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**BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE**

**OF THE STATE OF IDAHO**

In the Matter of:

CAN DO AUTO CREDIT, INC.

Docket No. 2021-6-01

**CONSENT ORDER**

The Director of the State of Idaho, Department of Finance (Director) has conducted a review of the Idaho regulated lending activities of CAN DO AUTO CREDIT INC. (Respondent). Pursuant to said review, the Director alleges that Respondent has violated provisions of the Idaho Credit Code, (ICC), more specifically Idaho Code § 28-46-301 *et seq.* The Consumer Finance Bureau staff of the Department of Finance and Respondent have agreed to resolve this matter through this Consent Order rather than through a formal administrative proceeding or civil action. Respondent voluntarily consents to the entry of this Consent Order. The Director deems

it appropriate and in the public interest that this Consent Order be entered as evidenced by her signature below.

### **FACTS**

1. Respondent was formed as an Idaho corporation on June 13, 2005 by Todd Hunzeker. Todd Hunzeker was the owner of Respondent until on or about September 1, 2020.

2. On August 11, 2005, the State of Idaho, Department of Finance, Consumer Finance Bureau (Department) issued to Respondent Regulated Lender License No. RRL 4809 authorizing the company to engage in regulated lending activities in Idaho. Respondent engaged in licensed regulated lending from 187 N 4<sup>th</sup> Street, Montpelier, Idaho 83254. Except for the time period between May 31, 2019, and July 12, 2019, the regulated loan license issued by the Department to Respondent continued in effect until May 31, 2021, when it expired by operation of law due to Respondent's failure to meet license renewal requirements.

3. On June 1, 2021, the Department received a license renewal application package from Respondent. The 2021 Annual Renewal Form, which was submitted by Samantha Crystal, the listed Manager/Branch Manager for the Main Office location, included a Home/Main Office Street Address of 890 W Main Street, Rexburg, Idaho 83440<sup>1</sup>. This address was subsequently corrected to reflect a Main Office Location of 120 North Hooper Avenue, Soda Springs, Idaho 83276.

4. The renewal form also listed Fall Creek Capital, LLC and John R. Adams, Jr. each having 50% ownership in Respondent. Todd Hunzeker was not listed on the renewal form as one of Respondent's owners.

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<sup>1</sup> As indicated by Samantha Crystal, this is the address for her employer, John Adams Auto Group.

5. To clarify the inconsistencies regarding the address and control person changes from Respondent's information on file with the Department for its licensed location, on June 3, 2021, a Department examiner emailed Ms. Crystal to confirm the date that Respondent changed its address from the original Montpelier, Idaho address to the Soda Springs, Idaho address and the date that Fall Creek Capital, LLC and Mr. Adams purchased Respondent from Todd Hunzeker.

6. Ms. Crystal responded the same day and stated that on September 1, 2020, Fall Creek Capital, LLC and Mr. Adams purchased Respondent. She also stated that the main office did not move to the Soda Springs address until September 15, 2020.

7. On June 4, 2021, the Department sent Respondent a Regulated Lender Deficient License Renewal Application Notice notifying Respondent that its renewal form submission did not meet the requirements for continued licensing under the Idaho Credit Code for deficiencies including, among other things, inconsistencies with the main office addresses and change in control people. On the same date, the Department also sent Respondent a Notice of License Expiration and Limited Opportunity for Reinstatement notifying Respondent that its regulated lender license was deemed expired by operation of law because its renewal submission was deficient and that it was not authorized to conduct lending activities in Idaho until its license was reinstated.

8. The deficiency notice required Respondent to submit additional information regarding its new address and control people and to provide a report (Excel Spreadsheet) of all its loan activity from September 1, 2020 (date of change of Respondent's ownership) through June 4, 2021.

9. The Excel spreadsheet provided by Respondent in response to the deficiency notice evidenced Respondent's loan activity from September 15, 2020 to June 17, 2021 from the new location without having first provided notice to the Department of its change of address, and thus this new address was an unlicensed location. Respondent made 111 auto loans during this time period totaling \$1,424,400.

10. In response to other information provided by Respondent to the June 4, 2021 notice, a second deficiency notice was issued to Respondent on July 2, 2021 requesting additional information regarding its new address and control people. Respondent provided the additional requested information and on July 20, 2021, Respondent's renewal application was deemed complete, and the Department approved the reinstatement of Respondent's Regulated Lender License No. RRL 4809 on July 23, 2021.

11. Based on information provided to the Department by Respondent in response to the Department's two deficiency notices, the Department concludes as follows:

- a. The Department was not timely notified as required of the changes made to Respondent's address for its main office when Fall Creek Capital, LLC and Mr. Adams acquired Respondent.
- b. Respondent did not submit an amended regulated lender license application to the Department requesting to continue engaging in a regulated lending business in Idaho from the new location.
- c. From the time Respondent's office moved to its new location, Respondent continued to engage in regulated lending business without having notified the Department in advance, as required under the Act, or even after the fact.

