

STATE OF NEBRASKA
Department of Banking & Finance

IN THE MATTER OF:)	
)	FINDINGS OF FACT
Isuzu Finance of America, Inc.,)	CONCLUSIONS OF LAW
3020 Westchester Avenue, Suite 203,)	AND
Purchase, New York)	CONSENT AGREEMENT

THIS MATTER comes before the Nebraska Department of Banking and Finance (“DEPARTMENT”), by and through its Director, pursuant to its authority under the Nebraska Installment Sales Act, Neb. Rev. Stat. §§ 45-334 to 45-353 (Reissue 2010, Cum. Supp. 2012) (“the Act”). Pursuant to Neb. Rev. Stat. § 45-351 (Cum. Supp. 2012), the DEPARTMENT has investigated alleged violations of the Act by Isuzu Finance of America, Inc., 3020 Westchester Avenue, Suite 203, Purchase, New York (“ISUZU”). As a result of such investigation, and being duly advised and informed in the matter, the Director and ISUZU enter into the following Findings of Fact, Conclusions of Law, and Consent Agreement.

FINDINGS OF FACT

1. ISUZU was first issued an Installment Sales License under the Act for an office located at 3020 Westchester Avenue, Suite 203, Purchase, New York on July 30, 2008.
2. On November 15, 2013, ISUZU notified the DEPARTMENT via electronic mail of an ownership change that was effective on February 28, 2013. Pre-ownership change, Isuzu Commercial Truck of America Inc., Itochu Corporation, and Century Tokyo Leasing (USA) Inc., directly owned four percent (4%), forty-eight percent (48%), and forty-eight percent (48%), respectively, of ISUZU. Post change of control, Isuzu

Commercial Truck of America Inc., Itochu Automobile America Inc., and Century Tokyo Leasing (USA) Inc. directly owned four percent (4%), seventy-six (76%), and twenty percent (20%), respectively, of ISUZU. Post change of control, Itochu Corporation no longer directly owned any percentage of ISUZU.

3. On November 22, 2013, the DEPARTMENT notified ISUZU by secure electronic mail that the February 28, 2013 transaction constituted a change of control and that a new license application must be submitted through the Nationwide Mortgage Licensing System (“NMLS”). The DEPARTMENT also asked ISUZU to submit a written explanation, within twenty-one (21) calendar days, as to why ISUZU did not notify the DEPARTMENT and obtain a new license prior to the change of control.

4. On December 11, 2013, ISUZU submitted a new Installment Sales License Application to the DEPARTMENT on the NMLS.

5. On December 13, 2013, the DEPARTMENT received ISUZU’s response to the November 22, 2013 communication. The DEPARTMENT has reviewed the response submitted by ISUZU and has taken it into consideration in determining the appropriate actions to be taken in this matter.

6. On January 1, 2014, the DEPARTMENT issued an Order of Conditional Installment Sales Company License to ISUZU pending resolution of the inquiry regarding the change of control and the clearing of all outstanding license items on NMLS. Accordingly, ISUZU’s application on the NMLS was given an “Approved-Conditional” status as of January 1, 2014.

7. ISUZU failed to submit a new license application to the DEPARTMENT prior to consummation of the change of control as required by Neb. Rev. Stat. § 45-346(8)

(Cum. Supp. 2012). ISUZU did not submit a new application to the DEPARTMENT until December 11, 2013, approximately nine and one-half months after the change of control took place. ISUZU operated as an installment sales company for approximately ten months without a valid license.

8. ISUZU's failure to file a new license application with the DEPARTMENT prior to effecting a change of control represents a violation of Neb. Rev. Stat. § 45-346(8) (Cum. Supp. 2012).

9. The DEPARTMENT incurred a minimum of five hundred dollars (\$500.00) in investigation costs in this matter.

CONCLUSIONS OF LAW

1. Pursuant to Neb. Rev. Stat. § 45-351 (Cum. Supp. 2012), the Director has the power to investigate alleged violations of the Act by licensees.

2. Neb. Rev. Stat. § 45-346(8) (Cum. Supp. 2012) provides that if a change of control of a licensee is proposed, a new application for a license shall be submitted to the DEPARTMENT. Control in the case of a corporation means (a) direct or indirect ownership of or the right to control twenty-five percent or more of the voting shares of the corporation or (b) the ability of a person or group acting in concert to elect a majority of the directors or otherwise effect a change in policy.

