

**BEFORE THE ADMINISTRATOR OF CONSUMER CREDIT
STATE OF OKLAHOMA**



STATE OF OKLAHOMA,)
ex rel., DEPARTMENT OF)
CONSUMER CREDIT,)
)
Petitioner)
)
v.)
)
WHY NOT LEASE IT, LLC.,)
)
Respondent)

Case No. 15-0109-DIS

FINAL AGENCY ORDER

ON THE 28th day of August, 2015, at approximately 9:37 a.m., the above numbered and entitled cause (scheduled for 9:30 a.m.) came on for hearing at the Office of the Oklahoma Department of Consumer Credit, 3613 N.W. 56th Street, Suite 240, Oklahoma City, Oklahoma 73112.

The State of Oklahoma, ex rel. Oklahoma Department of Consumer Credit (the “Department” or “Petitioner”), was represented by the Department’s General Counsel Roy John Martin and the Respondent Why Not Lease It, LLC., whose mailing address of record is 1750 Elm Street, Suite 1200, Manchester, New Hampshire 03104 (the “Respondent”), did not appear in person or through an attorney, after such Respondent having been mailed a copy of the Notice and Order of Hearing filed by the Department herein on July 21, 2015 (the “Notice of Hearing”), in Case No. 15-0109-DIS, pursuant to the requirements of Article II of the Administrative Procedures Act (the “APA”), 75 O.S. §§ 308a-323, by first class U.S. Mail certified with return receipt requested to the Respondent, at the address given to the Department by the Respondent at

1750 Elm Street, Suite 1200, Manchester, New Hampshire 03104 and was delivered to the Respondent by a representative of the U.S. Postal Service as verified through the certified return receipt signed by Dawn Dolfa on July 27, 2015, on behalf of the Respondent, which has been filed herein.

The Department's General Counsel Roy John Martin, announced that he had not heard from or spoken to any representative of the Respondent about its appearance at the hearing in person or through an attorney. Mr. Martin indicated that the Respondent had not contacted the Department at any time prior to the scheduled date and time of the hearing. Continuing, Mr. Martin further indicated that the Department was recommending that the Respondent pay a fine as a civil penalty of Five Thousand Dollars (\$5,000.00), that the Respondent pay for the costs of the hearing, that the Respondent not make consumer leases in this state if and until such time as all fees, fines and hearing costs are all fully paid to the Department, and that a Cease and Desist Order be issued against the Respondent to cease and desist from making consumer leases in this state if and until such time as the Respondent files notice as registration with the Administrator to make consumer leases in this state and until such time as all fees, fines and hearing costs are all fully paid to the Department. Continuing, Mr. Martin indicated that he wished to secure, in the absence of the Respondent who had an opportunity for a hearing and for whom he had good service, a judgment by default pursuant to 75 O.S., §309(E).

Accordingly, the Independent Hearing Examiner, in light of such default by the Respondent, announced from the bench that his recommendation in this matter to the Department's Administrator would be that the Respondent pay a fine as a civil penalty of Five Thousand Dollars (\$5,000.00), that the Respondent not make consumer leases in this state if and

until such time as all fees, fines and hearing costs are all fully paid to the Department, and that a Cease and Desist Order be issued against the Respondent to cease and desist from making consumer leases in this state if and until such time as the Respondent files notice as registration to lawfully make consumer leases in this state and until such time as all fees, fines and hearing costs are all fully paid to the Department, and as the Respondent is not the prevailing party in this matter, that the Respondent pay for the costs of the hearing (being those costs of the Independent Hearing Examiner incurred in this matter as authorized in 14A O.S., §3-505(1)).

After reviewing the administrative record of this individual proceeding, reviewing the arguments, testimony and evidence presented at the August 28, 2015 hearing, and reviewing the proposed order filed by Independent Hearing Examiner, Bryan Neal, the Administrator of Consumer Credit issues the following findings, conclusions and orders:

JURISDICTION AND AUTHORITY

1. Unless a person is a supervised financial organization or a person holding a license to make supervised loans issued under Part 5 of Article 3 of the Uniform Consumer Credit Code, a person engaged in making consumer leases in this state is required to file notification with the Administrator of Consumer Credit (the “Administrator”) within thirty (30) days after commencing business in this state and thereafter, on or before January 31 of each year. 14A O.S. §§ 6-201 and 6-202.

2. After notice and a hearing, the Administrator or an independent hearing examiner may order a creditor or a person acting in 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 this state without a license or notification filing as 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).

4. 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 UCCC, or an examination fee, investigation 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 rule 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).

