer within the meaning of A.R.S. § 44-282(G).

4. On April 25, 2007, the Department received a complaint filed against Atlas. Attached to the complaint was a copy of a Motor Vehicle Retail Installment Sales Contract And Purchase Money Security Agreement ("Agreement"). The Agreement listed Atlas as the seller/creditor and the amount financed was thirteen thousand, five hundred sixty six dollars and nine cents (\$13,566.09).

5. On June 11, 2007, the Department received an e-mail from Mr. Lulu that stated, "We

1 have been in this business since 1997. Since I opened the business no one has contacted me about
2 this law or violations. I wasn't aware that I am violating the law or rules."

3 6. On June 13, 2007, the Department sent Atlas a request for additional information,
4 including a yearly breakdown of how many vehicles Atlas sold on a non-cash basis beginning with
5 the year 1997.

6 7. On July 23, 2007, the Department received a faxed copy of an e-mail dated July 17, 2007
7 from Mr. Lulu, who stated in part, "We cant provide you with files from 1997. Since we are only
8 allowed to carry 3 years worth of files. What files we do have available are 2005, 2006, and 2007."

9 In the files from 2006, Atlas sold sixty one (61) motor vehicles on a non-cash basis with the total
10 amount of five hundred nine thousand, five hundred twenty six dollars (\$509,526.00) financed by
11 A&L Finance, eighteen (18) motor vehicles on a non-cash basis with the total amount of two
12 hundred twenty thousand, three hundred seventy eight dollars (\$220,378.00) financed by WFS
13 Finance, eleven (11) motor vehicles sold on a non-cash basis with the total amount of eighty three
14 thousand, ninety six dollars (\$83,096.00) financed by United Auto Credit, and four (4) motor
15 vehicles on a non-cash basis with the total amount of thirty nine thousand, eight hundred six dollars
16 (\$39,806.00) financed by Fireside. In the files from January 2007 through June 2007, Atlas sold
17 eighteen (18) motor vehicles on a non-cash basis with the total amount of one hundred forty five
18 thousand, four hundred sixty dollars (\$145,460.00) financed by A&L Finance, nine (9) motor
19 vehicles on a non-cash basis with the total amount of sixty nine thousand, nine hundred twenty eight
20 dollars (\$69,928.00) financed by United Auto Credit, and ten (10) motor vehicles on a non-cash
21 basis with the total amount of one hundred sixteen thousand, four hundred one dollars (\$116,401.00)
22 financed by WFS Finance.

23 8. On January 16, 2008, the Department received an application for a motor vehicle dealer
24 license from Petitioners, signed by Mr. Jamal.

25 9. These Findings of Fact shall also serve as Conclusions of Law.
26

1 CONCLUSIONS OF LAW

2 1. Pursuant to Title 6 and Title 44, Chapter 2.1 of the Arizona Revised Statutes, the
3 Superintendent has the authority and duty to regulate all persons engaged in the motor vehicle dealer
4 business and with the enforcement of statutes, rules, and regulations relating to motor vehicle
5 dealers.

6 2. Atlas' and Mr. Lulu's conduct, as alleged above, constitutes engaging in motor
7 vehicle dealer activity in the State of Arizona without having first applied for and obtained a motor
8 vehicle dealer license under Chapter 2.1 of Title 44, in violation of A.R.S. § 44-282(A).

9 3. Neither Atlas nor Mr. Lulu meet any of the exemptions to the licensing requirements
10 set forth in A.R.S. § 44-282(G).

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

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

21 ORDER

22 1. Atlas and Mr. Lulu shall immediately stop all motor vehicle dealer activity in Arizona
23 until such time as Petitioners have obtained a motor vehicle dealer license from the Superintendent
24 as prescribed by A.R.S. § 44-282.

25 2. Petitioners shall pay to the Department a civil money penalty in the amount of **five**
26 **thousand dollars (\$5,000.00), due and payable upon execution of this Consent Order.** Atlas and

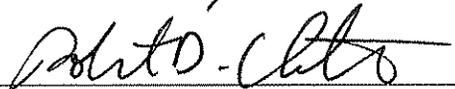
1 Mr. Lulu are jointly and severally liable for payment of the civil money penalty.

2 3. The provisions of the Order shall be binding upon Petitioners, and resolves the Notice of
3 Hearing, subject to Petitioners' payment of the civil money penalty and subject to compliance with
4 the requirements of this Order. Should Petitioners fail to comply with this Order, the Superintendent
5 shall initiate further disciplinary proceedings against Petitioners.

6 4. The provisions of this Order shall be binding upon Atlas and Mr. Lulu, their employees,
7 agents, and other persons participating in the conduct of the affairs of Petitioners.

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

11 SO ORDERED this 26 day of February, 2008.

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13 _____
14 Robert D. Charlton
15 Assistant Superintendent of Financial Institutions

16 **CONSENT TO ENTRY OF ORDER**

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

20 2. Petitioners admit the jurisdiction of the Superintendent and consent to the entry of the
21 foregoing Findings of Fact, Conclusions of Law, and Order.

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

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

1 AND COPY MAILED SAME DATE by
2 Certified Mail, Return Receipt Requested, to:

3 Arthur L. Weiss, Esq.
4 LAW OFFICES OF ARTHUR L. WEISS, P.C.
5 2730 E. Broadway, Suite 230
6 Tucson, AZ 85716
7 Attorney for Petitioners

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