

BEFORE THE ADMINISTRATOR OF CONSUMER CREDIT  
STATE OF OKLAHOMA

STATE OF OKLAHOMA, )  
ex rel, DEPARTMENT OF )  
CONSUMER CREDIT )  
 )  
Petitioner )  
 )  
v. ) Case No. 12-0081-DIS  
 )  
TAN & TONE AMERICA )  
 )  
Respondent )



**NOTICE OF HEARING**

The State of Oklahoma, ex rel., Oklahoma Department of Consumer Credit, alleges and states as follows:

**JURISDICTION, AUTHORITY AND REQUIREMENTS**

1. The Administrator of Consumer Credit (Administrator) is responsible for the enforcement of the Uniform Consumer Credit Code, 14A O.S. §§ 1-101 et seq., (UCCC). 14A O.S. § 6-501.

2. The term "licensee" or "license," as used in the UCCC, includes any entity or individual that has filed or is required to file notification with the Administrator pursuant to the provisions of 14A O.S. §§ 6-201 through 6-203 of the UCCC. 14A O.S. § 6-203(2).

**Penalties**

1. The Administrator may, after notice and hearing, censure, probate, suspend, revoke or refuse to renew any license, or in addition to or in lieu of censure, probation, suspension or revocation, order refunds for unlawful charges if the Administrator finds that:

(a) The licensee has failed to pay the annual license fee imposed by the UCCC, or an examination fee, investigation fee or other fee or charge imposed by the Administrator under the authority of the UCCC,

(b) The licensee, either knowingly or without the exercise of due care to prevent the same, has violated any provision of the UCCC or any regulation or order lawfully made pursuant to and within the authority of the UCCC, or

(c) Any fact or condition exists which, if it had existed or had been known to exist at the time of the original application for such license, clearly would have justified the Administrator in refusing to issue such license. 14A O.S. § 3-505.

2. After notice and hearing, the Administrator may order a creditor or a person acting the creditor's behalf to cease and desist from engaging in violations of the UCCC. 14A O.S. § 6-108.

3. Any entity or individual offering to engage or engaged in making consumer credit sales, consumer leases, consumer loans or supervised loans in the State of Oklahoma without a license or notification filing required by the UCCC shall be subject to a civil penalty not to exceed Five Thousand Dollars (\$5,000.00). 14A O.S. § 6-113(3).

#### **Appointment of independent hearing examiner**

1. The Administrator shall appoint an independent hearing examiner to conduct all administrative hearings involving alleged violations of the UCCC. The independent hearing examiner shall have authority to exercise all powers granted by Article II of the Administrative Procedures Act in conducting hearings. 14A O.S. § 3-505(1).

2. The independent hearing examiner shall have authority to recommend penalties authorized by the UCCC and issue proposed orders, with proposed findings of fact and proposed conclusions of law, to the Administrator pursuant to Article II of the Administrative Procedures Act. The Administrator shall review the proposed order and issue a final agency order in accordance with Article II of the Administrative Procedures Act. 59 O.S. § 2095.17(D). 14A O.S. § 3-505(1).

#### **Hearing costs**

Hearing costs may be assessed by the hearing examiner against the Respondent, unless the Respondent is the prevailing

party. 14A O.S. § 3-505(1).

### **Appeals**

A final agency order issued by the Administrator shall be appealable by all parties to an Oklahoma district court as provided by Article II of the Administrative Procedures Act. 14A O.S. § 3-505(1).

### **Requirements for individual proceedings at the Department of Consumer Credit**

The Respondent is responsible for reviewing the administrative rules regarding procedures and requirements for references of parties, entries of appearances, continuances, subpoenas and Consent Orders for individual proceedings at the Department of Consumer Credit. The administrative rules regarding individual proceedings are located at OKLA. ADMIN. CODE § 160:3-1-4. A copy of the individual proceeding rules has been attached to this Notice of Hearing for reference.