3. The facts listed in above Findings of Fact #s 2-4 and 7-8 constitute a sufficient basis for the Director to have determined that ISUZU has violated the Act by consummating a change of control without applying for, and obtaining, a new license and by continuing to operate as an installment sales company under an invalid license. As a result, a proceeding could be instituted to impose an administrative fine in an amount of not

more than one thousand dollars for each separate violation, plus costs of investigation in accordance with Neb. Rev. Stat. § 45-351(5) (Cum. Supp. 2012).

4. Under the Act's statutory framework, the Director has the legal and equitable authority to fashion significant remedies.

5. It is in the best interest of ISUZU, and it is in the best interest of the public, for ISUZU and the DEPARTMENT to resolve the issues included herein.

CONSENT AGREEMENT

The DEPARTMENT and ISUZU agree as follows:

Stipulations: In connection with this Consent Agreement, ISUZU and the Director stipulate to the following:

1. The DEPARTMENT has jurisdiction as to all matters herein.

2. This Consent Agreement shall resolve all matters raised by the

DEPARTMENT's investigation of ISUZU. Should future circumstances warrant, the facts from this matter may be considered in future administrative action by the DEPARTMENT.

3. This Consent Agreement shall be in lieu of all other proceedings available to the DEPARTMENT, except as specifically referenced in this Consent Agreement.

ISUZU further represents as follows:

1. ISUZU is aware of its right to a hearing on these matters at which it may be represented by counsel, present evidence, and cross-examine witnesses. The right to such a hearing, and any related appeal, is irrevocably waived.

2. ISUZU is acting free from any duress or coercion of any kind or nature.

3. This Consent Agreement is executed to avoid further proceedings and constitutes an admission of violations of the Act solely for the purpose of this Consent Agreement and for no other purpose.

IT IS, THEREFORE AGREED as follows:

1. Within ten (10) days after the effective date of this Consent Agreement, ISUZU shall pay a fine of one thousand dollars (\$1,000.00) for its violations of Neb. Rev. Stat. § 45-346(8) (Cum. Supp. 2012).

2. Within ten (10) days after the effective date of this Consent Agreement, ISUZU shall pay the DEPARTMENT's investigation costs in this matter in the amount of five hundred dollars (\$500.00).

3. The total amount of the fine, one thousand dollars (\$1,000.00), plus the total amount of investigation costs, five hundred dollars (\$500.00), shall be payable in one check or money order in the amount of one thousand five hundred dollars (\$1,500.00) to the DEPARTMENT.

4. In the event ISUZU fails to comply with the provisions of this Consent Agreement, the DEPARTMENT may commence such action as it deems necessary and appropriate in the public interest.

5. If, at any time, the DEPARTMENT determines ISUZU has committed any other violations of the Act, the DEPARTMENT may take any action available to it under the Act.

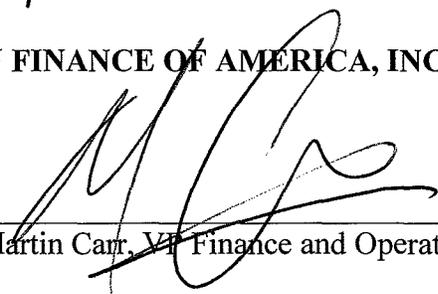
6. Within ten (10) business days of ISUZU's full payment of all fines and costs, and the clearing of all outstanding license items on the NMLS, the DEPARTMENT shall

issue a non-conditional license to ISUZU. The non-conditional license will expire the last day of December, 2014, unless sooner suspended, revoked, cancelled, or surrendered.

7. The effective date of this Consent Agreement will be the date of the Director's signature.

DATED this 9th day of MAY, 2014.

ISUZU FINANCE OF AMERICA, INC.

By: 
Martin Carr, VP Finance and Operation

3020 Westchester Avenue, Suite 203
Purchase, New York 10577

DATED this 19th day of May, 2014.

**STATE OF NEBRASKA
DEPARTMENT OF BANKING AND FINANCE**

By: 
Ray A. Pott, Acting Director

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