

**STATE OF MICHIGAN**  
**DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**  
**Before the Director of the Department of Insurance and Financial Services**

In the matter of

**Department of Insurance and Financial Services**

**Docket No. 24-016342**

**Case No. 24-17718-RLA**

Petitioner,

**v**

**Todd L. Maffett**

Respondent.

\_\_\_\_\_ /

**ISSUED AND ENTERED**

**on October 28, 2024**

**by Joseph A. Garcia**

**Special Deputy Director and General Counsel**

**FINAL DECISION**

**I. INTRODUCTION**

This case concerns unlicensed automobile loan activity in violation of the Regulatory Loan Act, 1939 PA 21, MCL 493.1 *et seq.* (the “Regulatory Loan Act”) and the Interest Rates Act, 1966 PA 326, MCL 438.31, *et seq.*

On June 24, 2024, the Department of Insurance and Financial Services (“DIFS” or “Petitioner”) issued to Todd L. Maffett (“Respondent”) a Complaint and Notice of Intention to Issue Cease and Desist Order (the “Complaint”), alleging that Respondent had violated the statutes cited above. A formal administrative hearing was scheduled for August 6, 2024. Respondent did not appear at the hearing, and DIFS requested that a default judgment be entered against Respondent.

On August 21, 2024, Administrative Law Judge Stephen B. Goldstein issued a Proposal for Decision (the “PFD”) recommending that the Director of DIFS or the Director’s designee issue a final order affirming Petitioner’s Complaint. The factual findings in the PFD are in accordance with the preponderance of the evidence and the conclusions of law are supported by reasoned opinion. Except as explained below, the PFD is adopted in full and made a part of this Final Decision.

**II. FINDINGS OF FACT**

The findings of fact contained in the “Findings of Fact” section of the PFD are in accordance with the preponderance of the evidence and are adopted in full and made part of this Final Decision.

### III. CONCLUSIONS OF LAW

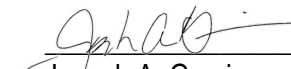
The conclusions of law in the “Conclusions of Law” section of the PFD are supported by reasoned opinion and are adopted in full and made part of this Final Decision, subject to the understanding that the reference to “paragraph 15(a)” in the penultimate sentence on page 9 is meant to refer to paragraph (a), i.e., the paragraph immediately preceding that sentence.

### IV. ORDER

Therefore, it is **ORDERED** that:

- A. The Petitioner’s motion for entry of default is **GRANTED**.
- B. Respondent shall **CEASE AND DESIST** from violating the Regulatory Loan Act.
- C. Respondent shall provide DIFS with a list of all Michigan borrowers to whom it issued loans governed by the Regulatory Loan Act. Such list shall include each borrower’s contact information and complete account information.
- D. Respondent shall refund all interest and fees collected from the borrowers identified on the list provided pursuant to paragraph C, above. Respondent shall provide DIFS with account statements for unsatisfied loans or cancelled checks for satisfied loans evidencing the completed refund or credit to the borrowers.

Anita G. Fox, Director  
For the Director:

  
\_\_\_\_\_  
Joseph A. Garcia  
Special Deputy Director and General Counsel

**STATE OF MICHIGAN  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES**

**IN THE MATTER OF:**

**Docket No.: 24-016342**

**DEPARTMENT OF INSURANCE AND  
FINANCIAL SERVICES,  
Petitioner**

**Case No.: 24-17718-RLA**

**Agency: Department of Insurance  
and Financial Services**

**v**

**TODD L. MAFFETT,  
Respondent**

**Case Type: DIFS-Insurance**

**Filing Type: Notice of Cease and  
Desist**

---

**Issued and entered  
this 21<sup>st</sup> day of August 2024  
by: Stephen B. Goldstein  
Administrative Law Judge**

**PROPOSAL FOR DECISION**

**Procedural History**

This proceeding is held under the authority of the Michigan Regulatory Loan Act, MCL 493.1 *et seq.* (Act), the Michigan Administrative Procedures Act of 1969, MCL 24.201 *et seq.* (APA), and the Tribunal's Hearing Rules, Mich Admin Code, R 792.10101 *et seq.* (Rules).

