

IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS
CIVIL DIVISION

STATE OF ARKANSAS, *ex rel.*
LESLIE RUTLEDGE, ATTORNEY GENERAL

PLAINTIFF

v.

CASE NO. 72CV-16-1188-4

AUTOMATIC AUTO FINANCE, INC., *et al.*

DEFENDANTS

CONSENT JUDGMENT

The State of Arkansas, *ex rel.* Leslie Rutledge, Attorney General (the “State”), brought this action to redress and restrain alleged violations of the Arkansas Deceptive Trade Practices Act, Ark. Code Ann. §§ 4-88-101, *et seq.*

The State and Defendants Automatic Auto Finance, Inc., Jorja Trading, Inc., CashFish Motor Pawn, Inc. and Monte Johnston wish to resolve this action. The parties recognize that this Consent Judgment has been negotiated in good faith, and that this Consent Judgment is fair, reasonable, and in the public interest. Based upon the facts and matters before this Court, and with the consent of the parties to this Consent Judgment, it is hereby ORDERED, ADJUDGED, AND DECREED:

I. DEFINITIONS

1. Unless otherwise indicated, the terms used herein shall carry those definitions provided by the Arkansas Deceptive Trade Practices Act, Ark. Code Ann. §§ 4-88-101, *et seq.* (“ADTPA”).

2. “AAF” shall refer to Automatic Auto Finance, Inc. and its conduct of business under any registered or non-registered fictitious name, including Auto Now, Instant Auto, Motor Street Auto of Northwest Arkansas, and On Time Auto.

3. “JTI” shall refer to Jorja Trading, Inc. and its conduct of business under any registered or non-registered fictitious name, including All Star Auto Parts.

4. “CashFish” shall refer to CashFish Motor Pawn, Inc.

5. The term “Settling Defendants” shall refer to:

- a. AAF;
- b. JTI;
- c. CashFish; and
- d. Monte Johnston.

6. The term “Corporate Defendants” shall refer to one or more, as applicable, of the following:

- a. AAF;
- b. JTI; and
- c. CashFish.

7. The term “Person related to” shall have the meaning set forth in Ark. Code Ann. § 4-9-102(63).

8. The term “motor vehicle” shall have the meaning set forth in Ark. Code Ann. § 23-112-103(20). The term “vehicle” shall have the same meaning as “motor vehicle.”

9. The term “Contract” means an agreement between a Corporate Defendant and a consumer for the purchase of a motor vehicle.

II. JURISDICTION

10. The State brought this enforcement action pursuant to the ADTPA. This Court has jurisdiction over this matter and the parties hereto pursuant to Ark. Code Ann. § 4-88-104, and the common law of the State of Arkansas.

11. Venue is proper pursuant to Ark. Code Ann. §§ 4-88-104, 4-88-112, 16-60-104 and the common law of the State of Arkansas.

12. For the purposes of this Consent Judgment, Defendants waive all objections and defenses they may have to the jurisdiction or venue of the Circuit Court of Washington County, Arkansas, and shall not challenge this Court’s jurisdiction in any subsequent action by the parties hereto to enforce the terms of this Consent Judgment. Defendants reserve the right to object to jurisdiction or venue in any subsequent action filed against them by the Attorney General or in any other matter filed by any third party.

III. PARTIES

13. This Consent Judgment applies to and is binding upon the State and the Settling Defendants.

14. Any change in the ownership or legal status of the Corporate Defendants, including but not limited to, any transfer of assets, shall in no way alter Corporate Defendants' responsibilities under this Consent Judgment.

15. The State and Settling Defendants are entering into this Consent Judgment for the purposes of compromising and resolving disputed claims within the scope of Rule 408 of the Federal and Arkansas Rules of Evidence. It is expressly understood that nothing contained in this Consent Judgment shall be construed as an admission by Settling Defendants of any liability, wrongdoing, or factual or legal issue, and this Consent Judgment may not be used by any person in any proceeding of any kind as evidence of liability, wrongdoing or of any factual or legal issue. Settling Defendants do not waive any defenses that any of them may have in any other case or proceeding.

IV. THE ATTORNEY GENERAL'S POSITION

16. It is the Attorney General's position that Defendants' business practices violate the ADTPA. Violations can be identified in the advertising and marketing of used motor vehicles, sales of vehicles, credit approval, financing practices, contract terms, payment terms, servicing practices, repossession practices, collection activities, dealings with debtors, irregularities after loan default, court actions against delinquent or defaulting customers, and other actions toward customers.

17. The Attorney General has gathered no information during the pendency of this action which dissuades it from the factual allegations set forth in the First Amended Complaint.

