

DEPARTMENT OF BUSINESS OVERSIGHT*Ensuring a Fair and Secure Financial Services Marketplace for all Californians*

Jan Lynn Owen
Commissioner of Business Oversight

IN REPLY REFER TO:
FILE NO: 603 K071

November 22, 2017

EMERALD AUTO GROUP, INC.
2961 W. MACARTHUR BLVD., SUITE 215
SANTA ANA, CA 92704

Dear Licensee:

Attached are the following:

1. Notice of Intention to Issue Order Revoking California Finance Lenders License;
2. Accusation;
3. Statement to Respondent;
4. Government Code sections 11507.5, 11507.6, and 11507.7, relating to discovery and section 11522, relating to reinstatement; and
5. Notice of Defense.

Pursuant to Government Code section 11522, a person whose license was revoked will have to wait a period of not less than one (1) year from the date of revocation before they can petition the Commissioner for reinstatement of this license.

If you have any questions, please contact the Bond Desk at (213) 576-7557.

Jan Lynn Owen
Commissioner
Department of Business Oversight

By

ERIC DAVIES
Special Administrator, CFL

Enclosures

1515 K Street, Suite 200
Sacramento, CA 95814-4052
(916) 445-2705

One Sansome Street, Suite 600
San Francisco, CA 94104-4428
(415) 972-8565

320 West 4th Street, Suite 750
Los Angeles, CA 90013-2344
(213) 576-7500

1350 Front Street, Room 2034
San Diego, CA 92101-3697
(619) 525-4233

45 Fremont Street, Suite 1700
San Francisco, CA 94105
(415) 263-8500

300 S. Spring Street, Suite 15513
Los Angeles, CA 90013
(213) 897-2085

7575 Metropolitan Drive, Suite 108
San Diego, CA 92108
(619) 682-7227

1 MARY ANN SMITH
Deputy Commissioner
2 DEPARTMENT OF BUSINESS OVERSIGHT
320 W. 4th St., Suite 750
3 Los Angeles, California 90013
Telephone: (213) 576-7690
4 Fax: (213) 576-7574
Attorneys for the People of the State of California
5

6 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
7 OF THE STATE OF CALIFORNIA
8

| | | | |
|----|------------------------------------|---|------------------------------------|
| 9 | In the Matter of Accusation of THE |) | FILE NO.: 603 K071 |
| 10 | COMMISSIONER OF BUSINESS |) | |
| 11 | OVERSIGHT, |) | |
| 12 | Complainant, |) | |
| 13 | vs. |) | NOTICE OF INTENTION TO ISSUE ORDER |
| 14 | EMERALD AUTO GROUP, INC., |) | REVOKING CALIFORNIA FINANCE |
| 15 | DBA PERFORMANCE AUTO LOANS, |) | LENDERS LICENSE |
| 16 | Respondent. |) | |

17
18 Pursuant to section 22714 of the California Financing Law (California Financial Code
19 section 22000 et seq.), notice is hereby given of the intention of the Commissioner of Business
20 Oversight to enter her Order pursuant to section 22714 of the California Financing Law to
21 revoke Respondent, Emerald Auto Group, Inc.dba Performance Auto Loans's, finance lenders
22 license.
23

24 The attached Accusation, which is incorporated by this reference, states the reasons for
25 the intended Order.

26 Unless a request for hearing, as evidenced by the mailing or delivery of the Notice of
27 Defense, is received within 15 days after the Accusation was personally served upon you or
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

mailed to you, such Order may be entered at any time thereafter without a hearing.

Dated: November 22, 2017
Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
ERIC DAVIES
Special Administrator
California Financing Law

1 MARY ANN SMITH
Deputy Commissioner
2 DEPARTMENT OF BUSINESS OVERSIGHT
320 W. 4th St., Suite 750
3 Los Angeles, California 90013
Telephone: (213) 576-7690
4 Fax: (213) 576-7574
Attorneys for the People of the State of California
5

6 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
7 OF THE STATE OF CALIFORNIA
8

9 In the Matter of Accusation of THE) FILE NO.: 603 K071
10 COMMISSIONER OF BUSINESS)
OVERSIGHT,)
11)
Complainant,)
12)
vs.) ACCUSATION
13)
14 EMERALD AUTO GROUP, INC.,)
DBA PERFORMANCE AUTO LOANS,)
15)
Respondent.)
16)
17

18
19 The Complainant, the Commissioner of Business Oversight (“Commissioner”) is informed
20 and believes, and based upon such information and belief, alleges and charges Respondent, Emerald
21 Auto Group, Inc. dba Performance Auto Loans, (“Respondent” or “Emerald Auto Group, dba
22 Performance Auto Loans”) as follows:

23 I

24 Respondent is a finance lender and/or broker licensed by the Commissioner pursuant to the
25 California Financing Law (California Financial Code § 22000 et seq.) ("CFL"), under License No.
26 603 K071. Respondent has its principal place of business located at:

27 2961 W. MACARTHUR BLVD., SUITE 215
28 SANTA ANA, CA 92704

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

II

Pursuant to California Financial Code section 22112, all CFL licensees are required to maintain a surety bond in the minimum amount of \$25,000.00. Respondent's surety bond expired on 11/15/2017. On or about 10/25/2017, the Commissioner notified Respondent that a replacement surety bond had to be filed immediately, but no later than the expiration date to avoid suspension or revocation of its CFL license.

