

IN THE MATTER OF:
BAY MOTORS, INC. & BEHZAD BAHERI

BEFORE THE COMMISSIONER OF
FINANCIAL REGULATION

RESPONDENTS

OA# NO. LABOR-CFR-76-24-07075

CPR NO.: CFR-FY2024-04

PROPOSED FINAL ORDER

The Proposed Decision ("Proposed Decision") of the Administrative Law Judge (the "ALJ"), issued on March 3, 2025, in the above captioned case, having been received, read, and considered, the Commissioner of Financial Regulation (the "Commissioner") this 28th day of April, 2025 hereby issues this Proposed Final Order ("Proposed Order").

Discussion

In the Proposed Decision, the ALJ reviewed the evidence entered into the record by both the Office of Financial Regulation ("OFR") and the Respondents and concluded that the Respondents committed violations of the Maryland Installment Loan Licensing Provisions ("MIL-LP"), found at Financial Institutions Article § 11-301 et. seq. The ALJ noted that the Respondents did not challenge the allegation that they had issued installment loans to Maryland consumers without having a license.¹ The ALJ therefore found that the alleged violations were substantiated

¹ Proposed Decision page 15

substantiated in the record. The Commissioner accepts and adopts this finding from the ALJ without amendment.²

Having determined that the record substantiated the allegations, ALJ then examined the six factors set out in §2-115 of the Financial Institutions Article to determine the amount of any financial penalty. In general, the ALJ noted a belief that the Respondents' violations of Maryland law represented unintentional violations and that the Respondents demonstrated good faith by immediately ceasing unlicensed activity upon notice of the licensure requirement. The ALJ also noted the Respondents' testimony from which the ALJ concluded the Respondents lacked the resources to pay the \$20,000 penalty the OFR requested. Based in part on these factors, the ALJ recommended a nominal penalty of \$1,000.00.

Financial Institutions Article §2-115 (c)(1) through (5) lists express factors the Commissioner should consider in determining a financial penalty. Financial Institutions Article §2-115 (c) (6) adds to this list by authorizing the Commissioner to consider any other relevant factors in determining the amount of any financial penalty. The Commissioner believes the ALJ did not consider all relevant issues when analyzing factors §2-115 (c) (1), (2), and (4) and failed to consider other factors under (6) relevant to the determination of a financial penalty. The Commissioner will therefore impose a higher penalty amount.

Licensing represents an important tool in the State's consumer protection efforts. As noted by the Court of Appeals in Estate of Brown v. Ward, 261 Md. App. 385, 422 (2024): "An evident purpose of the licensing scheme is, however, to protect consumer borrowers from unscrupulous or unqualified actors, by requiring the credit grantor to establish its overall

² The ALJ issued this finding as CL 1 and 2 in the Proposed Decision at page 23.

unqualified actors, by requiring the credit grantor to establish its overall “fitness” to the satisfaction of the Commissioner of Financial Regulation.” Although primarily addressing requirements for a mortgage loan license, the Court’s opinion has direct relevance to any OFR licensing scheme. When a person offering financial services to Maryland residents, intentionally or unintentionally, fails to obtain a required license, it not only deprives the Commissioner of licensing fee revenue but also of that opportunity for oversight that affords protection to Maryland residents. As such, the Commissioner concludes that engaging in unlicensed activity constitutes, on its face, a significant violation of Maryland law.

The Commissioner agrees that the Respondents demonstrated apparent good faith in ceasing their lending activity when notified of a possible violation. However, the ALJ rejected arguments by the OFR that the Respondents demonstrated bad faith by failing to investigate their legal obligations prior to engaging in lending activity and then continuing this unlicensed activity for two years. The State may reasonably expect that anyone who desires to do business in Maryland will first examine their legal rights and responsibilities before doing so. The Respondents do not appear to have offered any evidence that they attempted to do so, yet engaged in lending activity for two years. Consequently, as the record contains elements of good faith and bad faith, the Commissioner views the good faith portion of the penalty analysis required by Maryland law as neither favoring nor disfavoring the Respondents.

The Commissioner also believes the ALJ failed to consider the importance of licensing fees to the OFR’s consumer protection mission. Financial Institutions Article §2-120 creates the Non-depository Special Fund (“Fund”) for the purpose of covering the direct and indirect costs of fulfilling the statutory and regulatory duties of the Commissioner and the State Collection Agency

licensing fees from each licensed person. When a person offering financial services to Maryland residents, intentionally or unintentionally, fails to obtain a required license and pay the requisite licensing fee, it deprives the Commissioner of the revenue needed to fulfill statutory and regulatory duty and oversee the responsible and compliant delivery of financial services to Maryland residents. Additionally, a person offering financial services to Maryland residents who fails to obtain a required license forces those persons who fully comply and pay the required licensing fee to bear an increased financial burden. The Commissioner therefore concludes unlicensed activity has some deleterious effect on the public and the industries involved.

The Commissioner takes notice of the OFR website which lists the installment loan license fee as \$875 per year. The ALJ found the Respondents engaged in unlicensed activity in violation of Maryland law for at least two years. Had the Respondents complied with Maryland law and obtained the required license, the Respondents would have paid licensing fees totaling \$1750 over this time frame. Notwithstanding, the ALJ recommended a "nominal" penalty of only \$1000. In essence, this represents a \$750.00 discount for the Respondents and an incentive to violate Maryland licensing laws.

The Commissioner acknowledges that the ALJ did not find any violations of Maryland law beyond two years of unlicensed activity. Consequently, this situation does not represent as serious as one in which a person both fails to obtain a required license and commits additional violations of Maryland law causing significant harm to specific Maryland consumers. However, the analysis need not be all or nothing. Violations of Maryland law may fall across a spectrum from insignificant to extremely serious. While admittedly not extremely serious, the Respondents' violations are also far from insignificant for the reasons explained above.