- d. Respondent extended at least 111 regulated loans to Idaho consumers from at least September 2020 to June 17, 2021.
- e. Respondent entered into 7 loans to consumers between June 1 and June 17, 2021, without a license to do so.

### **CONCLUSIONS OF LAW AND VIOLATIONS**

12. The allegations set forth in paragraphs 1 through 11 above are fully incorporated herein by this reference.

13. Idaho Code § 28-46-301 provides that no person shall engage in the business of regulated loans in Idaho without first having obtained a license from the Department authorizing the person to do so.

14. Idaho Code § 28-46-302(5) provides that, “No licensee shall change the location of any place of business, or consolidate, or close any locations, without giving the administrator at least fifteen (15) days’ prior written notice.”

15. Idaho Code § 28-46-302(6) provides that “A licensee shall not engage in the business of making regulated consumer loans at any place of business for which he does not hold a license nor shall he engage in business under any other name than that in the license.”

16. Respondent failed to provide prior written notice to the Director of the change in address of Respondent’s regulated loan business, as described above. Such failure constitutes a violation of Idaho Code § 28-46-302(5).

17. From September 15, 2020 to June 17, 2021, Respondent engaged in the business of making 111 regulated consumer loans in Idaho. Respondent’s acts of extending at least 111

regulated loans in Idaho at a different address than provided to the Department, constitute violations of Idaho Code § 28-46-302(5) and (6).

18. From June 1 to June 17, 2021, Respondent engaged in making at least seven (7) unlicensed regulated consumer loans after its license had expired and before it was reinstated on July 23, 2020. Each loan constitutes a separate violation of Idaho Code § 28-46-301.

### **REMEDIES**

19. The Respondent admits to the foregoing facts and legal conclusions set forth in this Consent Order.

20. Respondent agrees to pay to the Department the sum of one thousand dollars (\$1,000) as an administrative penalty in settlement of the violations contained herein, and an additional amount of five hundred dollars (\$500) constituting investigative expenses and attorney fees incurred by the Department in pursuing this matter, for a total payment to the Department of fifteen hundred dollars (\$1,500), by no later than September 30, 2021.

21. Respondent acknowledges and understands that this Consent Order is an administrative action that must be disclosed to the Department on future licensing and renewal forms. The disclosure requirements of other states may also require disclosure of the same.

22. Respondent acknowledges and understands that should the Department learn of additional violations by Respondent of the ICC, rules promulgated under the ICC, or applicable federal laws and regulations relating to Respondent's regulated lending activities in Idaho, the Department may pursue further legal action and seek additional remedies.

23. Respondent acknowledges and understands that it has had the opportunity to seek its own legal counsel in this matter, and it has elected to forgo that opportunity.

24. Respondent and the Department acknowledge and agree that they had the opportunity to request a hearing and present evidence on this matter and believe that this Consent Order represents a fair and efficient resolution of the issues discussed. The parties further agree that they hereby waive all rights to seek reconsideration and judicial review of this Consent Order should the Director adopt it by signing this Consent Order below.

DATED this 20 day of September, 2021.

CAN DO AUTO CREDIT INC.

By: \_\_\_\_\_

Title: owner

DATED this 28 day of September, 2021.

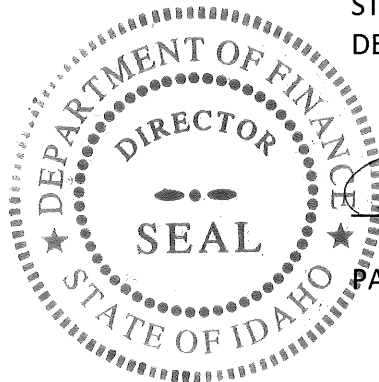
STATE OF IDAHO  
DEPARTMENT OF FINANCE

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ERIN VAN ENGELEN  
Consumer Finance Bureau Chief

**IT IS SO ORDERED.**

DATED this 28th day of September, 2021.

STATE OF IDAHO  
DEPARTMENT OF FINANCE



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PATRICIA R. PERKINS, Director

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 28<sup>th</sup> day of September, 2021, I caused a true and correct copy of the foregoing fully-executed CONSENT ORDER to be served on the following by the designated means:

Can Do Auto Credit, Inc.  
120 N Hooper Ave  
Soda Springs, ID 83726

U.S. mail, postage prepaid  
 certified mail  
 facsimile:  
 email: jadams@johnadamsautogroup.com

Thomas A. Donovan, DAG  
Idaho Dept. of Finance  
PO BOX 83720  
Boise, ID 83720-0031

U.S. mail, postage prepaid  
 certified mail  
 facsimile:  
 email: tom.donovan@finance.idaho.gov

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Paralegal