Respondent has yet to obtain a replacement surety bond in violation of California Financial Code section 22112.

III

California Financial Code section 22112 provides in pertinent part:

(a) A licensee shall maintain a surety bond in accordance with this subdivision in a minimum amount of twenty-five thousand dollars (\$25,000). The bond shall be payable to the commissioner and issued by an insurer authorized to do business in this state. An original surety bond, including any and all riders and endorsements executed subsequent to the effective date of the bond, shall be filed with the commissioner within 10 days of execution. For licensees with multiple licensed locations, only one surety bond is required. The bond shall be used for the recovery of expenses, fines, and fees levied by the commissioner in accordance with this division or for losses or damages incurred by borrowers or consumers as the result of a licensee's noncompliance with the requirements of this division.

California Financial Code section 22714 (a) provides in pertinent part:

The commissioner shall suspend or revoke any license, upon notice and reasonable opportunity to be heard, if the commissioner finds any of the following

- (1) The licensee has failed to comply with any demand, ruling, or requirement of the commissioner made pursuant to and within the authority of this division.
- (2) The licensee has violated any provision of this division or any rule or regulation made by the commissioner under and within the authority of this division.
- (3) A fact or condition exists that, if it had existed at the time of the original application for the license, reasonably would have

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

warranted the commissioner in refusing to issue the license originally.

IV

The Commissioner finds that, by reason of the foregoing, Respondent has violated California Financial Code section 22112, and based thereon, grounds exist to revoke Respondent’s CFL license.

WHEREFORE, IT IS PRAYED that the California Finance Lenders license of Emerald Auto Group, Inc. dba Performance Auto Loans be revoked.

Dated: November 22, 2017
Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
ERIC DAVIES
Special Administrator
California Financing Law

1 MARY ANN SMITH
Deputy Commissioner
2 DEPARTMENT OF BUSINESS OVERSIGHT
320 W. 4th St., Suite 750
3 Los Angeles, California 90013
Telephone: (213) 576-7690
4 Fax: (213) 576-7574
Attorneys for the People of the State of California
5

6 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
7 OF THE STATE OF CALIFORNIA
8

9 In the Matter of Accusation of THE) FILE NO.: 603 K071
10 COMMISSIONER OF BUSINESS)
OVERSIGHT,)
11)
12 Complainant,) STATEMENT TO RESPONDENT
13 vs.)
14 EMERALD AUTO GROUP, INC.,)
15 DBA PERFORMANCE AUTO LOANS,)
16 Respondent.)
17

18 TO: EMERALD AUTO GROUP, INC.
2961 W. MACARTHUR BLVD., SUITE 215
19 SANTA ANA, CA 92704

20 Attached is a copy of the Accusation issued in the above matter, which is hereby served upon
21 you in accordance with the provisions of Section 11505(c) of the Government Code.

22 Unless a written request for a hearing signed by or on behalf of the person named as
23 Respondent in the accompanying Accusation is delivered or mailed to the agency within 15 days after
24 the Accusation was personally served upon you or mailed to you, the Commissioner of Business
25 Oversight may proceed upon the Accusation without a hearing. The request for a hearing may be
26 made by delivering or mailing the enclosed form entitled Notice of Defense, or by delivering or
27 mailing a Notice of Defense as provided by Section 11506 of the Government Code to:
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ERIC DAVIES
Special Administrator
Department of Business Oversight
320 West 4th Street, Suite 750
Los Angeles, California 90013-2344

You may, but need not, be represented by counsel at any or all steps of these proceedings.

If you desire the names and addresses of witnesses or an opportunity to inspect and copy the items mentioned in Section 11507.6 in the possession, custody or control of the agency, you may contact:

ERIC DAVIES
Special Administrator
Department of Business Oversight
320 West 4th Street, Suite 750
Los Angeles, California 90013-2344

The hearing may be postponed for good cause. If you have good cause, you are obliged to notify the agency or, if an administrative law judge has been assigned to the hearing, the Office of Administrative Hearings, within 10 working days after you discover the good cause. Failure to give notice within 10 days will deprive you of a postponement.

In accordance with the provisions of Section 11505 of the Government Code, attached are copies of 11507.5, 11507.6 and 11507.7 of the Government Code.

Dated: November 22, 2017
Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
ERIC DAVIES
Special Administrator
California Financing Law

11507.5 The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

11507.6 After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing on this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

11507.7 (a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of

the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

11522 A person whose license has been revoked or suspended may petition the agency for reinstatement or reduction of penalty after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. The agency shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be afforded an opportunity to present either oral or written argument before the agency itself. The agency itself shall decide the petition, and the decision shall include the reasons therefore, and any terms and conditions that the agency reasonably deems appropriate to impose as a condition of reinstatement. This section shall not apply if the statutes dealing with the particular agency contain different provisions for reinstatement or reduction of penalty.