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The Commissioner concludes that the factors discussed above influence the analysis under Financial Institutions Article §2-115 (c)(1), (2), (4) and (6). Specifically, unlicensed activity is a serious violation of Maryland law and has a deleterious effect on the public and the financial services industry. Respondents' failure to investigate legal obligations prior to engaging in, and continuing, lending activities demonstrates elements of bad faith but is balanced by the apparent good faith the Respondents demonstrated when ceasing activity upon learning of possible legal violations. In considering the amount of the penalty, the Commissioner can consider as a relevant factor the licensing fees the Respondents would have paid if they complied with Maryland law. To have a deterrent effect, any penalty for unlicensed activity should not reward the non-compliant party by making them pay less than they would have paid if licensed.

For these reasons, the Commissioner will increase the \$1,000 penalty recommended by the ALJ to \$2,750, representing an increase of \$1750, or the amount the Respondents would have paid for a license in the two years in which the ALJ found Respondents unlawfully engaged in unlicensed activity. The Commissioner will make an additional finding of fact taking notice of the annual fee for an installment loan license noted on the OFR's website.

The ALJ noted evidence the Respondents presented showed their lack of significant assets and led to the ALJ's determination that the Respondents lacked the resources to pay the requested financial penalty of \$20,000.00. Mindful of this finding, the Commissioner will include a provision in this Proposed Order indicating that, if Respondents cannot fully pay the financial

IT IS THEREFORE ORDERED

A. That the Findings of Fact ("FF") in the Proposed Decision listed on pages 4-10 and enumerated as 1-26 be, and hereby are, ADOPTED, except that an additional Finding of Fact is added as FF 27:

(27) That the annual licensing fee the Office of Financial Regulation collects for Installment Loan Lenders is \$875.00.

B. That pursuant to State Government Article, §10-220(d) Annotated Code of Maryland, the Commissioner finds that the amount the OFR charges for an installment loan license is relevant to the consideration of the financial penalty. The amount of the licensing fee is public record and can be found, among other places, on the OFR's website in the section for Consumer Lenders under "New Application".

C. That the Proposed Conclusions of Law ("CL") listed on Page 23 on the Proposed Decision and enumerated as 1-2, be, and hereby are, ADOPTED.

D. That Respondents shall pay the Commissioner, by cashier's check or certified check made payable to the "Commissioner of Financial Regulation," a financial penalty in the amount of \$2,750.00, within twenty (20) days from the date of this Proposed Final Order, unless the Commissioner consents, in writing, to payment of the financial penalty over a term not to exceed 1 year.

E. That pursuant to State Government Article, §10-220(d) Annotated Code of Maryland, and for the reasons more fully discussed above, the Commissioner has increased the \$1,000 financial penalty recommended by the ALJ by the \$1,750.00 the Respondents should have paid to the Commissioner in licensing fees for the two years in which the ALJ found the Respondents unlawfully engaged in unlicensed activity.

F. The ALJ's recommendation for a cease-and-desist order against Respondent be and hereby is ADOPTED

paid to the Commissioner in licensing fees for the two years in which the ALJ found the Respondents unlawfully engaged in unlicensed activity.

F. The ALJ's recommendation for a cease-and-desist order against Respondent be and hereby is ADOPTED

G. Respondents shall immediately CEASE AND DESIST from engaging in unlicensed Installment Loan Lending in the State of Maryland until such time as they have obtained an installment loan license.

H. Respondents shall send all correspondence, notices, civil penalties, and other required submissions to the Commissioner at the following address: Commissioner of Financial Regulation, 100 S. Charles Street, Tower 1, Suite 500, Baltimore, MD 21202.

I. The records and publications of the Commissioner reflect the Proposed Final Order.

Pursuant to COMAR 09.01.03.09, Respondents have the right to file exceptions to the Proposed Final Order and present arguments to the Commissioner. Respondents have twenty (20) days from the postmark date of this Proposed Final Order to file exceptions with the Commissioner. COMAR 09.01.03.09A(1). Unless written exceptions are filed within the twenty (20)-day deadline noted above, this Order shall be deemed to be the final decision of the Commissioner and subject to judicial review pursuant to SG 10-222.

Respondents may have the right to file a petition for judicial review; however, the filing of a petition for judicial review does not automatically stay the enforcement of this order.

Date:

MARYLAND COMMISSIONER OF
FINANCIAL REGULATION

April 28, 2025

By: 
Antonio P. Salazar
Commissioner of Financial Regulation

MARYLAND COMMISSIONER OF
FINANCIAL REGULATION

v.

BAY MOTORS, INC. &
BEHZAD R. BAHERI,
RESPONDENTS

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BEFORE TRACEE N. HACKETT,
AN ADMINISTRATIVE LAW JUDGE
OF THE MARYLAND OFFICE OF
ADMINISTRATIVE HEARINGS
OAH NO.: LABOR-CFR-76-24-07075
CFR NO.: CFR-FY2024-04

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PROPOSED DECISION¹

STATEMENT OF THE CASE
ISSUES
SUMMARY OF THE EVIDENCE
PROPOSED FINDINGS OF FACT
DISCUSSION
PROPOSED CONCLUSIONS OF LAW
RECOMMENDED ORDER

STATEMENT OF THE CASE

On March 7, 2024, the Assistant Commissioner of Financial Regulation (Commissioner or CFR) issued a Statement of Charges and Order for Hearing (Statement of Charges) against Bay Motors, Inc., (Respondent-Corporation) and Behzad R. Bagheri (Respondent) (collectively, Respondents), alleging that Respondents jointly and severally violated the Maryland Installment Loan Licensing Provisions (MIL-LP), Md. Code Ann., Financial Institutions, Title 11, Subtitle 3 (2020 & Supp. 2024).²

¹ By letter dated March 7, 2024, Meredith Merchant, Assistant Commissioner, delegated authority to the Office of Administrative Hearings (OAH) to issue proposed findings of fact, proposed conclusions of law, and a recommended order.

² Unless otherwise noted, all references to the Financial Institutions Article are to the 2020 Replacement Volume.

The Statement of Charges informed the Respondents of the Commissioner's authority to issue a Cease and Desist Order and notified the Respondents of the potential sanctions, including financial penalties, that the Commissioner may impose for the alleged violations. The Statement of Charges also advised the Respondents that a hearing involving the Statement of Charges and proposed sanctions would be conducted by the OAH and further advised the Respondents that failure to appear at the hearing may result in the imposition of the proposed sanctions.