V. SETTLING DEFENDANTS' POSITION

18. Settling Defendants deny the legal and factual assertions contained in Section IV above, entitled "The Attorney General's Position."

19. This Consent Judgment does not constitute an admission by the Settling Defendants of any fact or the existence or application of any law, regulation or legal principle.

20. Settling Defendants disclaim any liability or wrongdoing.

21. It is Settling Defendants' position that their business practices do not violate the ADTPA and that they have not violated the ADTPA. The nature of the Corporate Defendants' motor vehicle business is such that they serve consumers who present a higher credit risk, cannot typically qualify for conventional motor vehicle financing, and who are at a higher risk of default. Consequently, the default rate on the Corporate Defendants' Contracts is materially higher than default rates on conventional motor vehicle financing. Neither the fact of a default, nor the aggregate default rates experienced by the Corporate Defendants, constitute evidence that Corporate Defendants have committed any violation of the ADTPA, or any other law.

VI. INJUNCTIVE RELIEF

22. Defendant Monte Johnston is restrained and enjoined from acting as or operating a used motor vehicle dealer or a company that originates indebtedness, extends credit, offers financing, or engages in the collection of debts related to a used motor vehicle or buy-here-pay-here business for a period of sixty (60) months following the date that this Consent Judgment is entered (the "Suspension Period"). Although he will maintain an ownership interest in the Corporate Defendants, Defendant Monte Johnston is prohibited during the Suspension Period from participating or engaging in the day-to-day operations of the Corporate Defendants, including by exercising any operational oversight, making any managerial decisions, directing the actions of any employees, serving on the Board of Directors, setting any policies or processes, or otherwise participating in the day-to-day business activity of the Corporate Defendants. Notwithstanding the foregoing, Defendant Monte Johnston may take such actions during the Suspension Period as may be required for the Corporate Defendants to remain in good standing and continue their business operations, or that may otherwise be required for him to fulfill in good faith his fiduciary duties to the Corporate Defendants.

23. During the Suspension Period, Defendant Monte Johnston shall be prohibited from being an owner or employee of any entity, other than the Corporate Defendants, and then only as contemplated herein, that holds or applies for an Arkansas used motor vehicle dealer license from this time forward. Defendant Monte Johnston shall also be prohibited from applying for or obtaining a used motor vehicle dealer license in his own name.

24. Corporate Defendants are permanently restrained and enjoined from violating any statutes, laws or regulations applicable to them, including specifically the following:

- a. the ADTPA;¹
- b. the Arkansas Motor Vehicle Commission Act² and applicable regulations;
- c. the Used Motor Vehicle Buyers Protection Act³ and applicable regulations;
- d. the Truth in Lending Act⁴ and applicable regulations;
- e. the Fair Credit Reporting Act⁵ and applicable regulations;
- f. the Fair Debt Collection Practices Act⁶ and applicable regulations; and
- g. subtitle 1 of Title 4 of the Arkansas Code Annotated (the “Uniform Commercial Code”, as adopted by the State of Arkansas).

A. Corporate Entities and Identities

25. Corporate Defendants certify that CashFish is no longer active or conducting a day-to-day business that offers goods or services to consumers.

¹ Ark. Code Ann. §§ 4-88-101, *et seq.*

² Ark. Code Ann. §§ 23-112-101, *et seq.*

³ Ark. Code Ann. §§ 23-112-601, *et seq.*

⁴ 15 U.S.C. 1601, *et seq.*

⁵ 15 U.S.C. 1681, *et seq.*

⁶ 15 U.S.C. 1692

Henceforth, Corporate Defendants shall not conduct any day-to-day business that offers goods or services to consumers under the name CashFish.

26. AAF will appoint a Board of Directors to oversee its operations. All appropriate corporate formalities will be observed and recorded.

27. JTI will appoint a Board of Directors to oversee its operations. All appropriate corporate formalities will be observed and recorded.

28. AAF will cease doing business under the following fictitious names, without regard to whether or not they have been registered with the Arkansas Secretary of State: Auto Now, Instant Auto, Motor Street Auto of Northwest Arkansas, and On Time Auto. Any used motor vehicle dealer licenses presently held by AAF in a fictitious name shall be voluntarily surrendered or changed to AAF.

29. AAF will only operate under a valid used motor vehicle dealer license issued in the name of AAF, a name to which AAF's corporate name has been changed pursuant to a filing with the Arkansas Secretary of State, or a fictitious name (other than those listed in Paragraph 28 of this Consent Judgment) registered with the Arkansas Secretary of State. AAF shall provide contemporaneous written notice to the Attorney General of any filing with the Arkansas Secretary of State changing AAF's corporate name or registering a new fictitious name.