On June 24, 2024, the Department of Insurance and Financial Services ('Petitioner' or 'DIFS') issued a Complaint and Notice of Intention to Issue Cease and Desist Order, alleging violations by Todd L. Maffett (Respondent) of several sections of the Act.

On June 26, 2024, this matter was referred to the Michigan Office of Administrative Hearings and Rules ('MOAHR') to schedule a contested case hearing.

On July 1, 2024, MOAHR issued a Notice of Telephone Hearing, scheduling a hearing for August 6, 2024, at 9:00 a.m.

The August 6, 2024, hearing convened as scheduled. Petitioner was represented by William R. Peattie, Attorney at Law. Respondent failed to appear as of 9:20 a.m.

Based on Respondent's failure to appear, Petitioner moved for entry of a default and default judgment under Sections 72(1) and 78(2) of the APA and Mich Admin Code, R 792.10134.

MCL 24.272(1) provides:

Sec. 72. (1) If a party fails to appear in a contested case after proper service of notice, the agency, if no adjournment is granted, may proceed with the hearing and make its decision in the absence of the party.

MCL 24.278(2) provides:

Sec. 78. (2) Except as otherwise provided by law, disposition may be made of a contested case by stipulation, agreed settlement, consent order, waiver, default or other method agreed upon by the parties.

Mich Admin Code, R 792.10134(1) provides:

Rule 134.(1) If a party fails to attend or participate in a scheduled proceeding after a properly served notice, the administrative law judge may conduct the proceedings without participation of the absent party. The administrative law judge may issue a default order or other dispositive order which shall state the grounds for the order.

After determining that Respondent was properly served with notice of the August 6, 2024, hearing, the Tribunal granted Petitioner's motion for entry of a default under Section 78(2) of the APA. Petitioner was thereafter allowed to proceed in Respondent's absence, under Section 72(1) of the APA and R 792.10134(1).

**Summary of Exhibits**

Petitioner offered the following exhibits, which were admitted into evidence.

- |                      |   |
|----------------------|---|
| Petitioner Exhibit 1 | Complainant's and Michigan Department of State Documentation.       |
| Petitioner Exhibit 2 | Application for Title with Respondent Todd Maffett and Complainant. |
| Petitioner Exhibit 3 | KBB Value for Jeep Liberty.   |
| Petitioner Exhibit 4 | NADA Value for Jeep Liberty.  |

Petitioner Exhibit 5	PayPal Receipt for \$1,000.00 from Complainant.
Petitioner Exhibit 6	PayPal Receipt for \$5,980.00 from Complainant.
Petitioner Exhibit 7	DIFS's July 31, 2023, Letter to Respondent Todd Maffett.
Petitioner Exhibit 8	DIFS's September 28, 2023, Letter to Respondent Todd Maffett.
Petitioner Exhibit 9	Vehicle Titles Listing Respondent Todd Maffett with Secured Interest in Vehicle.
Petitioner Exhibit 10	Excel Spreadsheet-Lienholders.

**Issue**

Has Respondent violated the Act as alleged in the June 24, 2024, Complaint and Notice of Intention to Issue Cease and Desist Order?

**Applicable Law**

MCL 493.1(2)(h) provides:

(2) As used in this act:

\*\*\*

(h) "Licensee" means a person licensed or required to be licensed under this act.

\*\*\*

(j) "Loan" or "regulatory loan" means a loan made by a licensee to an individual for personal, family, or household use.

\*\*\*

MCL 493.2(1) provides:

Sec. 2. (1) Except as otherwise provided under this act, a person shall not engage in the business of making loans of money, credit, goods, or things in action and charge, contract for, or receive on the loan a greater rate of

interest, discount, or consideration than the lender would be permitted by law to charge if the lender were not a licensee under this act and without first obtaining a license from the commissioner, or by obtaining a license under the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072.

\*\*\*

MCL 493.9a provides:

Sec. 9a. (1) If in the opinion of the commissioner a licensee is, has, or is about to engage in a practice that poses a threat of financial loss or threat to the public welfare or is, has, or is about to violate a law or rule, the commissioner may serve a notice of intention to issue a cease and desist order as provided in subsection (2).