On November 15, 2024, the OAH issued a Notice of Hearing (Notice) to the parties advising them that a hearing would be conducted on the Statement of Charges on December 9, 2024, at the OAH in Hunt Valley, Maryland. The OAH mailed the Notice by both certified mail and regular mail to each party's addresses of record.

On December 9, 2024,³ I convened the hearing as scheduled. Md. Code Ann., Fin. Inst. § 2-115, 11-217. Kevin McGivern, Assistant Attorney General, appeared on behalf of the CFR. Granger Maher, Esquire, and Paul R. Kramer, Esquire, appeared on behalf of the Respondents who were present.

Procedure is governed by the provisions of the Administrative Procedure Act, the hearing regulations of the Department of Labor, and the Rules of Procedure of the OAH. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2021 & Supp. 2024); COMAR 09.01.03; and COMAR 28.02.01.

³ This case was previously scheduled for May 30, 2024, but was postponed by the OAH's Clerk's Office on May 23, 2024, at the request of the Respondents due to a previously scheduled conflicting court case in the Circuit Court for Howard County. The case was rescheduled for a hearing on November 12, 2024. On that date, Mr. Kramer requested a postponement because Mr. Maher, an associate his Mr. Kramer's firm, was unavailable due to an illness. Mr. Kramer was informed of this information the preceding business day, and Mr. Kramer needed additional time to prepare as Mr. Maher was the primary attorney working on this case. I granted the postponement over the CFR's objection and the parties agreed to reconvene on December 9, 2024.

ISSUES

1. Did the Respondents violate the MIL-LP in 2021 by entering into more than five installment loans without holding a license issued by the Commissioner?
2. Did the Respondents violate the MIL-LP in 2022 by entering into more than five installment loans without holding a license issued by the Commissioner?
3. If the Respondents committed the charged violations, should
 - a. a cease and desist order be issued;
 - b. civil penalties be imposed; and
 - c. a restitution order be issued?

SUMMARY OF THE EVIDENCE

Exhibits

I admitted the following numbered exhibits offered by the Commissioner:

- CFR Ex. 1 - Notice of Hearing, dated November 15, 2024
- CFR Ex. 2 - Statement of Charges and Order for Hearing, dated May 7, 2024
- CFR Ex. 3 - Delegation Letter, dated March 7, 2024
- CFR Ex. 4 - Certified mail return receipts, various dates
- CFR Ex. 5 - Report of Investigation, dated November 3, 2023
- CFR Ex. 6 - Subpoena issued by the CFR to the Respondents, dated September 7, 2023
- CFR Ex. 7 - Purchase Agreements with Installment Sales Contracts and Finance Agreements, various dates
- CFR Ex. 8 - Lien documents received by the CFR from the Maryland Motor Vehicle Administration (MVA), various dates⁴

⁴ CFR Exs. 8 and 9 were admitted solely for purposes of the CFR's desire to file exceptions and would be available to the Commissioner for consideration if such exceptions were granted and were not entered into the record for evidentiary purposes. I ruled that these exhibits were not relevant to the Statement of Charges as they contained information unrelated to any installment loans from 2021 and 2022 as were alleged in the two counts. As explained on the record, and in more detail below, the Respondents had no notice of these documents or any alleged violations stemming from them, and therefore, I found that consideration of such documents would be violative of the due process principles. These exhibits should have just been retained for the record as opposed to entered; however, at the time of the hearing, I noted on the record that they were admitted solely for purposes of filing exceptions. See COMAR 28.02.01.22C. ("All exhibits marked for identification, whether or not offered in evidence and, if offered, whether or not admitted, shall be retained for purposes of judicial review.").

CFR Ex. 9 - Summary of MVA documents, undated

CFR Ex. 10 - Summary of Loans Chart, compiled by Kat Hyland, Deputy Commissioner, CFR, undated

I admitted the following numbered exhibits offered by the Respondents:

Resp. Ex. 1 - MVA Application for Certificate of Title, date of lien September 17, 2021

Resp. Ex. 2 - Copies of two checks from Bay Motor Finance, LLC,⁵ to the Respondents, dated September 17, 2021

Testimony

The CFR presented the testimony of David Bentzley, Financial Fraud Examiner,

Enforcement Unit, CFR.

The Respondents presented the testimony of Aria Temper, daughter of the Respondent, and Officer Manager, Respondent-Corporation.

PROPOSED FINDINGS OF FACT

I find the following facts by a preponderance of the evidence:

1. The Respondent previously owned two delicatessens prior to opening the Respondent-Corporation in 2001.
2. The Respondent is the registered agent for the Respondent-Corporation and serves as its owner and president.
3. The Respondent-Corporation is a used car dealership, originally created on or around June 13, 2021.
4. At all times relevant to this matter, the CFR did not issue a license to the Respondents to do business in Maryland in any capacity.

⁵ As discussed in more detail in the Findings of Fact and analysis, this is a separate legal entity from the Respondent-Corporation.

5. The Respondent-Corporation is actively licensed by the MVA, and registered and in good standing with the Maryland State Department of Assessments and Taxation.

6. The Respondent-Corporation offers installment loan financing as a small part of its business with an average of one loan issued every other month. The installment loans are offered to customers who are ineligible for traditional financing and include 0% interest on a short loan term, typically around twelve months.

7. On May 15, 2023, the Maryland Office of the Attorney General's Consumer Protection Division (CPD) received a complaint from [REDACTED] (Complainant) concerning the Complainant's financing agreement for his vehicle through the Respondent-Corporation. The Complainant alleged that he was charged and the Respondent-Corporation collected payments in excess of their stated agreement, and the Respondent-Corporation illegally repossessed his vehicle.

8. On June 5, 2023, the CPD referred the matter to the CFR, and it was assigned to the Consumer Services Unit (CSU) for investigation.

9. On June 9, 2023, the CSU sent a certified letter to Respondent-Corporation, requesting supporting documentation related to the alleged unlawful repossession of the Complainant's vehicle and any details affecting the financing contract between the two parties.

