

**STATE OF FLORIDA
OFFICE OF FINANCIAL REGULATION**

IN RE:

**RIVERSIDE CHEVROLET, LLC, d/b/a
RIVERSIDE CHEVROLET and ANDREW
L. FERGUSON, JR.**

**Administrative Proceeding Docket
Number: 90369**

Respondents.

ADMINISTRATIVE COMPLAINT

The State of Florida, Office of Financial Regulation (“Office”) files this Administrative Complaint against **RIVERSIDE CHEVROLET, LLC d/b/a RIVERSIDE CHEVROLET and ANDREW L. FERGUSON, JR.** (together “Respondents”), alleging:

GENERAL ALLEGATIONS

1. Pursuant to sections 520.994 and 520.996, Florida Statutes, the Office is charged with administering and enforcing the provisions of chapter 520, Florida Statutes, and is authorized to conduct examinations and investigations to determine whether any provision of chapter 520, Florida Statutes, has been violated by any person.

2. At all times material, **RIVERSIDE CHEVROLET, LLC d/b/a RIVERSIDE CHEVROLET** (“Riverside”) has conducted business as a motor vehicle retail installment seller at 3494 Philips Highway, Jacksonville, FL 32207.

3. At all times material, Andrew L. Ferguson Jr., had active management authority over the business decisions, actions, and activities of Riverside.

4. Riverside is currently licensed as a motor vehicle retail installment seller under chapter 520, Florida Statutes (License #MV9911643). Riverside is also a licensed motor vehicle dealer under chapter 320, Florida Statutes.

5. Pursuant to sections 520.994(4) and 520.995(2)(f), Florida Statutes, and Rule 69V-85.111, Florida Administrative Code, the Office may impose an administrative fine of up to \$1,000 for each such offense, may issue a reprimand, or impose probation, suspension, or revocation of a license for violations of chapter 520, Florida Statutes.

6. Pursuant to section 520.995(2)(b), Florida Statutes, the Office may revoke a license for failure to comply with any provision of chapter 520, Florida Statutes, and the rules promulgated pursuant thereto.

COUNT I

7. The above general allegations are hereby re-alleged and incorporated by reference as though fully stated herein.

8. Pursuant to section 520.995(1)(b), Florida Statutes, the office may discipline any person for fraud, misrepresentation, deceit, or gross negligence, in any retail installment transaction, regardless of reliance by or damage to the buyer or owner.

9. Pursuant to section 520.02(18), Florida Statutes, “Retail installment transaction” means any transaction evidenced by a retail installment contract entered into between a retail buyer and a seller wherein the retail buyer buys a motor vehicle from the seller at a deferred payment price payable in one or more deferred installments.

10. Pursuant to section 520.02(16), Florida Statutes, “Retail buyer” or “buyer” means a person who buys a motor vehicle from a seller not principally for the purpose of resale, and who executes a retail installment contract in connection therewith or a person who succeeds to the rights and obligations of such person.

11. Pursuant to section 520.02(17), Florida Statutes, “Retail installment contract” or “contract” means an agreement, entered into in this state, *pursuant to which the title to, or a lien*

upon the motor vehicle, which is the subject matter of a retail installment transaction, is retained or taken by a seller from a retail buyer as security, in whole or in part, for the buyer's obligation.
[emphasis added]

12. Pursuant to section 319.24(5)(a), Florida Statutes, a motor vehicle dealer acquiring ownership of a motor vehicle with an outstanding purchase money lien, shall pay and satisfy the outstanding lien within 10 working days of acquiring ownership.

13. Upon review of Respondents' business records and operations, the Office determined that Respondents failed to pay off the liens on trade-in vehicles, despite being required to do so pursuant to their retail installment contracts and section 319.24(5)(a), Florida Statutes.

14. Respondents then engaged in numerous motor vehicle retail installment contracts with other retail buyers, whereby they resold trade-in vehicles, despite not having legal title to sell such motor vehicles.

15. Respondents have engaged in deceit in connection with their retail installment contracts, in violation of section 520.995(1)(b), Florida Statutes.