30. JTI will cease doing business under the fictitious name All Star Auto Parts. Any used motor vehicle dealer license presently held by JTI or in a fictitious name utilized by JTI shall be voluntarily surrendered.

31. JTI will not operate as a used motor vehicle dealer and will not seek a license to operate as such.

32. AAF will operate its business at its current location only under the name of AAF, a name to which AAF's corporate name has been changed pursuant to a filing with the Arkansas Secretary of State, or a fictitious name (other than those listed in Paragraph 28 of this Consent Judgment) registered with the Arkansas Secretary of State. Should AAF relocate, expand, franchise, move, or open satellite or branch locations, any and all locations shall only be operated under the name AAF, a name to which AAF's corporate name has been changed pursuant to a filing with the Arkansas Secretary of State, or a fictitious name (other than those listed in Paragraph 28 of this Consent Judgment) registered with the Arkansas Secretary of State. When dealing with former, current, or future customers, AAF shall refer to itself only as Automatic Auto Finance or AAF, a name to which AAF's corporate name has been changed pursuant to a filing with the Arkansas Secretary of State, or a fictitious name (other than those listed in Paragraph 28 of this Consent Judgment) registered with the Arkansas Secretary of State.

33. JTI will operate its business at its current location only under the name of JTI, a name to which JTI's corporate name has been changed pursuant to a filing with the Arkansas Secretary of State, or a fictitious name (other than those listed in Paragraph 30 of this Consent Judgment) registered with the Arkansas Secretary of State. Should JTI relocate, expand, franchise, move, or open satellite or branch locations, any and all locations shall only be operated under the name JTI, a

name to which JTI's corporate name has been changed pursuant to a filing with the Arkansas Secretary of State, or a fictitious name (other than those listed in Paragraph 30 of this Consent Judgment) registered with the Arkansas Secretary of State. When dealing with former, current, or future customers, JTI shall refer to itself only as Jorja Trading, Inc. or JTI, a name to which JTI's corporate name has been changed pursuant to a filing with the Arkansas Secretary of State, or a fictitious name (other than those listed in Paragraph 30 of this Consent Decree) registered with the Arkansas Secretary of State.

34. Corporate Defendants will not do business under any of the fictitious names referenced in Paragraphs 28 and 30, or any fictitious name that is not properly registered with the Arkansas Secretary of State. A Corporate Defendant will not contemporaneously do business under more than one fictitious name.

B. Underwriting

35. AAF will develop and implement written policies for collecting applications from one or more consumers (individually, or collectively in the case of a purchase involving more than one consumer, an "Applicant") to purchase a motor vehicle under a Contract. These policies shall include specific information required for the purpose of allowing AAF to assess an Applicant's ability to meet the payments under a Contract. The information required should include, but not be limited to, information documenting the Applicant's income, current known obligations, and employment status.

36. AAF shall not enter into a Contract with a consumer without a reasonable and good faith belief that the Applicant has the present ability to make the payments when and as called for in the Contract.

37. Prior to entering into a Contract with a consumer, an employee or representative of AAF shall meet with the consumer to discuss the Contract terms, including interest rate and payment amounts, under which AAF is willing to sell the motor vehicle to the consumer.

38. AAF will maintain physical or electronic files for each Contract in accordance with applicable Arkansas used motor vehicle dealer licensing regulations. The files maintained by AAF will contain documentation evidencing AAF's compliance with the requirements of this Section VI.B.

39. AAF is prohibited from entering into a Contract with a consumer who it knows is currently in default with Corporate Defendants or whose wages or accounts are then being garnished by Corporate Defendants, unless, in connection with the new Contract, the consumer will no longer be in default or any garnishment that is in effect will be released, and then only if the Contract terms are based on AAF's reasonable and good faith belief that the Applicant has the present ability to make the payments when and as called for in the new Contract.

40. Neither the fact of a default, nor the aggregate default rates experienced by the Corporate Defendants, shall constitute evidence that AAF has failed to comply with any underwriting requirement set forth in this Section VI.B.

C. Motor Vehicle Sales

41. AAF shall only sell motor vehicles for cash or under a Contract. AAF shall not sell a motor vehicle to a consumer without first providing the consumer, or one of the consumers in a sale involving more than one buyer, an opportunity to test drive the vehicle. Provided, however, that AAF may in its reasonable business judgment condition any test drive on proof that the driver is properly licensed and insured, and it may impose reasonable limits on the location, duration and distance of any test drive.