10. The CSU did not receive a response from the Respondent-Corporation by the due date, June 20, 2023;⁶ and therefore, on July 31, 2023, the CSU referred the matter to the CFR Enforcement Unit.

⁶ In the course of the investigation, the Respondents, through Ben Shayegh, General Manager, Respondent-Corporation, conveyed to Mr. Bentzley that Mr. Shayegh had never received the certified letter. Mr. Bentzley provided a duplicate of the certified letter to Mr. Shayegh.

11. On August 2, 2023, Financial Fraud Examiner, David Bentzley, Enforcement Unit, was assigned to investigate the complaint. Mr. Bentzley could not substantiate the claims in the complaint because no documentation was provided by either the Complainant or Respondents confirming that the vehicle was repossessed. Additionally, the Complainant was incarcerated for crimes related and unrelated to the damage he caused to vehicles owned by the Respondents in the course of trying to take his vehicle back from the Respondents' repair shop.

12. As part of his investigation, Mr. Bentzley reviewed documents provided by the Respondents regarding vehicle sales for the past three years and found that the Respondents had engaged in lending activities without being licensed.

13. Mr. Bentzley's investigation revealed that in 2021, the Respondent-Corporation entered into retail installment sales contracts with at least thirteen Maryland consumers, including the Complainant, for the purchase of used vehicles, which included the following:⁷

Date	Name	Vehicle	Purchase Price	Total Due: Purchase Price + Fees/Taxes - Trade In	Down Payment	Amount Financed	APR	Installment Payments Due
[REDACTED]	[REDACTED]	[REDACTED]	\$7,900.00	\$9,177.94	\$1,000.00	\$8,177.94	0%	23 monthly payments of \$340.75; 1 payment of \$340.69
[REDACTED]	[REDACTED]	[REDACTED]	\$3,900.00	\$4,937.94	\$1,500.00	\$3,437.94	0%	11 monthly payments of \$286.50; 1 payment of \$286.44
[REDACTED]	[REDACTED]	[REDACTED]	\$6,694.00	\$7,900.00	\$2,000.00	\$5,900.00	0%	14 monthly payments of \$393.33; 1 payment of \$393.38

⁷ This chart is copied verbatim from the Report of Investigation.

			\$10,000.00	\$11,403.94	n/a	\$11,403.94	0%	35 monthly payments of \$316.78; 1 payment of \$316.64
			\$15,900.00	\$19,456.94	\$8,829.00	\$10,627.94	0%	11 monthly payments of \$885.66; 1 payment of \$885.68
			\$37,900.00	\$40,977.94	n/a	\$40,977.94	0%	35 monthly payments of \$1,138.28; 1 payment of \$1,138.14
			\$27,900.00	\$30,377.94	\$10,000.00	\$20,377.94	0%	23 monthly payments of \$849.08; 1 payment of \$849.10
			\$29,900.00	\$32,497.94	n/a	\$32,497.94	0%	35 monthly payments of \$902.72; 1 payment of \$902.74
			\$32,900.00	\$3,000.00	n/a	\$3,000.00	0%	1 weekly payment of \$3,000.00
			\$17,703.00	\$20,565.00	\$1,200.00	\$19,365.00	23.99%	72 monthly payments of \$509.69
			\$14,900.00	\$18,496.94	\$6,000.00	\$12,496.94	0%	41 monthly payments of \$297.55; 1 payment of \$297.39
			\$27,900.00	\$30,006.78	\$2,000.00	\$28,006.78	0%	55 weekly payments of \$500.00; 1 payment of \$506.78
			\$44,900.00	\$48,397.94	\$4,000.00	\$44,397.94	0%	3 Monthly payments of \$11,099.49; 1 payment of \$11,099.47

CFR Ex. 10, p. 1.

14. [REDACTED] purchased a vehicle from the Respondents, but his loan was financed through Bay Motor Finance, LLC, not through the Respondent-Corporation. Resp. Exs. 1, 2. Bay Motor Finance, LLC, is not affiliated with the Respondents. Testimony (Test.), Teper. Respondents did not issue a retail installment sales contract to [REDACTED].

15. Between January 4, 2021, and November 2, 2021, the Respondents entered into twelve retail installment contracts with Maryland consumers for the purchase of used vehicles without being licensed to do so.

16. Mr. Bentzley's investigation revealed that in 2022, the Respondent-Corporation entered into retail installment sales contracts with at least nine times with Maryland consumers, for the purchase of used vehicles, which included the following:⁹

Date	Name	Vehicle	Purchase Price	Total Due: Purchase Price + Fees/Taxes Trade In	Down Payment	Amount Financed	APR	Installment Payments Due
[REDACTED]	[REDACTED]	[REDACTED]	\$40,900.00	\$32,077.94	n/a	\$32,077.94	0%	71 monthly payments of \$445.53; 1 payment of \$445.31
[REDACTED]	[REDACTED]	[REDACTED]	\$19,900.00	\$21,897.94	\$5,000.00	\$16,897.94	0%	5 monthly payments of \$2,816.32; 1 payment of \$2,816.34
[REDACTED]	[REDACTED]	[REDACTED]	\$37,113.00	\$40,144.65	n/a	\$40,144.65	0%	5 monthly payments of \$6,690.76; 1 payment of \$6,690.75
[REDACTED]	[REDACTED]	[REDACTED]	\$10,000.00	\$11,403.94	\$2,000.00	\$9,403.94	0%	30 monthly payments of \$303.35; 1 payment of \$303.44

⁸ As explained in more detail below in the Analysis, while Mr. Bentzley found that there were thirteen retail installment sales contracts in 2021; I found the Respondents' evidence more persuasive that [REDACTED] loan was issued by a separate legal entity. Therefore, Finding of Fact #13 indicates Mr. Bentzley's final Report of Investigation, and Finding of Fact #14 represents my findings from the evidence presented at the hearing.

⁹ This chart is copied verbatim from the Report of Investigation.