16. Pursuant to section 520.995(2)(b) and (f), Florida Statutes, the Office may revoke a license previously granted and impose an administrative fine of \$1,000 for each such act in violation of chapter 520, Florida Statutes.

17. Therefore, the Office is seeking an administrative fine of \$14,000, and revocation of Respondents' license.

COUNT II

18. The above general allegations are hereby re-alleged and incorporated by reference as though fully stated herein.

19. Pursuant to section 520.995(3)(d), Florida Statutes, having demonstrated a lack of honesty or financial responsibility are grounds for revocation, suspension, or restriction of a license.

20. Upon review of Respondents' business records, operations, and interviews with Respondents' agents, the Office determined that Respondents have over-drafted numerous times on their bank account, failed to pay state sales taxes, and failed to pay-off liens on vehicles which were traded in pursuant to retail installment contracts.

21. Respondents have demonstrated a lack of financial responsibility in their retail installment transactions, in violation of section 520.995(3)(d), Florida Statutes.

22. Pursuant to section 520.995(1)(a), Florida Statutes, failure to comply with any provision of this chapter, any rule or order adopted pursuant to this chapter constitutes grounds for disciplinary actions specified in section 520.995(2), Florida Statutes.

23. Pursuant to section 520.995(2)(b) and (f), Florida Statutes, the Office may revoke a license previously granted and impose an administrative fine of \$1,000 for each such act in violation of chapter 520, Florida Statutes.

24. Therefore, the Office is seeking an administrative fine of \$26,000 and revocation of Respondents' license.

WHEREFORE, Respondents, **RIVERSIDE CHEVROLET, LLC, d/b/a RIVERSIDE CHEVROLET** and **ANDREW L. FERGUSON, JR.**, are hereby notified that the Office intends to enter an Order revoking Respondents' license and imposing an administrative fine in the amount of \$40,000.

NOTICE OF RIGHTS

The licensee is entitled to be represented by counsel or other qualified representative. The licensee also has the right to request a hearing pursuant to sections 120.569 and 120.57, Florida Statutes. Such request must comply with Rules 28-106.2015 and 28-106.104, Florida Administrative Code. An Election of Proceeding form is attached for your convenience.

Any such request must be filed as follows:

By Mail or Fax

Office of Financial Regulation
P.O. Box 8050
Tallahassee, FL 32314-8050
Phone: (850) 410-9989
Fax: (850) 410-9663

OR

By Hand Delivery

Office of Financial Regulation
General Counsel's Office
The Fletcher Building, Suite 118
101 East Gaines Street
Tallahassee, FL 32399-0379
Phone: (850) 410-9989

TO PRESERVE THE RIGHT TO A HEARING, A WRITTEN RESPONSE MUST BE FILED WITH THE OFFICE OF FINANCIAL REGULATION WITHIN TWENTY-ONE (21) DAYS AFTER THE RECEIPT OF THE ADMINISTRATIVE COMPLAINT. SAID RESPONSE MUST BE RECEIVED BY THE OFFICE NO LATER THAN 5:00 P.M. ON THE TWENTY-FIRST DAY AFTER THE RECEIPT OF THE ADMINISTRATIVE COMPLAINT. A FAILURE TO TIMELY RESPOND IN WRITING WILL CONSTITUTE A WAIVER OF THE LICENSEE'S RIGHT TO REQUEST A HEARING AND A FINAL ORDER MAY BE ENTERED WITHOUT FURTHER NOTICE.

You may not make an oral request for an administrative hearing. With regard to a written request, if you fail to follow the outlined procedure, your request may be dismissed. Any request for an administrative proceeding received prior to the date of this notice is deemed abandoned, and to be considered must be timely renewed in compliance with the procedure set forth above.


Notice to Respondents

In accordance with the Americans with Disabilities Act, persons with disabilities needing a special accommodation to participate in this proceeding should contact the Agency Clerk no later than seven (7) days prior to the filing deadline or proceeding, at the Office of Financial Regulation, The Fletcher Building, Suite 118, 101 East Gaines Street, Tallahassee, Florida 32399-0379, Phone: (850) 410-9889, or by Email: agency.clerk@flofr.com

Mediation of this matter pursuant to section 120.573, Florida Statutes, is not available.