42. Prior to the sale of a motor vehicle to a consumer, AAF will make available to the consumer a copy of the most recent AAF-conducted vehicle inspection report and/or available service records, if any.

43. Prior to the sale of a motor vehicle to a consumer, AAF will provide the consumer, or one of the consumers in a sale involving more than one buyer, the opportunity to have the motor vehicle inspected by a third party of the consumer's choosing. The inspection may be conducted at the AAF location, or, in AAF's reasonable discretion, the consumer may transport the motor vehicle to another location. The consumer shall bear the cost of transporting the motor vehicle to the site of an off-site inspection, and AAF may impose reasonable conditions on transportation to an off-site location, including, but not limited to, proof that the transporter is properly licensed and insured, and reasonable limits on the location, duration and distance of the off-site inspection.

44. Prior to the sale of a motor vehicle to a consumer, AAF shall provide written notice to the consumer, or one of the consumers in a sale involving more

than one buyer, that a CarFax report, or similar report available for used motor vehicles, for the motor vehicle will be provided to the consumer, on request and at the consumer's expense. AAF may, as part of that notice, inform the consumer that AAF does not guarantee or warrant the accuracy or completeness of the information contained in the report.

45. AAF shall display the Used Car Buyers' Guide in accordance with applicable law and, in the case of a sale, shall obtain the customer's signature acknowledging receipt of the Guide.

46. If any material part of the oral communications directly between any agent or employee of AAF and a consumer during the sale or Contract approval process is conducted in a language other than English, AAF shall provide to the consumer a written translation of all written documents involved in the sale transaction in the same language as that used in the oral communications during the sale or Contract approval process. In such a transaction, the consumer will sign the English language version of the documents, which documents will include an addendum signed by AAF certifying that the translated form is the same as the signed English language version. AAF is not required to provide translated versions of any post-sale notices or communications.

47. A physical or electronic copy of all documents required by and referred to in this Section VI.C shall be kept in the consumer's file for the applicable transaction, and shall be maintained in accordance with applicable motor vehicle dealer licensing regulations.

D. Three-Day Right to Cancel

48. Except as otherwise provided in this Consent Judgment, a consumer who has financed the purchase of a motor vehicle through a Contract with a Corporate Defendant will have three (3) days from the date of the purchase to cancel the Contract, return the motor vehicle, and receive the return of his or her down payment and/or trade-in. Notwithstanding the foregoing, the following conditions must be satisfied in order for a consumer to exercise this right to cancel a Contract: (i) the motor vehicle must be returned in substantially the same condition as it was in at the time of the sale, (ii) the odometer of the motor vehicle must reflect that it has been driven less than 150 miles since the date of purchase, and (iii) the consumer must present documentation proving that the motor vehicle was covered by a valid collision and comprehensive insurance policy complying with the terms and conditions required by the Contract for the entire time that the motor vehicle was not in the possession of AAF.

49. Under no circumstances shall a Corporate Defendant be required to comply with this Section VI.D, if (i) the consumer has engaged in fraud or misrepresentation in obtaining the motor vehicle, including, but not limited to, by making false representations concerning the consumer's intent to purchase the motor vehicle and abide by the terms of the Contract; (ii) the motor vehicle has sustained damage while it was not in the possession of AAF, without regard to whether such damage is the fault of the consumer; or (iii) AAF reasonably

determines that the motor vehicle has been abused to an extent that materially affects its value.

50. The right to cancel and the terms and exclusions thereof set forth in this Section VI.D shall be prominently disclosed to the consumer in writing at the time of the purchase.

51. A physical or electronic copy of all documents required by and referred to in this Section VI.D shall be kept in the consumer's file for the applicable transaction, and shall be maintained in accordance with applicable used motor vehicle dealer licensing regulations.

52. Corporate Defendants shall keep a record of all transactions in which a consumer utilizes the three-day right to cancel. At any time after the second anniversary of the entry of this Consent Judgment, Corporate Defendants may seek a removal or modification to this term of the Consent Judgment. The request shall be presented to the State along with any pertinent data demonstrating the need for a modification. The State pledges to review the request in good faith, and the parties may agree in writing to a modification of this Section VI.D. Should the parties disagree as to the appropriate modifications, Corporate Defendants may petition the Court as contemplated in Paragraph 93 below.

E. Payment Schedules

53. Except as provided in this Paragraph 53 and Paragraph 54, Corporate Defendants shall not use varied payment schedules, *i.e.*, payment schedules that vary the payment amounts over the life of the contract, in a Contract. Contracts

shall provide for a single payment amount applicable to all payments, other than the final payment, which may vary to account for the expiration of the particular amortization schedule; provided, however, that if a consumer desires, a Contract may provide for one irregular payment per year if the Contract otherwise complies with the provisions of this Consent Judgment concerning underwriting, and subject to the provision of the following paragraph. The period between each payment under a Contract shall remain constant over the full term of the Contract.