			\$39,015.00	\$19,900.00	n/a	\$19,900.00	0%	5 monthly payments of \$3,316.67; 1 payment of \$3,316.65
			\$30,900.00	\$31,013.94	\$5,000.00	\$26,013.94	0%	5 monthly payments of \$5,159.66; 1 payment of \$5,189.64
			\$25,900.00	\$6,527.94	n/a	\$6,527.94	18%	36 monthly payments of \$235.99
			\$33,900.00	\$36,737.94	\$6,000.00	\$30,737.94	0%	6 monthly payments of \$5,122.99
			\$5,900.00	\$7,057.94	\$5,000.00	\$2,057.94	?	?

CFR Ex. 10, p. 2 (question marks in original).

17. The Respondent-Corporation uses a computer application called "Financial Express" to generate its retail installment sales contracts which automatically prepopulates an interest rate of eighteen percent and must be manually changed. Test., Teper.

18. On November 17, 2022, Ms. Teper had just returned from maternity leave and was still learning the process of entering and generating the loans through the "Financial Express" application. *Id.* She made a clerical mistake when she created the loan for [REDACTED] and failed to change the prepopulated interest rate of eighteen percent to zero percent. *Id.*

19. The Respondents did not charge [REDACTED] any interest on his November 17, 2022 retail installment sales contract, nor did [REDACTED] pay any interest on that loan. *Id.*

20. Between January 19, 2022, and November 29, 2022, the Respondents entered into nine retail installment contracts with Maryland consumers for the purchase of used vehicles without being licensed to do so.

21. In each of its retail installment sales contracts from 2021 and 2022, the Respondent-Corporation included paragraph wherein the parties elected to be governed by the Credit Grantor Closed End Credit Law, Md. Code Ann., Com. Law §12-1001 *et seq.* CFR Ex. 7.

22. Between 2012 and 2020, the Respondent-Corporation sold approximately 300 to 500 used cars. Test., Teper.

23. Between 2021 and 2023, the Respondent-Corporation sold approximately 100 to 140 used cars. *Id.*

24. Prior to 2020, the Respondent-Corporation's averaged approximately seventy vehicles in stock on its lot; and since 2022, it has only averaged forty vehicles in stock. *Id.*

25. Between 2021 and 2023, the Respondent-Corporation made no profit and lost approximately \$300,000.00, despite receiving relief funding from the United States Government of approximately \$4,000.00 per month. *Id.*

26. On an unidentified date in the record, the Respondents applied for licensure; however, as of the date of the hearing, the Respondents had not received any decision regarding their application for licensure.

DISCUSSION

LEGAL FRAMEWORK

The Commissioner bears the burdens of production and persuasion to demonstrate by a preponderance of the evidence that the Respondents violated the statutory and regulatory sections at issue. *See* Md. Code Ann., State Gov't § 10-217 (2021); COMAR 09.01.02.16A; *Comm'r of Labor & Industry v. Bethlehem Steel*, 344 Md. 17, 34 (1996).

In the Statement of Charges, the Commissioner alleges two counts: (1) that the Respondents violated provisions of the MIL-LP in 2021 by entering into more than five installment loans without holding a license issued by the Commissioner between July 3, 2021 and December 31, 2021; and that the Respondents violated provisions of the MIL-LP by entering into more than five installment loans in 2022 without holding a license issued by the Commissioner between September 24, 2022, and December 31, 2022.¹⁰ According to the Commissioner's Statement of Charges, these violations subject the Respondents to both penalties and a cease and desist order.

The Maryland Department of Labor, through the CFR, is the agency responsible for, *inter alia*, granting licenses¹¹ to entities wishing to issue loans to Maryland consumers and investigating alleged violations of Maryland's consumer loan laws. *See Salazar v. Fortiva Fin., LLC*, No. 21-CV-00866-LKG, 2022 WL 1267995, at *2 (D. Md. Apr. 28, 2022) (determining whether the CFR functions like a state court); *see also* Md. Code Ann., Fin. Inst. §§ 2-114, 11-203.1, 11-215, 11-304. The CFR has also the authority to investigate written complaints alleging violations of the Creditor Grantor Closed End Credit Law (CLEC).¹²

¹⁰ The record is unclear how the CFR derived the dates in its Statement of Charges.

¹¹ "License" means a license issued in any form by the Commissioner under this subtitle to make installment loans, including as provided for through [Nationwide Mortgage Licensing System (NMLS)]." Md. Code Ann., Fin. Inst. § 11-301(c).

¹² *See* Md. Code Ann., Com. Law § 12-1015(a) (2013) ("A credit grantor making a loan or an extension of credit under this subtitle is subject to the licensing, investigatory, enforcement and penalty provisions of Title 11, Subtitle 3 of the Financial Institutions Article unless the credit grantor or the loan or extension of credit is exempt under Title 11, Subtitle 3 of the Financial Institutions Article.").

Unless otherwise exempt,¹³ in order to engage in the business of consumer lending, a person (which includes entities) must obtain a license from the CFR. Md. Code Ann., Fin. Inst. § 11-203.1(a) (Supp. 2024) (“Unless a person is licensed by the Commissioner, the person may not: (1) Make a loan; or (2) In any way use any advantage provided by the Maryland Consumer Loan Law.”).

The licensure requirement applies equally to those engage in the business of issuing installment loans to Maryland consumers. Md. Code Ann., Fin. Inst. § 11-304 (“A license under this subtitle shall be applied for and issued in accordance with, and is subject to, the licensing and investigatory provisions of Subtitle 2 of this title, the Maryland Consumer Loan Law -- Licensing Provisions.”). An “[i]ninstallment loan’ means a loan or extension of credit made for consideration under § 12-103(a)(3) or (c) or Title 12, Subtitle 9, or Subtitle 10 of the Commercial Law Article.” Md. Code Ann., Fin. Inst. § 11-301(b). Furthermore,

Unless the person is licensed¹⁴ by the Commissioner, a person may not:
(1) Engage in the business of making installment loans;
(2) Make more than 5 installment loans a year; or
(3) Engage in the business of a credit services business as defined under Title 14, Subtitle 19 of the Commercial Law Article.

Md. Code Ann., Fin. Inst. § 11-304.

The Commissioner of the CFR has investigative and enforcement powers to regulate any violations within its purview.