DATED and SIGNED this 4th day of JUNE, 2018.

DREW J. BREAKSPEAR
Commissioner

By: 
Joaquin Alvarez, Esq.
Assistant General Counsel
Office of Financial Regulation
Fla. Bar No. 113647
200 E. Gaines Street
Tallahassee, FL 32399-0379
850.410.9554
Joaquin.alvarez@flofr.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Administrative Complaint has been furnished via Process Server to **RIVERSIDE CHEVROLET, LLC, d/b/a RIVERSIDE CHEVROLET**, at 3494 Philips Highway, Jacksonville, FL 32207 this 4th day of JUNE, 2018.


Joaquin Alvarez
Assistant General Counsel

STATE OF FLORIDA
OFFICE OF FINANCIAL REGULATION

Admin. Proc. #
RIVERSIDE CHEVROLET, LLC, d/b/a
RIVERSIDE CHEVROLET
and ANDREW L. FERGUSON, JR.
3494 Philips Highway
Jacksonville, FL 32207

ELECTION OF PROCEEDING

I have received and read the Administrative Complaint, including the Notice of Rights, filed by the Office of Financial Regulation ("Office") regarding the above-referenced licensee. As the licensee or the authorized representative of the licensee, I am requesting disposition as indicated below. (CHECK A BOX FOR NUMBER 1, 2, OR 3)

1. ☐ I do not dispute any of the Office's factual allegations and application of the law. Therefore, I do not request a hearing. I understand that upon my waiving the right to a hearing, the Office may enter a final order adopting the Administrative Complaint and imposing the sanctions authorized by Florida law, including, but not limited to, suspending or revoking the license, as appropriate.
2. I do not dispute any of the Office's factual allegations but dispute the Office's application of the law. I request to (CHECK ONE OF THE FOLLOWING OPTIONS):
☐ **Submit a written statement with supporting documentation to a Hearing Officer in lieu of a hearing; OR**
☐ **In person, attend a hearing conducted by a Hearing Officer; OR**
☐ **By telephone conference call, attend a hearing conducted by a Hearing Officer.**
3. ☐ I do dispute one or more of the Office's **factual allegations**. I request a formal section 120.57(1), Florida Statutes hearing before the Division of Administrative Hearings. Pursuant to the requirements of Rule 28-106.2015(5)(c), Florida Administrative Code, I am attaching the material facts that I dispute (SEE PAGE 2).

TO PRESERVE THE RIGHT TO A HEARING, A RESPONSE MUST BE FILED WITH THE OFFICE OF FINANCIAL REGULATION WITHIN TWENTY-ONE (21) DAYS OF THE RECEIPT OF THE ADMINISTRATIVE COMPLAINT. THE RESPONSE MUST BE RECEIVED BY THE OFFICE NO LATER THAN 5:00 P.M. ON THE TWENTY-FIRST DAY AFTER THE RECEIPT OF THE ADMINISTRATIVE COMPLAINT.

The address for filing is: P.O. Box 8050, Tallahassee, Florida 32314-8050. If hand delivery is preferred, the physical address is: General Counsel's Office, The Fletcher Building, Suite 118, 101 E. Gaines Street, Tallahassee, FL 32399.

Signature of Licensee or
Authorized Representative

Mailing Address

Printed Name & Title

City

State

Zip

Date

E-mail Address

Telephone Number

Fax Number

Date Administrative Complaint Received: _____

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RIVERSIDE CHEVROLET
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3494 Philips Highway
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****YOU ARE TO COMPLETE THE FOLLOWING ONLY IF YOU HAVE CHECKED NUMBER 3 ON THE PRECEDING PAGE. If you need more space, you may provide additional pages.**

As the licensee or the authorized representative of the licensee, I am disputing the following material facts:

Signature of Licensee or Authorized Representative

Date