54. If a Contract provides for an irregular payment, *i.e.*, a one-time annual payment that is different in amount than the regular payments, Corporate Defendants must provide written notice to the consumer, not more than thirty (30) days nor less than fourteen (14) days prior to the due date, notifying the consumer of the amount of the irregular payment and the date it is due under the terms of the Contract. The failure of a consumer to make an irregular payment cannot be relied upon by Corporate Defendants to declare a default under a Contract or to repossess a motor vehicle.

55. Nothing in this Consent Judgment prohibits Corporate Defendants from negotiating with consumers in good faith and consistent with the provisions of this Section VI.E to modify payment terms, provide grace periods, forgive payments, provide for forbearance, delay payments, waive late fees, postpone payments, or to extend the due date of payments.

F. Servicing

56. Corporate Defendants will cease offering their current service plan or extended warranty program for any motor vehicles sold after the entry of this Consent Judgment. Any service plan or extended warranty program that is offered by Corporate Defendants following the entry of this Consent Decree (i) shall fully disclose all terms, restrictions and limitations; (ii) shall not require the consumer to pay a deductible in any amount; and (iii) shall not permit Corporate Defendants to exchange the consumer's motor vehicle for a different motor vehicle.

57. With respect to any motor vehicle sold to a consumer, Corporate Defendants will maintain service records that specifically identify the services performed on the motor vehicle and list all parts replaced costing in excess of \$50.00; provided, however, that such records need not be maintained with respect to cleaning or detailing the motor vehicle.

58. A copy of a motor vehicle's service records required by this Section VI.F shall be made available to its owner or any potential purchaser within a reasonable time after a request. Further, the service records shall be available to the Attorney General within a reasonable time after a written request.

59. A physical or electronic copy of all documents required by and referred to in this Section VI.F shall be kept in the consumer's file for the applicable transaction and shall be maintained in accordance with applicable used motor vehicle dealer licensing regulations.

G. Repossession

60. Should a consumer default on the payment terms of a Contract, Corporate Defendants shall provide a written notice of default before repossessing the motor vehicle for the payment default. However, the notice of default shall not be required for any subsequent payment default unless the customer has cured the prior payment default for which notice has been sent by paying the past-due amount, including any valid late charges, and the Contract was current immediately prior to the subsequent payment default.

61. Notwithstanding any other provision in this Consent Judgment, the notice of default shall not be required if the consumer voluntarily surrenders the motor vehicle or grants the Corporate Defendants permission to repossess the motor vehicle. Additionally, the notice of default shall not be required for a default other than a payment default, including, without limitation, the failure to maintain required insurance.

62. Corporate Defendants shall not repossess a motor vehicle within 30 days of the date of sale by reason of a payment default until and unless the consumer has failed to make at least two (2) scheduled payments within 30 days of the date of sale.

63. In the event a motor vehicle is repossessed by Corporate Defendants for a payment default within thirty (30) days of the date of sale and is not redeemed by the consumer pursuant to Ark. Code Ann. § 4-9-623, Corporate Defendants will not seek or obtain a deficiency judgment against the consumer, unless the motor vehicle has sustained material damage while in the consumer's possession and AAF

is not compensated for such damage under an insurance policy covering the motor vehicle.

64. Corporate Defendants will only utilize companies or individuals licensed by the Arkansas Towing and Recovery Board for repossessions.

65. Corporate Defendants shall exercise reasonable care to ensure that the licensed company or individual used for repossession safeguards and returns any consumer's personal effects from any repossessed vehicle. Corporate Defendants may comply with this requirement by exercising reasonable care in selecting the licensed company or individual to conduct repossessions. Corporate Defendants are not responsible for particular actions or inactions by a company or individual conducting a repossession if Corporate Defendants exercised reasonable care in selecting them.

66. A physical or electronic copy of all documents required by and referred to in this Section VI.G shall be kept in the consumer's file for the applicable transaction, and shall be maintained in accordance with applicable used motor vehicle dealer licensing regulations.

H. Disposition After Default

67. With respect to every disposition of a motor vehicle by Corporate Defendants following a default and repossession, Corporate Defendants shall conduct every aspect of the disposition in a commercially reasonable manner strictly in accordance with the requirements of Ark. Code Ann. § 4-9-610 and all applicable law.