### **Enforcement of final agency order or settlement agreement**

Any administrative order or settlement agreement imposing a civil penalty pursuant to this section may be enforced as in the same manner as civil judgments in this state. The Administrator may file an application to enforce an administrative order or settlement agreement imposing a civil penalty in the district court of Oklahoma County. 14A O.S. § 6-113(3).

### **Representation by licensed attorney**

1. A corporation is required by Oklahoma law to be represented by a licensed attorney in this matter. *Massongill v. McDevitt*, 1989 OK CIV APP 82; 828 P.2d 438.

### **ALLEGATIONS OF FACT**

1. The Respondent is doing business at 2101 N. 14<sup>th</sup> St., Ponca City, OK 74604.

2. A sign on the exterior of the Respondent's business location at 2101 N. 14<sup>th</sup> St., Ponca City, OK 74604, lists the Respondent's hours of operation as follows:

"Business Hours

Monday-Friday 7:00 am - 6:00 pm

Saturday 10:00 am - 4:00 pm

Sunday 1:00 pm - 5:00 pm"

3. An advertisement at the Respondent's business location at 2101 N. 14<sup>th</sup> St., Ponca City, OK 74604 includes the following information:

"TAN & TONE AMERICA

Level 1 10 minute bed Sun Capsule 20 minute bed Single  
Price Non-Member \$4.75 Member \$2.37 Membership Monthly Price  
17.79 per month 12 months

Level 2 20 minute bed 30 minute bed Single Price Non-  
Member \$7.12 Member \$3.56

Level 3 7 minute Tans Single Price Non-Member \$9.79  
Member \$4.75 Membership Monthly Price \$30.84 per month 12 months

Level 4 Royal Sun VHR Sun Capsule VHR Single Price  
Non-Member \$14.24 Member \$7.12

Level 5 Onyx Single Price Non-Member \$18.99 Member  
\$9.49

Level 6 Velocity Single Price Non-Member \$33.23 Member  
\$16.61

Leg Tanner Single Price Non-Member \$7.12 Member \$3.56

All Inclusive Membership Monthly Price \$68.19 per  
month 12 months

Level 2 1 Month Package \$46.28  
MagicTan UV-free mist on tanning system  
Level 1 Non Member \$26.08 Member \$13.04  
Level 2 Non Member \$28.25 Member \$14.13  
Level 3 Non Member \$30.43 Member \$15.21

Robotics

5 weeks \$59.77 12 Draft Membership \$42.38 per month/12  
months No Contract Membership \$60.85 per month Rollertable 120  
minutes \$35.86

Robotics & Tanning Membership Combos  
Level 3 & Robotics \$55.21 per month/12 months  
All Inclusive & Robotics \$93.16 per month/12 months

All prices are after tax unless marked. All memberships have a \$20.00 join fee.

Hours: M-F 7 am - 8 pm; Sat 10am - 4pm; Sun 1pm-5pm"

4. As of July 26, 2012, the Petitioner's licensing records indicate that the Respondent has not filed notification with the Petitioner for authorization to engage or offer to engage in making consumer credit sales in the State of Oklahoma at 2101 N. 14<sup>th</sup> St., Ponca City, OK 74604.

#### **ALLEGED VIOLATIONS OF LAW**

1. The Respondent has violated 14A O.S. § 6-113(3) by offering to engage in making consumer credit sales in the State of Oklahoma without a license or notification filing as required by the UCCC.

#### **TIME, PLACE AND NATURE OF HEARING**

1. A hearing shall be held August 27, 2012 at 9:00 a.m. before an independent hearing examiner at the office of the Department of Consumer Credit, 3613 N.W. 56th Street, Suite 240, Oklahoma City, Oklahoma 73112. The purpose of the hearing is to address the allegations contained in this order and to determine if any penalties authorized by law shall be imposed against the Respondent.

2. Correspondence regarding this matter shall be directed to Ruben Tornini, Deputy Administrator, Department of Consumer Credit, 3613 N.W. 56th Street, Suite 240, Oklahoma City, Oklahoma 73112, telephone number 405-522-3290, email: rtornini@okdocc.ok.gov.



*Roy John Martin*

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