¹³ See Md. Code Ann., Fin. Inst. § 11-302 (exempting loans between certain persons or issued by certain entities). As Mr. Bentzley testified, the enumerated exemptions are not applicable here, nor did the Respondents allege that any exemption applied to the installment loans issued in 2021 and 2022.

¹⁴ “‘Licensee’ means a person licensed under this subtitle to make installment loans.” Md. Code Ann., Fin. Inst. § 11-301(d).

Specifically, the Commissioner's investigative and enforcement authority includes:

Summary cease and desist orders

(a) When the Commissioner determines that a person has engaged in an act or practice constituting a violation of a law, regulation, rule or order over which the Commissioner has jurisdiction, and that immediate action against the person is in the public interest, the Commissioner may in the Commissioner's discretion issue, without a prior hearing, a summary order directing the person to cease and desist from engaging in the activity, provided that the summary cease and desist order gives the person:

- (1) Notice of the opportunity for a hearing before the Commissioner to determine whether the summary cease and desist order should be vacated, modified, or entered as final; and
- (2) Notice that the summary cease and desist order will be entered as final if the person does not request a hearing within 15 days of receipt of the summary cease and desist order.

Determinations by Commissioner after notice and hearing

(b) When the Commissioner determines after notice and a hearing, unless the right to notice and a hearing is waived, that a person has engaged in an act or practice constituting a violation of a law, regulation, rule, or order over which the Commissioner has jurisdiction, the Commissioner may in the Commissioner's discretion and in addition to taking any other action authorized by law:

- (1) Issue a final cease and desist order against the person;
- (2) Suspend or revoke the license of the person;
- (3) Issue a penalty order against the person imposing a civil penalty not exceeding:
 - (i) \$10,000 for a first violation; and
 - (ii) \$25,000 for each subsequent violation;
- (4) Issue an order against the person requiring the person to take affirmative action to correct the violation, including making restitution to any person aggrieved by the violation; or
- (5) Take any combination of the actions specified in this subsection.

Financial penalties

(c) In determining the amount of financial penalty to be imposed under subsection (b) of this section, the Commissioner shall consider the following factors:

- (1) The seriousness of the violation;
- (2) The good faith of the violator;
- (3) The violator's history of previous violations;
- (4) The deleterious effect of the violation on the public and the industry involved;
- (5) The assets of the violator; and
- (6) Any other factors relevant to the determination of the financial penalty.

Construction with Administrative Procedure Act

(d) Notice of any hearing under **this** section shall be given and the hearing shall be held in accordance with the Administrative Procedure Act.¹

Md. Code Ann., Fin. Inst. § 2-115 (Supp. 2024).

If violations of the Maryland Consumer Loan Laws are found through the course of an investigation, the CFR Commissioner has the ability to issue various sanctions. Specifically,

(a) Subject to the hearing provisions of § 11-217 of this subtitle, the Commissioner may order a licensee or any other person to cease and desist from a course of conduct if the course of conduct results in an evasion or violation of the Maryland Consumer Loan Law or of any rule or regulation adopted under it.

(b) (1) Subject to the provisions of paragraph (2) of this subsection, when the Commissioner determines that a licensee or any other person is about to engage in an act or practice constituting an evasion or violation of the Maryland Consumer Loan Law or of any rule or regulation adopted under the Maryland Consumer Loan Law, and that immediate action against the licensee or person is in the public interest, the Commissioner may in the Commissioner's discretion issue, without a prior hearing, a summary order directing the licensee or person to cease and desist from engaging in the act or practice.

(2) A summary cease and desist order issued under paragraph (1) of this subsection shall give the licensee or person:

(i) Subject to the hearing provisions of § 11-217 of this subtitle, notice of the opportunity for a hearing to determine whether the summary cease and desist order should be vacated, modified, or entered as final; and

(ii) Notice that the summary cease and desist order will be entered as final if the licensee or person does not request a hearing within 15 days of receipt of the summary cease and desist order.

Md. Code Ann., Fin. Inst. § 11-215. Unless a summary cease and desist order has been issued, a person accused of violating a provision of the Maryland Consumer Loan Laws or MIL-LP, has due process rights, including notice and an opportunity to be heard as follows:

(a) Before the Commissioner takes any action under § 11-215 or § 11-216(a) of this subtitle, the Commissioner shall give the licensee an opportunity for a hearing before the Commissioner.

(b) Notice of the hearing shall be given and the hearing shall be held in accordance with the Administrative Procedure Act.

Md. Code Ann., Fin. Inst. § 11-217. Additionally, "[a]ny person who violates any provision of § 11-203.1(a) of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 3 years or both." Md. Code Ann., Fin. Inst. § 11-222.

ANALYSIS

Except for the two loans argued as being inaccurate, the Respondents did not challenge the alleged violations. I found the Respondents' evidence through Ms. Teper's testimony to be credible that no interest was charged on [REDACTED] loan in 2022, and that as an inexperienced employee, she mistakenly failed to adjust the pre-populated interest rate on the computer screen to zero causing an error in the printed document. Despite becoming emotional during her testimony, Ms. Teper provided detailed testimony, she answered all questions posed without raising her voice, and was candid if she was unsure of the information being asked. I also found the Respondents' documentary evidence that one loan in 2021 for [REDACTED] vehicle was financed by an unaffiliated company to be credible.

Regardless of these two adjustments to the CFR's investigative findings, there is undisputed evidence that the Respondents issued more than five installment loans for used vehicles in 2021 and in 2022. Therefore, I find that the violations are substantiated by the CFR's evidence. As such, the Commissioner may take action to address the violations.