68. Corporate Defendants, and any Person related to a Corporate Defendant, shall not purchase a repossessed motor vehicle at a private sale conducted by or for Corporate Defendants.

69. With respect to every disposition of a motor vehicle by Corporate Defendants following a default and repossession, Corporate Defendants shall apply the proceeds strictly in accordance with the requirements of Ark. Code Ann. § 4-9-615, including, without limitation, the requirement that any expenses and attorneys' fees be reasonable.

70. Corporate Defendants shall maintain all records, bid sheets, subsequent sale contracts, notices, advertisements, and all other documents for every disposition of a motor vehicle following a default and repossession, including all documents related to the calculation and application of proceeds under Ark. Code Ann. §4-9-615.

I. Collection

71. Corporate Defendants will not report late payments to any credit bureau.

72. Corporate Defendants will not report Contract defaults to any credit bureau.

73. Corporate Defendants, any Person related to Corporate Defendants, or any party performing work on their behalf to collect late payments, a Contract in default, or a deficiency judgment, but not including process servers serving legal

process in accordance with the Arkansas Rules of Civil Procedure or Arkansas law with respect to subparagraph (a), shall not:

- a. Contact consumers before 8 a.m. or after 9 p.m.;
- b. Harass consumers by phone, text, or in person;
- c. Use threats of violence, criminal charges, or reporting to credit bureau in the collection of the debt;
- d. Conceal its identity when communicating by phone call, text message, or email;
- e. Make false representations regarding the debt, its identity, or repercussions of nonpayment; and
- f. Collect any amount that is not expressly authorized by the Contract with the consumer or ordered by a court after the rendering of a judgment.

74. Should a consumer who is personally liable under a Contract or judgment request, a Corporate Defendant to whom the consumer is liable will provide a verification of the debt owed, to include the name of the entity with whom the debt originated, the name of the entity to whom the debt is presently owed, the present obligee's contact information, a statement of account (including the full amount owed), and a copy of the document(s) evidencing the debt.

J. Legal Action Against Consumers

75. Corporate Defendants are prohibited from filing any civil action against a consumer in the Small Claims Division of any District Court.

76. Any civil action against a consumer filed by a Corporate Defendant shall be filed in a court that is a proper venue under applicable Arkansas law.

77. In any civil action filed against a consumer, Corporate Defendants shall follow all applicable rules regarding the redaction of personal information.

78. In any civil action filed against a consumer, Corporate Defendants shall attach to the complaint copies of the documents evidencing the debt and a full statement of account for the damages sought.

79. In any civil action filed against a consumer, Corporate Defendants shall serve the summons and complaint in compliance with Arkansas Rule of Civil Procedure 4, including by utilizing a sheriff or person properly appointed pursuant to Administrative Order No. 20 in the case of personal service by process server.

80. In any civil action filed against a consumer, Corporate Defendants shall not serve a consumer by warning order without complying with the requirements of Rule 4(f) of the Arkansas Rules of Civil Procedure.

K. Garnishments

81. Corporate Defendants shall keep detailed records of each payment received pursuant to a garnishment obtained to collect a judgment against a consumer, along with the date of receipt, and the source of the garnishment payment.

82. This provision applies to all payments hereafter received under existing garnishments and all payments received under any garnishments obtained after the entry of this Consent Judgment.

L. Complaint Response Procedure

83. Corporate Defendants shall designate a representative to respond to consumer complaints received by the Attorney General's Consumer Protection Division, and provide the representative's name, direct phone number, and email address to the Attorney General's Office. Corporate Defendants are required to update the Attorney General should the representative change.

84. Corporate Defendants shall conduct a prompt and thorough investigation of all consumer complaints received from the Attorney General's Consumer Protection Division concerning any business practice, and submit a written response to the complaint to the Attorney General's Consumer Protection Division.

85. Corporate Defendants will work in good faith with the Attorney General's Consumer Protection Division to resolve any consumer complaint with merit, and to remedy any potential violations of applicable law.

86. Corporate Defendants shall maintain records of all consumer complaints that allege conduct in violation of this Consent Judgment, including records pertaining to their investigation of the complaint and any steps taken to resolve the complaint. This information, not to include information protected by the attorney-client privilege or that is attorney work product, shall be made available to the Attorney General within a reasonable time after request.

