

STATE OF NEBRASKA
Department of Banking & Finance

IN THE MATTER OF:)	
)	FINDINGS OF FACT
Service Finance Company, LLC)	CONCLUSIONS OF LAW
555 South Federal Highway, Suite 200)	AND
Boca Raton, Florida)	CONSENT AGREEMENT

NMLS No. 140908

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 45-356 (Reissue 2010; Cum. Supp. 2016; Supp. 2017) (“the Act”). Pursuant to Neb. Rev. Stat. § 45-351 (Cum. Supp. 2016), the Department has investigated alleged violations of the Act by Service Finance Company, LLC, 555 South Federal Highway, Suite 200, Boca Raton, Florida (“Service Finance”). As a result of such investigation, and being duly advised and informed in the matter, the Director and Service Finance enter into the following Findings of Fact, Conclusions of Law, and Consent Agreement.

FINDINGS OF FACT

1. On February 2, 2018, Service Finance submitted a new Installment Sales Company License Application to the Department through the Nationwide Mortgage Licensing System & Registry (“NMLS”). Service Finance previously held an installment sales company license issued by the Department until October 1, 2011, when that license expired.

2. In response to a request from the Department on February 27, 2018, Service Finance provided information to the Department, which acknowledged and verified that Service Finance

transacted business in Nebraska as a sales finance company during the period commencing subsequent to October 1, 2011 and continuing through and including February 25, 2018.

3. Forming a part of the information delivered to the Department, Service Finance represented that during the period commencing subsequent to October 1, 2011, and continuing through and including February 25, 2018, Service Finance entered into or otherwise acquired 1,157 installment sales contracts with Nebraska consumers.

4. The Department incurred a minimum of Five Hundred Dollars (\$500.00) in investigation costs in this matter.

CONCLUSIONS OF LAW

1. Neb. Rev. Stat. § 45-345(1) (Cum. Supp. 2016) provides, in part, that no person shall act as a sales finance company in this state without obtaining a license from the Department as provided in the Nebraska Installment Sales Act whether or not such person maintains an office, place of doing business, or agent in this state.

2. Neb. Rev. Stat. § 45-346 (Supp. 2017) states, in part, that an application for a license shall be on a form prescribed and furnished by the Director. The Director shall, after an application has been filed for a license under the Act, investigate the facts, and if he or she finds that the experience, character, and general fitness of the applicant, of the members thereof if the applicant is a corporation or association, and of the officers and directors thereof if the applicant is a corporation, are such as to warrant belief that the business will be operated honestly, fairly, and efficiently within the purpose of the Act, the Director shall issue and deliver a license to the applicant to do business as a sales finance company. The Director shall have the power to reject for cause any application for a license.

3. Pursuant to Neb. Rev. Stat. § 45-351 (Cum. Supp. 2016), the Director has the power to investigate alleged violations of the Act. If the Director finds, after notice and opportunity for hearing, that any person has willfully and intentionally violated any provision of the Nebraska Installment Sales Act, any rule or regulation adopted and promulgated under the Act, or any order issued by the Director under the Act, the Director may order such person to pay (a) an administrative fine of not more than one thousand dollars for each separate violation, and (b) the costs of investigation.

4. The facts listed in above Findings of Fact Nos. 2 and 3 constitute a sufficient basis for the Director to have determined that Service Finance has violated the Act by engaging in unlicensed activities. Each of Service Finance's 1,157 installment sales contracts constitutes a separate violation of Neb. Rev. Stat. § 45-345(1). As a result, the Director would have cause to deny Service Finance's license application and/or could institute a proceeding 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. 2016).

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

6. It is in the best interest of Service Finance, and it is in the best interest of the public, for Service Finance and the Department to resolve the issues included herein.

STIPULATIONS

In connection with this Consent Agreement, Service Finance and the Director stipulate to the following:

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

2. That, for purposes of this Consent Agreement only, Service Finance agrees it did not comply with the Act in that it did not apply for and obtain, and/or continuously maintain, an Installment Sales Company License, but claims it did not willfully and intentionally violate such Act.

3. This Consent Agreement shall resolve all matters raised by the Department's investigation of Service Finance in connection with its application for a license under the Act. Should future circumstances warrant, the facts from this matter may be considered in future administrative action by the Department.

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

Service Finance further represents as follows:

1. Service Finance 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. Service Finance 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 Neb. Rev. Stat. § 45-345(1) (Cum. Supp. 2016) solely for the purpose of this Consent Agreement and for no other purpose.

CONSENT AGREEMENT

IT IS THEREFORE AGREED as follows:

1. Within ten days after the effective date of this Consent Agreement, Service Finance shall pay a fine of Ten Thousand Dollars (\$10,000.00) for its violations of Neb. Rev. Stat. § 45-345(1) (Cum. Supp. 2016).

2. Within ten days after the effective date of this Consent Agreement, Service Finance 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, Ten Thousand Dollars (\$10,000.00), 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 Ten Thousand Five Hundred Dollars (\$10,500.00) to the Department.

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

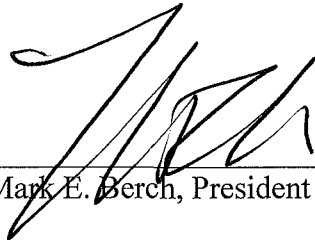
5. If, at any time, the Department determines Service Finance has committed any other violations of the Act, the Department may take any action available to it under the Act.

6. Within ten business days of the Department's receipt of Service Finance's full payment of all fines and costs, the Department shall approve Service Finance's Installment Sales Company License Application through the NMLS. The license will expire the last day of December 2018, 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 17 day of April, 2018.

SERVICE FINANCE COMPANY, LLC

By: 
Mark E. Berch, President

555 South Federal Highway, Suite 200
Boca Raton, Florida 33432
(866) 288-7880

DATED this 18 day of April, 2018.

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

By: 
Mark Quandahl, Director

1526 'K' Street, Suite 300
Lincoln, Nebraska 68508
(402) 471-2171