The CFR requested a cease and desist order and a financial penalty of \$10,000.00 for each violation. It argued that these violations were serious because the Respondents had a blatant disregard for the licensure requirements, failed to exercise simple diligence over multiple years, and therefore, the extent of the actual impact of the Respondents' actions remains

unknown. Additionally, the CFR argued that this is not merely a "paper violation" as the Respondents claimed, because the Respondents operated with no oversight or mechanism to ensure compliance, even though the purpose of the licensure requirements is to protect consumers. According to the CFR, regardless of whether these loans were for minimal amounts, they were unlawful and were issued to vulnerable people who could not qualify for conventional financing with no oversight. The CFR further argued that without proper oversight the public trust fails, which negatively impacts car dealerships who are properly licensed. It averred that the real effect on public interest outweighs any impact on the Respondents' assets, because the Respondents did not offer any "significant numbers" as evidence of their assets. Additionally, the CFR argued that there were no good faith efforts by the Respondents to comply as there was no testimony about finding out what they needed to do to be compliant, especially given their lack of experience in the industry. The CFR further argued "ignorance of the law is no defense." It averred that the Respondents did not do enough to find out their legal obligations and as such, they were unlicensed for at least two years if not more. It requested that I recommend the cease and desist order with the \$20,000.00 total penalty.

The Respondents requested that they be issued "nominal fines" because they acknowledged that they made a mistake, that they will get licensed so that the CFR would have oversight, and that these actions would not be repeated. The Respondents argued that this a "paper violation" which had minimal impact as there were only twenty-one loans involved which comprised only ten percent of its business and there was no intent to evade oversight. They argued that there would be a deleterious impact on their business with the imposition of the CFR's requested penalties, because it presented testimony that it has suffered financially and has been unable to make additional sales because they cannot offer these loans.

It was the Respondents' position that they have acted in good faith because when they found out about the violations, they tried to get licensed and are still awaiting a licensing determination. According to the Respondents, the CFR's arguments disregard the testimony of Ms. Teper that the business suffered a \$300,000.00 loss and that the officers take minimal salaries. The Respondents argued that the financial penalties argued by the CFR would put them out of business which is not the mandate or purpose of the law. Furthermore, the Respondents argued that the CFR presented no testimony from any individual consumers regarding these services, nor any testimony that other car dealerships have lost business as a result of their actions. The Respondents highlighted that there was no expert testimony and no evidence of any maltreatment of consumers. They further argued that the "outrageous request for fines" is beyond a remedial measure as it would put them "under water." Lastly, the Respondents highlighted on several occasions that they have been trying to resolve this matter through settlement with the CFR, but the CFR refused to negotiate.

I agree with the Respondents that a nominal penalty is appropriate in this case based on the six factors set out in section 2-115 of the Financial Institutions Article.

The seriousness of the violation

I disagree with the CFR that the violations are serious. The Statement of Charges allege only two counts for unlicensed installment loan practices in 2021 and 2022. During that time, there were twelve loans in 2021 and nine in 2022. Once the investigation began in 2023, the Respondents ceased their installment loan practice. Based on the unrefuted testimony of the Respondents regarding their average inventory and sales, this was only ten percent of its overall business.

There was no evidence presented by the CFR that the Respondent's actions caused emotional or financial harm to Maryland consumers; there was no request for restitution, and the CFR could not substantiate the Complainant's claim as he was incarcerated for various crimes, some of which related to property damage against the Respondents. While the CFR is correct that oversight is necessary to protect all Marylanders from improper installment loan practices, there was no evidence that such practices occurred or that the Respondents took advantage of Maryland consumers or misled them in any way. For all of these reasons, I do not find that the Respondents' violations were serious.

The good faith of the violator

Once the Respondents became aware, as part of the CFR's investigation, of their need to become licensed, they ceased issuing installment loans in 2023. According to Mr. Bentzley's report, there were four retail installment sales contracts in 2023. Therefore, the Respondents did not continue to engage in any unlicensed installment loan practice. Additionally, Ms. Teper testified that the Respondents did apply for licensure once they were made aware that they required a license. However, there was no specific testimony of when the Respondents applied for licensure, nor did the Respondents provide a copy of their application. When asked to provide a specific date, Ms. Temper was unable to do so. The lack of a specific date does not negate the fact that the Respondents did make an attempt to become licensed. I also did not ignore the fact that the Respondents tried to negotiate this matter to avoid unnecessary state expense with a hearing. At the last hearing date, when the Respondents asked for a postponement, the CFR objected and indicated that it did not have the authority to settle, but it may engage in settlement negotiations after the hearing.

Lastly, there was no restitution that the Respondents could have paid to consumers in this case to show their good faith efforts to address the violation.

I did not find that bad faith existed. The CFR argued bad faith existed because the Respondents remained unlicensed for so long and did not make any efforts to investigate their licensure requirements. I was not persuaded by this argument. First, I find this type of argument to be more relevant to factors one and three, not this factor. As I will explain further below, the CFR did not present evidence of prior violations. Furthermore, Ms. Temper testified that prior to her father, the Respondent, becoming the owner of the used car dealership, the Respondent own two delis, and that her father is Iranian, with his primary language being Farsi. While I do agree with the CFR that the Respondents should have exercised diligence in determining all of their obligations when they opened a used car dealership, cultural and language barriers could have contributed to their inability to do so.

I agree with the CFR that the age-old adage of ignorance of the law is no defense applies. However, in this case, to the extent that they could, the Respondents tried to become licensed, tried to pay outstanding fines, and ceased unlicensed installment loan practices which violated the MIL-LP in 2023 and thereafter. I find that these actions constitute good faith efforts by the Respondents.

The violator's history of previous violations

The CFR presented insufficient evidence that the Respondents had any prior violations. It attempted to argue that the documentation that Mr. Bentzley received from the MVA after his report was written showed a pattern of behavior that the Respondents had been engaged in unlicensed installment loan activities for at least ten years.

When I asked Mr. Bentzley why he did not amend his report, he testified that he was not told to do so.¹⁵ As noted above, the CFR only alleged two violations in its Statement of Charges against the Respondents stemming from unlicensed activities in 2021 and 2022. The CFR's enabling statutes for issuing summary cease and desist orders and for issuing sanctions include a requirement to provide notice and an opportunity to be heard for the alleged violator. See Md. Code Ann., Fin. Inst. § 2-115(a) (Supp. 2024); Md. Code Ann., Fin. Inst. § 11-215(b). There is no evidence that the CFR has issued any sanctions against the Respondents individually or jointly in the past, or that the Respondents had been afforded a hearing to contest any violations alleged to have occurred prior to 2021. Therefore, the documentation provided by the MVA which Mr. Bentzley did not analyze as part of his investigation, and which was not even mentioned in the Statement of Charges, are merely allegations. Such allegations are insufficient to constitute violations. Consideration of such unsubstantiated, uninvestigated allegations as prior violations would not only be violative of the CFR's enabling statutes but would also violate the due process provisions of the United States and Maryland constitutions¹⁶ and the APA.¹⁷

¹⁵ Mr. Bentzley did not further elaborate who would have given him this directive.