VII. MONETARY RELIEF

87. Within 30 days of the entry of this Consent Judgment, Corporate Defendants shall cause the following credits to be applied for the benefit of certain consumers:

- a. For any consumer with an outstanding judgment amount, the consumer's account shall receive a \$300.00 credit to be applied to the current balance, but not to exceed the balance owed. AAF certifies that as of August 30, 2019, the total estimated benefit to consumers in this class is approximately \$1,322,700;
- b. For any consumer who is in default under a Contract at the time of the credits, but against whom Corporate Defendants do not have a judgment, the consumer's account shall receive a \$200.00 credit to be applied to the current balance. AAF certifies that as of August 30, 2019, the total estimated benefit to consumers in this class is approximately \$102,000; and
- c. For any consumer whose account is in good standing at the time of the credits, the consumer's account shall receive a \$100.00 credit to be applied to the current balance. AAF certifies that as of August 30, 2019, the total estimated benefit to consumers in this class is approximately \$77,600.

88. Corporate Defendants shall make a contribution to the Consumer Education and Enforcement Fund in the amount of \$238,593.00. This amount constitutes a reimbursement to the Attorney General's Office for costs associated

with the investigation and prosecution of this case, specifically costs associated with retention of expert witnesses whose fees were paid from the Consumer Education and Enforcement Fund. The contribution shall be used in accordance with Act 763 of 2013. One-half of the contribution (\$119,296.50) will be paid within five (5) business days of the date that this Consent Judgment has been entered. The balance of the contribution will be payable in four (4) quarterly installments of \$29,824.12, with the first installment due three months after the date that this Consent Judgment has been entered. The payments shall be delivered to Chief Fiscal Officer, Arkansas Attorney General's Office, 323 Center Street, Suite 200, Little Rock, AR 72201 and shall bear the name Automatic Auto Finance upon the face of the check. A copy of the payment shall be contemporaneously delivered to the State's counsel of record in this matter.

89. Within five (5) business days of receiving payment of the first one-half of the contribution required in Paragraph 88, the Attorney General shall file a notice with the Court acknowledging receipt of the funds. The Corporate Defendants shall thereafter be immediately entitled to the release and return of the \$450,000 cash bond presently held in the registry of the Court.

90. Corporate Defendants are assessed civil penalties under Ark. Code Ann. § 4-88-113(a)(3) in the amount of \$1,500,000.00. These penalties are suspended unless or until Corporate Defendants, including any successors, materially violate any portion of this Consent Judgment. Should the Court find that such a material violation has occurred, the suspended civil penalties shall become

immediately due and payable. The payment shall be delivered to Chief Fiscal Officer, Arkansas Attorney General's Office, 323 Center Street, Suite 200, Little Rock, AR 72201 and shall bear the name Automatic Auto Finance upon the face of the check. A copy of the payment shall be contemporaneously delivered to the State's counsel of record in this matter. These suspended civil penalties shall remain in effect for thirty-six (36) months from the date of the Consent Judgment. Any obligations regarding the suspended civil penalties shall terminate at that time.

91. Defendant Monte Johnston is assessed separate civil penalties under Ark. Code Ann. § 4-88-113(a)(3) in the amount of \$1,000,000. These penalties are suspended unless or until Defendant Monte Johnston materially violates any portion of this Consent Judgment. Should the Court find that such a material violation has occurred, the suspended civil penalties shall become immediately due and payable. The payment shall be delivered to Chief Fiscal Officer, Arkansas Attorney General's Office, 323 Center Street, Suite 200, Little Rock, AR 72201 and shall bear the name Automatic Auto Finance upon the face of the check. A copy of the payment shall be contemporaneously delivered to the State's counsel of record in this matter. These suspended civil penalties shall remain in effect for sixty (60) months from the date of the Consent Judgment. Any obligations regarding the suspended civil penalties shall terminate at that time.

VIII. SCOPE AND ENFORCEMENT

92. The parties to this Consent Judgment shall endeavor in good faith to resolve informally any differences regarding interpretation of and compliance with this Consent Judgment prior to bringing such matters to the Court, and any motion filed to enforce this Consent Judgment shall state that the parties have made a good faith attempt to resolve the matter without Court intervention; provided, however, that in the event of a failure by the Settling Defendants to perform any affirmative act required by this Consent Judgment within the time mandated herein, the Attorney General may immediately move this Court to impose any remedy authorized by law or equity. The Corporate Defendants shall have a grace period of sixty (60) days from entry of this Consent Judgment to comply with the mandatory injunctive provisions. This grace period shall not apply to the prohibitory injunctive provisions.

93. Any provision of this Consent Judgment may be modified by written agreement of the parties or by motion to the Court. If the modification of a provision other than a time limit for performance is made by written agreement of the parties, then such modification will be effective upon filing a written stipulation with the Court, and such modification shall remain in effect for the longer of the duration stated in the written stipulation, the duration of this Consent Judgment, or until such time as an Order of the Court terminates the modification.

