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SECURITIES DIVISION

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INDIANA
SECRETARY OF STATE

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

IN THE MATTER OF:	)	
	)	Cause No. DLR 10-0493 RO
J&R AUTOMOTIVE GROUP, INC. and RICHARD L. RAY,	)	
	)	
Respondents.	)	

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

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, J&R Automotive Group, Inc. ("J&R") and Richard L. Ray ("Ray"), 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 January 21, 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. J&R is a business entity. J&R has a last known business address of 100 N. Center St., Ste. LL199, Mishawaka, Indiana, 46544.

2. The agent for service of process for J&R is Ray at 100 N. Center St., Ste. LL199, Mishawaka, Indiana, 46544.

3. J&R is a dealer, or other entity, defined by Indiana Code § 9-23-2-1, that holds license number 1001169.

4. Ray is an individual and, upon information and belief, an owner and principal of J&R. Ray has a last known residential address of 650 Wild Cherry Ln., Naperville, Illinois, 60540.

5. On January 21, 2011, the Division filed a Petition for Order of Revocation against J&R and Ray.

6. On January 21, 2011, the Commissioner issued an Order of Revocation, ordering J&R and Ray 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.

7. On January 21, 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 address.

8. On or about September 22, 2010, the Division was notified by AA that J&R and Ray were evicted from their business location on September 21, 2010. Pet. for Rev. ¶ 11.

9. AA signed an affidavit, before a notary public, stating that as of September 21, 2010, J&R was notified they have been constructively evicted from their principal place of business. Pet. for Rev. ¶ 12.

10. J&R and Ray provided the following address in its license application: 100 N. Center St., Ste. LL199, Mishawaka, Indiana, 46544. Pet. for Rev. ¶ 18.

II. CONCLUSIONS OF LAW

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

16. 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 ("Act").

17. 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.

18. 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.

19. 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

20. Indiana Code § 9-23-2-14(c) states as follows:

> Following an investigation under subsection (a), the secretary of state may, without hearing, issue orders and notices that the secretary of state determines to be in the public interest. The secretary of state may issue an order under this subsection denying,

> suspending, or revoking a license issued under this chapter for . . . [w]illful failure to comply with the provisions of this article or a rule adopted by the secretary of state under this article.

21. Indiana Code § 9-23-2-14(c)(1) states that "[t]he secretary of state may issue an order … denying, suspending, or revoking a license issued under this chapter for any … [m]aterial misrepresentation in the application for the license or other information filed with the secretary of state."

22. Indiana Code § 9-23-2-14(c)(3) states that "[t]he secretary of state may issue an order … denying, suspending, or revoking a license issued under this chapter for any … [w]illful failure to comply with the provisions of this article or a rule adopted by the secretary of state under this article."

23. This section incorporates by reference all preceding sections and paragraphs.

24. Indiana Code § 9-23-6-4 states that,

> A person who violates this article or a rule or order of the secretary of state issued under this article is subject to a civil penalty of not less than fifty dollars ($50.00) and not more than one thousand dollars ($1,000.00) for each day of violation and for each act of violation…

25. The violations of Indiana Code § 9-23-2-11(1) & (2); Indiana Code § 9-23-2-2(a)(3)(B); and Indiana Code § 9-23-2-14(c)(1) & (3) subjects J&R and Ray to a civil penalty of not less than fifty dollars ($50.00) and not more than one thousand dollars ($1,000.00) for each day of violation and for each act of violation.

26. J&R and Ray 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.

27. Because J&R is no longer located at the address listed in its license

application, J&R's license application contains a material misrepresentation in violation of Indiana Code § 9-23-2-14(c)(1).

28. J&R and Ray are in violation of Indiana Code § 9-23-2-14(c)(3) for failure to inform the Division of J&R's cessation of business activity and vacation of the business premises.

29. J&R and Ray 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 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 J&R and Ray were properly served with the Petition for Order of Revocation. Nevertheless, J&R and Ray failed to file an answer to the Petition. Therefore, J&R and Ray 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. J&R and Ray shall immediately and PERMANENTLY CEASE AND DESIST from violating any provision of the Indiana Dealer Services Act;

B. J&R and Ray are permanently barred from dealer services in Indiana and from engaging in any activity requiring registration or licensing with the Indiana Dealer Services Division;

C. J&R and Ray shall pay a civil penalty in the amount of Five Thousand Dollars ($5,000.00);

D. J&R and Ray shall disgorge all monies received while operating as a dealer.

ORDERED at Indianapolis, Indiana the 10TH day of JANUARY, ~~2011~~ 2012.

CHARLES P. WHITE
INDIANA SECRETARY OF STATE

CHRIS NAYLOR
SECURITIES COMMISSIONER