

JAN 17 2012

INDIANA  
SECRETARY OF STATE

**STATE OF INDIANA  
OFFICE OF THE SECRETARY OF STATE  
DEALER SERVICES DIVISION**

IN THE MATTER OF: )  
 ) Cause No. DLR 11-0198 RO  
KEL NIX AUTO SALES, INC. )  
and KELVIN NIXON, )  
 )  
Respondents. )

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW, JUDGMENT, AND FINAL ORDER**

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The Staff of the Office of the Indiana Secretary of State – Auto Dealer Services Division (“Division”), filed a Notice of Default in reference to Respondents, Kel Nix Auto Sales, Inc. (“Kel Nix”) and Kelvin Nixon (“Nixon”), for failure to file an answer to the Petition for Order of Revocation and Order of Revocation within the fifteen (15) day time period allotted by the Order of Revocation filed in the above-captioned matter on June 29, 2011.

Having considered the pleadings, the Securities Commissioner now enters the following Findings of Fact, Conclusions of Law, Judgment and Final Order.

**I. FINDINGS OF FACT**

1. Kel Nix is a purported corporation. Kel Nix has a last known business address of 760 W. Main St., Ste. 214, Bloomfield, Indiana 47424.
2. Nixon is an individual and the President of Kel Nix. Nixon has a last known residential address of [REDACTED]
3. On or about June 29, 2011, the Division filed a Petition for Order of Revocation against Respondents, Kel Nix and Nixon.

4. On June 29, 2011, the Commissioner issued an Order of Revocation, ordering Kel Nix and Nixon to file an answer to the Petition for Order of Revocation within fifteen (15) days following the date of their receipt of the service of the Order of Revocation.

5. On June 29, 2011, the Petition for Order of Revocation and the Order of Revocation were mailed via Certified Mail, Return Receipt Requested, to both Respondents at their last known addresses.

6. On July 6, 2011, the Petition for Order of Revocation and the Order of Revocation were signed for by G. Nixon at Nixon's last known residential address.

7. Kel Nix and Nixon lease their business location, 760 W. Main St., Ste. 214, Bloomfield, Indiana, 47424, from Mauricio Kiglies ("Kiglies"). Pet. for Rev. ¶ 10.

8. On or about December 27, 2010, the Division was notified by Kiglies that Kel Nix and Nixon were evicted from their business location on November 26, 2010. *Id.* at ¶ 11.

9. Kiglies signed an affidavit, before a notary public, stating that as of November 26, 2010, Kel Nix was notified they have been constructively evicted from their principal place of business. *Id.* at ¶ 12.

10. Kel Nix and Nixon failed to notify the secretary of state that KEL NIX was going to cease business operations. *Id.* at ¶ 13.

11. Kel Nix and Nixon have failed to file an answer to the Petition for Order of Revocation or a motion for extension of time to answer the Petition for Order of Revocation on or before fifteen (15) days after proper service was effected on Kel Nix and Nixon as required by the Order of Revocation.

## II. CONCLUSIONS OF LAW

12. All Findings of Fact are incorporated by reference as Conclusions of Law, and all Conclusions of Law are incorporated as Findings of Fact.

13. The Auto Dealer Services Division (“Division”) is a division of the Office of the Secretary of State and has jurisdiction over persons engaging in the business of buying or selling motor vehicles, as provided by Indiana Code § 9-23-2 (“Dealers Act”).

14. Pursuant to Indiana Code § 9-23-0.7-1, the Secretary of State may delegate any or all of the rights, duties, or obligations of the Secretary of State under this article to: (1) the Securities Commissioner (“Commissioner”) appointed under Indiana Code § 23-19-6-1(a), or (2) another designee under the supervision and control of the Secretary of State.

15. The Act authorizes the Commissioner, among other things, to regulate the licensing of (1) an automobile auctioneer, (2) a converter manufacturer, (3) a dealer, (4) a distributor, (5) a distributor branch, (6) a distributor representative, (7) a factory branch, (8) a factory representative, (9) a manufacturer, (10) a transfer dealer, or (11) a wholesale dealer. *See* Indiana Code § 9-23-2-1.

16. This action was brought pursuant to the enforcement authority conferred by Indiana Code § 9-23-2-14, wherein the Commissioner has, *inter alia*, the authority to deny, suspend, or revoke a license issued under this chapter.

### Prohibited Acts

17. Indiana Code § 9-23-2-11(1) states the following:

“A person who ceases a business activity for which a license was issued under this chapter shall do the following: Notify the secretary of state of the date that the business activity will cease.”

18. Kel Nix and Nixon are in violation of Indiana Code § 9-23-2-11(1) for failing to notify the secretary of state of the date their business activity ceased.
19. Indiana Code § 9-23-2-2(a)(3)(B) states the following:  
“[A]n application for a license...must: [c]ontain the information the secretary of state considers necessary to enable the secretary of state to determine fully the following information: The location of each of the applicant's places of business in Indiana.”
20. Kel Nix and Nixon are in violation of Indiana Code § 9-23-2-2(a)(3)(B) because Kel Nix is no longer located at the address listed in its license application. Kel Nix’s license application also contains a material misrepresentation in violation of Indiana Code § 9-23-2-14(c)(1).
21. Additionally, Indiana Code § 9-23-2-11(2) states,  
“A person who ceases a business activity for which a license was issued under this chapter shall do the following: Deliver all permanent dealer license plates and interim license plates issued to the person to the bureau within ten (10) days of the date the business activity will cease.”
22. Kel Nix and Nixon are in violation of Indiana Code § 9-23-2-11(2) for failing to deliver to the Division, within ten (10) days of the date business activity ceased, all permanent dealer license plates and interim license plates that were issued.

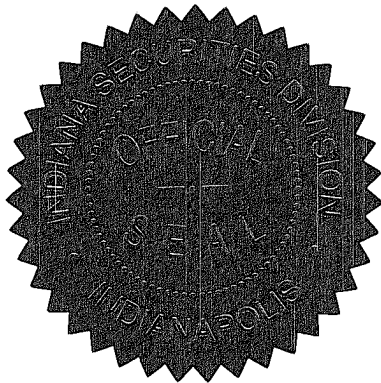
### **III. JUDGMENT AND FINAL ORDER**

Upon Consideration of the foregoing Findings of Fact and Conclusions of Law, the Securities Commissioner now determines that Kel Nix and Nixon were properly served with the Petition for Order of Revocation. Nevertheless, Kel Nix and Nixon each failed to file an answer to the Petition. Therefore, Kel Nix and Nixon are deemed to be in default, and the allegations set forth in the Petition as to all Respondents are deemed to be true.

THE COMMISSIONER HEREBY ORDERS THAT:

- A. Kel Nix and Nixon shall immediately and PERMANENTLY CEASE AND DESIST from violating any provision of the Indiana Dealer Services Act;
- B. Kel Nix and Nixon are permanently barred from dealer services in Indiana and from engaging in any activity requiring registration or licensing with the Indiana Auto Dealer Services Division;
- C. Kel Nix and Nixon shall pay a civil penalty in the amount of Five Thousand Dollars (\$5,000.00); and
- D. Kel Nix and Nixon, jointly and severally, shall disgorge all monies received while operating as dealers.

ORDERED at Indianapolis, Indiana this 17<sup>TH</sup> day of JANUARY, 2012.



CHARLES P. WHITE  
INDIANA SECRETARY OF STATE

CHRIS NAYLOR  
SECURITIES COMMISSIONER