

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Motor Vehicle Dealer and
3 Sales Finance Company Licenses of:

Case No.: 12F-BD067-SBD

CONSENT ORDER

4 **DEPENDABLE AUTO INC., d/b/a**
5 **DEPDENDABLE AUTO SALES, AND**
6 **JAMAL A. HARDAN, PRESIDENT**

1146 East 22nd Street
Tucson, Arizona 85713

Respondents.

8 On February 28, 2012, the Arizona Department of Financial Institutions ("Department") issued
9 a Cease and Desist Order, Notice of Opportunity for Hearing, Consent to Entry of Order, alleging that
10 Respondent had violated Arizona law. Wishing to resolve this matter in lieu of an administrative
11 hearing, Respondent consents to the Following Findings of Fact and Conclusions of Law, and consents
12 to the entry of the following Order.

13 **FINDINGS OF FACT**

14 1. Respondent Dependable Auto Inc., d/b/a Dependable Auto Sales ("Dependable Auto")
15 is an Arizona company, incorporated on March 26, 2010, and licensed by the Department as a motor
16 vehicle dealer, license #0916529, and as a sales finance company, license #0917041.

17 2. Respondent Jamal A. Hardan is the President of Dependable Auto (collectively,
18 "Respondents").

19 3. On or about September 27, 2011, the Department received a complaint from
20 Santiago M. The complaint described in great detail Santiago M.'s dealings with Respondents in the
21 course of his purchase of a 2001 BMW from Dependable Auto, the vehicle which was alleged to have
22 many defects. Santiago M. alleged that Respondents breached their promises to repair the vehicle and
23 attempted to repossess it, even though Santiago M. made the requisite payments. As of the date of the
24 complaint, Dependable Auto had neither repaired the BMW, as promised, nor returned any of
25 Santiago M.'s payments.

26 4. Pursuant to A.R.S. § 44-283(3), the Superintendent may revoke a Motor Vehicle Dealer

1 and Sales Finance Company licenses upon finding that a licensee is defrauding any retail buyer to the
2 buyer's damage.

3 5. On October 6, 2011, pursuant to A.R.S. § 6-123, the Department sent a letter and an e-
4 mail message to Dependable Auto, enclosing a copy of Santiago M.'s complaint. The Department
5 requested that Respondents provide the Department with an explanation of their position relating to
6 handling of matters described in Santiago M.'s complaint within ten (10) days.

7 6. Respondents have not responded to the Department. On October 21, 2011 and
8 November 14, 2011, the Department sent a follow-up email message to Respondents asking for an
9 immediate response to allegations in the complaint. Once again, the Department received no response
10 from Respondents, which resulted in the Department issuing a Cease and Desist Order on February 28,
11 2012.

12 7. In response to the Department's Cease and Desist Order, Respondents stated that
13 Santiago M. brought a civil action against them in Pima County Justice Court, that the dispute had been
14 resolved, and that they paid Sanitago M. \$2,500.00 pursuant to the court's order. While Respondents
15 produced some of the records relevant to their transaction with Santiago M. (*i.e.*, a copy of their
16 agreement with Santiago M. and copies of several checks), Respondents did not produce their logs or
17 other signed or authentic documents, from which the Department could verify whether Santiago M. was
18 in fact in default at the time Respondents repossessed his car. Further, Respondents reported that they
19 were not familiar with applicable requirements of A.R.S. § 44-281 *et seq.*

20 8. These Findings of Fact shall also serve as Conclusions of Law.

21 CONCLUSIONS OF LAW

22 1. Pursuant to A.R.S. §§ 6-122, 6-123, 6-101(17), 44-281 *et seq.*, the Superintendent has
23 the authority and the duty to regulate all persons engaged in business and affairs of financial institution
24 and enterprises, including Motor Vehicle Dealers and Sales Finance Companies, and require
25 appropriate records, documents, information and reports from any financial institution or enterprise.

26 2. The conduct of Respondents, as alleged above, constitutes a violation of the statutes and

1 rules governing financial institutions and enterprises. Respondents have violated A.R.S. § 6-123(3) and
2 A.R.S. § 6-124(C) by failing to timely respond to the Department's request for records, documents, and
3 information and/or by failing to make their books and records available for inspection and examination.

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

11 ORDER

12 1. Respondents shall immediately stop the violations set forth in the Findings of Fact and
13 Conclusions of Law.

14 2. Respondents shall comply with all Arizona statutes and rules regulating Arizona Motor
15 Vehicle Dealers and Sales Finance Companies, A.R.S. § 44-281 *et seq.*, as follows:

16 a. Respondents shall review the Arizona Motor Vehicle Time Sales Disclosure Act
17 (MVTSD Act), A.R.S. § 44-281 *et seq.*, and bring their business practices in
18 compliance with the MVTSD Act and related laws, including but not limited to:

- 19 i. A.R.S. § 44-286 (requirements/prohibitions as to retail installment contracts),
- 20 ii. A.R.S. § 44-287 (contents of contract),
- 21 iii. A.R.S. § 44-289 (delinquent contract; recovery; transfer fees; blank spaces in
22 contract), including A.R.S. § 47-9601 *et seq.* (addressing rights of a secured
23 party upon default and remedies applicable when a secured party fails to comply
24 with Title 47, Chapter 9, Article 6);
- 25 iv. A.R.S. § 44-291 (computation of interest; prepayment rebate; additional charges)
- 26 v. A.R.S. § 44-293 (refinancing)
- vi. A.R.S. § 44-294 (records)
- vii. A.R.S. § 44-294 (penalties).

b. Respondents shall ensure that Dependable Auto timely reviews and responds to
requests from the Department, including consumer complaints received by the

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Department.

c. Respondents shall report, in writing, to the Department regarding their handling and resolution of the Santiago M.'s complaint, which was forwarded to Dependable Auto with the Department's October 6, 2011 correspondence. Specifically, Respondents shall provide proof to the Department no later than March 30, 2012 that Santiago M. was in default when his vehicle was repossessed.

3. Respondents shall immediately pay to the Department a civil money penalty in the amount of **two thousand five hundred dollars (\$2,500.00)**.

4. Respondents are jointly and severally liable for payment of the civil money penalty.

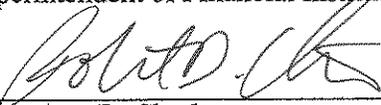
5. Should Respondents fail to comply with this Order, the Superintendent may institute further disciplinary proceedings.

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

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

SO ORDERED this 2 day of April, 2012.

Lauren W. Kingry
Superintendent of Financial Institutions

By 
Robert D. Charlton
Assistant Superintendent of Financial Institutions

CONSENT TO ENTRY OF ORDER

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

1 **COPY** mailed/delivered same date to:

2 Robert D. Charlton, Assistant Superintendent
3 Richard Traveler, Senior Examiner
4 Arizona Department of Financial Institutions
5 Attn: Sabrina Zimmerman
6 2910 N. 44th Street, Suite 310
7 Phoenix, AZ 85018

8 Natalia A. Garrett, Assistant Attorney General
9 Attorney General's Office
10 1275 W. Washington Street
11 Phoenix, AZ 85007

12 **COPY** mailed and emailed same date, to:

13 Dependable Auto Inc. d/b/a Dependable Auto Sales
14 Jamal A. Hardan, President
15 ATTN: Hardan A. Hardan, Manager
16 1146 East 22nd Street
17 Tucson, AZ 85713
18 Respondents
19 hardanadel@yahoo.com

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21 #2631027

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