94. This Consent Judgment constitutes the entire agreement of the State and Defendants. The undersigned acknowledge that there are no communications or oral understandings contrary, different, or which in any way restrict this Consent

Judgment, and that any and all prior agreements or understandings within the subject matter of this Consent Judgment are, upon the effective date of the Consent Judgment, superseded, null, and void.

95. This Consent Judgment resolves and releases all civil claims, causes of action, or proceedings which were or could have been asserted by the Attorney General and the State against Defendants relating to their business practices, including those business practices specifically alleged in the First Amended Complaint. This release shall not in any way limit the authority of the Attorney General to conduct such investigations as she deems advisable of actions or events occurring after the date of this Consent Judgment. Also, the Attorney General is empowered to seek enforcement of any and all sections of this Consent Judgment by appropriate petition to this Court.

96. Nothing in this Consent Judgment shall be construed to adjudicate or deprive any person or entity not a signatory hereto of any private right of action of any kind whatsoever.

97. Nothing in this Consent Judgment may be taken or construed to be an admission or concession of any violation of law or regulation by any of the Settling Defendants. This Consent Judgment is only effective between the Attorney General and the State, on one hand, and the Settling Defendants, on the other hand, for the purpose of resolving this case. This Consent Judgment shall not be admissible as evidence for any purpose in any other civil action.

98. This Consent Judgment does not create any third-party beneficiaries.

99. Except as otherwise provided in Section VII, the parties shall each bear their own costs and attorneys' fees associated with this action.

IX. NOTICES

100. All notices under this Consent Judgment shall be hand-delivered or sent by overnight courier to the following addresses:

Attorney General: Sarah Page Tacker
Senior Assistant Attorney General
Arkansas Attorney General's Office
323 Center Street, Suite 200
Little Rock, AR 72201
Phone: (501) 682-1321
Fax: (501) 682-8118
Sarah.Tacker@ArkansasAG.gov

Corporate Defendants: Matt Erisman, General Manager
2950 Alliance Place
Springdale, AR 72764

With a copy to: Scott Wray
Hall Estill
75 N. East Ave, Suite 500
Fayetteville, AR 72701
Phone: (479) 973-5254
Fax: (479) 973-0520
swray@hallestill.com

Monte Johnston: P.O. Box 765
Springdale, AR 72765

With a copy to: Scott Wray
Hall Estill
75 N. East Ave, Suite 500
Fayetteville, AR 72701
Phone: (479) 973-5254
Fax: (479) 973-0520
swray@hallestill.com

or at such other addresses as any party may designate by notice given in accordance with this Section.

X. SIGNATORIES

101. Each undersigned representative of a party certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Judgment and legally bind such parties to its terms.

102. This Consent Judgment is made and entered into by and between the parties hereto on this 5th day of September, 2019.

FOR THE ATTORNEY GENERAL:



Sarah Page Tacker
Senior Assistant Attorney General

FOR DEFENDANT AUTOMATIC AUTO FINANCE, INC.

Matt Erisman
General Manager

FOR DEFENDANT JORJA TRADING, INC.

Matt Erisman
General Manager

FOR DEFENDANT CASHFISH MOTOR PAWN, INC.

Matt Erisman
General Manager

or at such other addresses as any party may designate by notice given in accordance with this Section.

X. SIGNATORIES

101. Each undersigned representative of a party certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Judgment and legally bind such parties to its terms.

102. This Consent Judgment is made and entered into by and between the parties hereto on this ___ day of September, 2019.

FOR THE ATTORNEY GENERAL:

Sarah Page Tacker
Senior Assistant Attorney General

FOR DEFENDANT AUTOMATIC AUTO FINANCE, INC.

Matt Erisman
General Manager

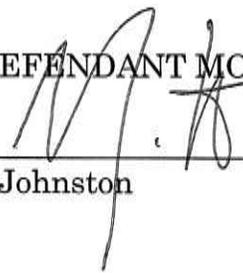
FOR DEFENDANT JORJA TRADING, INC.

Matt Erisman
General Manager

FOR DEFENDANT CASHFISH MOTOR PAWN, INC.

Matt Erisman
General Manager

FOR DEFENDANT MONTE JOHNSTON



Monte Johnston

IT IS SO ORDERED:

Dated: 9-5-19

The Honorable Doug Martin
Circuit Judge

Prepared By:

Sarah Page Tacker, Ark. Bar No. 2002-189
Senior Assistant Attorney General
Arkansas Attorney General's Office
323 Center Street, Suite 200
Little Rock, AR 72201
(501) 682-1321
Sarah.Tacker@ArkansasAG.gov