

OCT 17 2012

INDIANA
SECRETARY OF STATE

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

IN THE MATTER OF:)
) Cause No. DLR 12-0202 RO
EDGEWOOD MOTORS, INC.,)
and NEBIYU TATE,)
)
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, Edgewood Motors, Inc. (“Edgewood”) and Nebiyu Tate (“Tate”), 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 3, 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. Edgewood is a business entity. Edgewood has a last known business address of 760 W Main St. Ste 109, Bloomfield, IN, 47424.
2. Edgewood and Tate are wholesale dealers, or other entities, defined by Indiana Code § 9-23-2-1, that hold license number 0900078.
3. Tate is an individual and the owner of Edgewood. Tate has a last known residential address of 9151 September Lane, Silver Springs, MA, 20901.

4. On or about August 3, 2012, the Division filed a Petition for Order of Revocation against Respondents, Edgewood and Tate.

5. On August 3, 2012, the Commissioner issued an Order of Revocation, ordering Edgewood and Tate 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 6, 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 8, 2012, the Petition for Order of Revocation and the Order of Revocation were signed for by T. Fleming at Edgewood's and Tate's last known business address.

8. In 2011, Edgewood and Tate were issued dealer license #0900078 by the Division. Pet. for Rev. ¶ 11.

9. On or about June 18, 2012, a Division investigator contacted Tate via an email address provided by Tate to the Division, edge_wood10@yahoo.com, and informed him that he would be conducting an audit of Edgewood's and Tate's sales records at their established place of business on July 16, 2012. *Id.* at ¶ 12.

10. When the investigator arrived at Edgewood's and Tate's established place of business on July 16, 2012 Edgewood and Tate failed to appear. *Id.* at ¶ 13.

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

12. Edgewood and Tate have failed to file an answer to the Petition for Order of Revocation or a motion for extension of time to answer the Petition for Order of Revocation on or before fifteen (15) days after proper service was effected on Edgewood and Tate as required by the Order of Revocation.

II. CONCLUSIONS OF LAW

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

14. 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 (“Dealers Act”).

15. 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.

16. 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.

17. 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

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

19. 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.

20. 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.

21. Edgewood and Tate 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 appear for the statutorily-required audit of their sales records on July 16, 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 Edgewood and Tate were properly served with the Petition for Order of Revocation. Nevertheless, Edgewood and Tate each failed to file an answer to the Petition. Therefore, Edgewood and Tate 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. Edgewood and Tate shall immediately and PERMANENTLY CEASE AND DESIST from violating any provision of the Indiana Dealer Services Act;
- B. Edgewood and Tate 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. Edgewood and Tate shall pay a civil penalty in the amount of Five Thousand Dollars (\$5,000.00); and
- D. Edgewood and Tate, jointly and severally, shall disgorge all monies received while operating as dealers.

ORDERED at Indianapolis, Indiana this 17TH day of OCTOBER, 2012.

CONNIE LAWSON
INDIANA SECRETARY OF STATE



CHRIS NAYLOR
INDIANA SECURITIES COMMISSIONER

