

JAN 23 2013

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

INDIANA  
SECRETARY OF STATE

IN THE MATTER OF: )  
 ) Cause No. DLR 12-0212 RO  
JOSEPH AUTO SALES )  
and OLAYINKA LOABANJI, )  
 )  
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 - Dealer Services Division ("Division"), filed a Notice of Default in reference to Respondents, Joseph Auto Sales ("JAS") and Olayinka Loabanji ("Loabanji"), 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 August 22, 2012.

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. JAS is a business entity. JAS has a last known business address of 1532 Indianapolis Boulevard, Suite A19, Whiting, Indiana, 46394.
2. JAS and Loabanji are wholesale dealers, or other entities defined by Indiana Code § 9-23-2-1, that hold license number 0410378.
3. Loabanji is an individual and the owner of JAS. Loabanji has a last known residential address of 7121 N. Ridge Blvd, Chicago, Illinois, 60645.

4. On or about August 22, 2012, the Division filed a Petition for Order of Revocation against Respondents, JAS and Loabanji.

5. On August 22, 2012, the Commissioner issued an Order of Revocation, ordering JAS and Loabanji 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.

6. On August 23, 2012, 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.

7. On August 25, 2012, the Petition for Order of Revocation and the Order of Revocation were signed for by H. Husin at JAS' and Loabanji's last known business address.

8. In or around 2012, JAS and Loabanji were issued dealer license #0410378 by the Division. Pet. for Revocation ¶ 11.

9. On or about July 3, 2012, a Division investigator contacted Loabanji via an email address provided by Loabanji to the Division, [ablejo2@yahoo.com](mailto:ablejo2@yahoo.com), and informed him that she would be conducting an audit of JAS' and Loabanji's sales records at their established place of business on July 17, 2012. The investigator also attempted to contact Loabanji via a phone number that Loabanji provided to the Division, 773-381-3046, but the call was unable to be completed. *Id.* at ¶ 12.

10. When the investigator arrived at JAS' and Loabanji's established place of business on July 17, 2012, JAS and Loabanji failed to appear. *Id.* at ¶ 13.

11. Neither JAS nor Loabanji contacted the investigator to reschedule the audit of the sales records for JAS and Loabanji. *Id.* at ¶ 14.

## 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 (“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. This section incorporates by reference all preceding sections and

paragraphs.

18. 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.

19. Additionally, 75 Indiana Administrative Code § 2-2-10(d)(4) states,

Each applicant must submit to an investigation by the [Division] within one hundred twenty (120) days following the issuance of the wholesale dealer license. Business records must be presented to verify the number of monthly sales. Each applicant will be contacted at the address given on the license application. If the applicant is not available when the investigator calls, it will be the responsibility of the dealer to contact the [Division] to arrange for a subsequent visit. Dealer plates will not be renewed under this section until an investigation has been conducted.

20. JAS and Loabanji are in violation of Indiana Code § 9-23-2-14(c) and 75 Indiana Administrative Code § 2-2-10(d)(4) for willfully failing to produce evidence of sales for the statutorily-required audit of their sales records on July 17, 2012, and for failing to contact the Division to reschedule that audit.

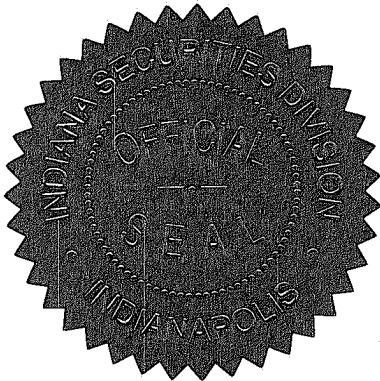
### **III. JUDGMENT AND FINAL ORDER**

Upon Consideration of the foregoing Findings of Fact and Conclusions of Law, the Securities Commissioner now determines that JAS and Loabanji were properly served with the Petition for Order of Revocation. Nevertheless, the Respondents failed to file an answer to the Petition. Therefore, Respondents 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. JAS and Loabanji shall immediately and PERMANENTLY CEASE AND DESIST from violating any provision of the Indiana Dealer Services Act;
- B. JAS and Loabanji 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. JAS and Loabanji shall pay, jointly and severally, a civil penalty in the amount of Five Thousand Dollars (\$5,000.00); and
- D. JAS and Loabanji shall disgorge all monies received while operating as a dealer.

ORDERED at Indianapolis, Indiana this 23<sup>RD</sup> day of JANUARY, 2013.



CONNIE LAWSON  
INDIANA SECRETARY OF STATE

CHRIS NAYLOR  
INDIANA SECURITIES COMMISSIONER