FINDINGS OF FACT

The Administrator of Consumer Credit finds that the following facts were proven by clear and convincing evidence:

1. The proceedings in this matter were conducted in accordance with the provisions of the Precious Metal and Gem Dealer Licensing Act, 59 O.S. § 1521 et seq. and Article II of the Administrative Procedures Act, 75 O.S. §§ 308a-323.

2. The Respondent failed to appear in person or through an attorney at the hearing on August 28, 2015, at the scheduled time of 9:30 a.m. or later that same morning when its case was heard at approximately 9:37 a.m., having received notice of the hearing in this matter set for August 28, 2015, at 9:30 a.m., by first class U.S. Mail, certified with return receipt requested through mail-delivery of a copy of the original Notice of Hearing filed in this matter on July 21, 2015, served upon the Respondent as verified through the certified return receipt filed herein signed by Dawn Dolfra on July 27, 2015, at the address given to the Department by the Respondent at 1750 Elm Street, Suite 1200, Manchester, New Hampshire 03104, by a representative of the U.S. Postal Service.

3. The Respondent is a Delaware limited liability company with a principal place of business at 1750 Elm Street, Suite 1200, Manchester, New Hampshire 03104.

4. The Respondent offers a consumer leasing program to Oklahoma residents through sales agents at Root's Hometown Furniture & Appliance ("Root's"), 305 North Main Street, Bristow, Oklahoma 74010 and 2304 East Main, Cushing, Oklahoma 74023.

5. The Respondent's consumer leasing program is available to customers of Root's that wish to obtain goods or merchandise from Root's and that do not qualify for other methods of purchasing or financing the goods or merchandise.

6. The qualification requirements for the Respondent's consumer leasing program are as follows:

- a. A photograph ID showing at least 18 years of age;
- b. A minimum monthly income of \$1,000;
- c. A valid social security or individual taxpayer identification number;
- d. No open bankruptcy or durable goods charge-off;
- e. Electronic form of payment.

7. According to the Respondent's application, a customer is required to complete the application and submit the completed application to a sales associate of the Respondent at Root's. A sales associate of the Respondent at Root's then submits a customer's application to the Respondent through the Respondent's online application system for review and approval of the customer's lease application.

8. The Respondent's consumer leasing program requires a customer to sign a contract for five (5) months. The customer leases the goods or merchandise during the contract term. After the five (5) month minimum term expires, the customer may choose to purchase the goods or merchandise, continue leasing the goods or merchandise or return the goods or merchandise.

9. As of July 21, 2015, the Respondent had not filed notification with the Administrator to engage or offer to engage in making consumer leases in the State of Oklahoma.

CONCLUSIONS OF LAW

The Administrator of Consumer Credit concludes that based upon the evidence and testimony through the Respondent's default that:

1. Article II of the Administrative Procedures Act, 75 O.S., §309(E), provides that informal disposition may be made of any individual proceeding by default.

2. The Respondent has violated 14A O.S. §6-113(3), by engaging in or offering to engage in making consumer leases without filing notification with the Administrator.

3. The Respondent has violated 14A O.S. §6-202 by making consumer leases in the State of Oklahoma without filing notification with the Administrator within thirty (30) days after commencing business in this state and thereafter on or before January 31 of each year.

ORDER

Based upon the findings of fact and conclusions of law in this individual proceeding and based upon the recommendation of the Independent Hearing Examiner, the Administrator of Consumer Credit issues the following orders:

1. The Respondent hereby is found to have violated 14A O.S. §6-113(3), by engaging in or offering to engage in making consumer leases without filing notification with the Administrator, for which violation the Respondent shall be fined in the amount of Five Thousand Dollars (\$5,000.00) as authorized in 14A O.S. § 6-113(3).

2. The Respondent shall not make consumer leases in the State of Oklahoma without filing notification with the Administrator and if and until such time as all fees, fines and hearing costs are all fully paid to the Department, and that a Cease and Desist Order be issued against the Respondent to cease and desist from making any consumer leases in the State of Oklahoma without filing notification with the Administrator until such time as all fees, fines and costs are all fully paid to the Department and to permanently continue to so cease and desist until such time, if ever, as the Respondent pays all of the aforesaid fees, fines and costs, and that, as the Respondent, is not the prevailing party in this matter, the Respondent should be assessed costs in the amount of three hundred and twenty-eight dollars (\$328.00) incurred in this matter as authorized in 14A O.S. §3-505(1).

WITNESS my hand this _____ day of November 9, 2015



Scott Leshner
Administrator of Consumer Credit
State of Oklahoma