¹⁶ The federal due process clause can be found in the fourteenth amendment which provides: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV; see also Md. Constitution, Declaration of Rights, Art. 24 (2024) ("That no man ought to be taken or imprisoned or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or, in any manner, destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the land."). As a long-standing principal, the Supreme Court of Maryland has found that "[o]ne may not be deprived of a personal right or a right to property without due process of law. Due process of law may require a judicial hearing. But for one to be entitled to such a hearing by an administrative board it must appear that action by the board will affect his personal or property rights." *Albert v. Pub. Serv. Comm'n*, 209 Md. 27, 38 (1956) (internal citations omitted). As the United States Supreme Court has found, "[t]he fundamental requisite of due process of law is the opportunity to be heard." *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970) (internal citations omitted) (holding that procedural due process requires that pretermination evidentiary hearing be held when public assistance payments to welfare recipients are discontinued).

¹⁷ See Md. Code Ann., State Gov't § 10-207(a) and (b) (2021) (notice of agency action).

Such consideration of allegations as violations would also be prejudicial to the Respondents, since they could not have defended themselves as they had no prior notice of the documents existence prior to the CFR's request to introduce them as evidence during the hearing.¹⁸

The deleterious effect of the violation on the public and the industry involved

The CFR did not present any evidence, through its exhibits or its testimony regarding the deleterious effects on the public and the industry; it solely addressed this factor in its closing argument. None of the consumers involved testified in this case nor did the CFR present any evidence of harm these consumers received as a result of the Respondents' actions. There was no expert testimony to explain how this unlicensed practice comprised of twenty-two installment loans over two years negatively impacted the used car dealership industry in the entire State of Maryland. There was no evidence that even neighboring used car dealerships lost business as a result of the Respondents' actions.

Conversely, Ms. Teper testified that these installment loans were used when the customer could not qualify for traditional financing. I find that this practice was not only a minor portion of the Respondent's business but was used as a last resort. Additionally, there were at least three consumers who contracted with the Respondent-Corporation more than once between 2021 and 2022, which evidences that they were pleased with the services the Respondents offered.

¹⁸ The Maryland Supreme Court expressly adopted the *Accardi* doctrine (*Accardi v. Shaughnessy*, 347 U.S. 260, 267-68 (1954) (reversed on other grounds)) in *Pollock v. Patuxent Institute Board of Review*, 374 Md. 463 (2003), which states in relevant part, "[i]n the instances where an agency violates a rule or regulation subject to the *Accardi* doctrine, . . . if the complainant can nonetheless show prejudice to a substantial right due to the violation of the rule or regulation by the agency, then the agency decision may be invalidated pursuant to the Maryland [APA]." *Id.* at 504.

All of the individuals who contracted with the Respondent-Corporation in 2021 and 2022 for installment loans would not have been otherwise able to purchase a vehicle. I do not find any deleterious impact based on the evidence presented.

The assets of the violator

The Respondents presented unrefuted evidence that their small, family-owned business operated at a \$300,000.00 loss between 2021 and 2023, despite relief funding from the United States Government, and that it continues to operate with almost less than half of the inventory it had pre-COVID. Ms. Temper was tearful as she testified regarding how her father's business has suffered recently. I understand that most of the Respondents' losses were attributed to the financial losses caused to many industries during COVID-19 global pandemic, but regardless of the reasons for the losses, the Respondents do not have substantial assets to pay the total \$20,000.00 financial penalty that the CFR is seeking. While the State of Maryland has a very important government interest in licensing businesses engaged in consumer lending and regulating installment loans for the protection of its citizens, I agree with the Respondents that the purpose of the licensing requirements is not to bankrupt corporations which contribute to the State's commerce. As such, I find that the Respondents do not have sufficient assets to pay any substantial fines.

Recommended Penalties

I agree with the Commissioner that a cease and desist order is appropriate to ensure that the Respondents do not further engage in activities prohibited by the MIL-LP or until they become licensed, whichever comes first.

Based upon consideration of the six factors and the discretionary language in the penalty provision, I recommend that the Respondents pay a financial penalty of \$500.00 for each violation, for a total of \$1,000.00.

PROPOSED CONCLUSIONS OF LAW

I conclude as a matter of law that the Commissioner has proven by a preponderance of the evidence that the Respondents:

1. entered into more than five installment loans in 2021 without holding a license issued by the Commissioner in violation of Maryland Installment Loan Licensing Provisions, Md. Code Ann., Financial Institutions, Title 11, Subtitle 3 (2020 & Supp. 2024).
2. entered into more than five installment loans in 2022 without holding a license issued by the Commissioner in violation of Maryland Installment Loan Licensing Provisions, Md. Code Ann., Financial Institutions, Title 11, Subtitle 3 (2020 & Supp. 2024).

I further conclude as a matter of law that the specific sanctions and remedies are authorized by law and appropriate. Md. Code Ann., Fin. Inst. §§ 2-115 and 11-215.

RECOMMENDED ORDER

I RECOMMEND that the Commissioner:

ORDER that the Respondents shall immediately CEASE AND DESIST from engaging in any further unlicensed installment loan practices; and

ORDER that for violations of the Maryland Installment Loan Licensing Provisions, the Respondents pay a total penalty of \$1,000.00, and further;

ORDER, the Respondents are jointly and severally liable for the payment of the penalty;
and

ORDER that the records and publications of the Commissioner reflect this decision.

March 3, 2025
Date Decision Issued

TNH/sh
#216901

Tracee N. Hackett
Tracee N. Hackett
Administrative Law Judge