(2) A notice served under this section shall contain a statement of the facts constituting the alleged practice or violation and fix a time and place at which a hearing will be held to determine whether an order to cease and desist should be issued against the licensee.

(3) If the licensee fails to appear at the hearing by a duly authorized representative, the licensee shall have consented to the issuance of the cease and desist order.

(4) In the event of consent under subsection (3) or if, upon the record made at the hearing, the commissioner finds that the practice or violation specified in the notice has been established, the commissioner may serve upon the licensee an order to cease and desist from the practice or violation. The order may require the licensee and its officers, directors, members, partners, trustees, employees, agents, and control persons to cease and desist from the practice or violation and to take affirmative action to correct the conditions resulting from the practice or violation.

(5) Except as provided in subsection (6) or to the extent it is stayed, modified, terminated, or set aside by the commissioner or a court, a cease and desist order shall become effective on the date of service.

(6) A cease and desist order issued upon consent shall become effective at the time specified in the order and remain effective and enforceable as provided in the order.

MCL 493.13(4) provides:

Sec. 13.

\*\*\*

(4) In addition to the interest and charges provided for in this act, a loan processing fee not to exceed 5% of the principal, up to \$250.00, may be charged for each closed-end loan made, and may be included in the principal of the loan. The \$250.00 limit on the loan processing fee shall be adjusted every 2 years to reflect the percentage change in the United States consumer price index for the 2 immediately preceding calendar years, rounded to the nearest hundred dollars. As used in this subsection, "United States consumer price index" means the United States consumer price index for all urban consumers in the United States city average, as defined and reported by the United States department of labor, bureau of labor statistics, and after certification by the commissioner. A licensee may require the borrower to pay the late charges permitted by the credit reform act, 1995 PA 162, MCL 445.1851 to 445.1864. A licensee shall not induce or permit a person to become obligated, directly or contingently, under more than 1 loan contract not secured by personal property at the same time for the purpose or with the result of obtaining a loan processing fee not otherwise permitted by this section. No other amount shall be directly or indirectly charged, contracted for, or received, except the lawful fees, if any, actually and necessarily paid by the licensee to a governmental entity for the filing, recording, or releasing of either of the following:

(a) A financing statement or an instrument securing the loan, or both.

(b) A record noting or releasing a lien or transferring a certificate of title under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

MCL 438.31 provides:

Sec. 1. The interest of money shall be at the rate of \$5.00 upon \$100.00 for a year, and at the same rate for a greater or less sum, and for a longer or shorter time, except that in all cases it shall be lawful for the parties to stipulate in writing for the payment of any rate of interest, not exceeding 7% per annum. This act shall not apply to the rate of interest on any note, bond or other evidence of indebtedness issued by any corporation,

association or person, the issue and rate of interest of which have been expressly authorized by the public service commission or the securities bureau of the department of commerce, or is regulated by any other law of this state, or of the United States, nor shall it apply to any time price differential which may be charged upon sales of goods or services on credit. This act shall not be construed to repeal section 78 of Act No. 327 of the Public Acts of 1931, as amended, being section 450.78 of the Compiled Laws of 1948. This act shall not render unlawful, the purchase of any note, bond or other evidence of indebtedness theretofore issued by any borrower not then domiciled in this state, which bear any rate of interest which is lawful under the law of the domicile of the borrower at the date of issue thereof, and in such case any such rate of interest may be charged and received by any person, firm, corporation or association in this state.

MCL 438.32 provides:

Sec. 2. Any seller or lender or his assigns who enters into any contract or agreement which does not comply with the provisions of this act or charges interest in excess of that allowed by this act is barred from the recovery of any interest, any official fees, delinquency or collection charge, attorney fees or court costs and the borrower or buyer shall be entitled to recover his attorney fees and court costs from the seller, lender or assigns.

### **Findings of Fact**

Based on entry of the default judgment in favor of Petitioner and against Respondent, and the admitted exhibits, the Tribunal finds, as material fact:

1. Petitioner is statutorily charged with the responsibility and authority to administer and implement the Act.
2. Petitioner is granted general supervisory power over all persons engaging in the business of making loans of money, credit, goods, or things in action in the state of Michigan or with Michigan residents. MCL 493.1 *et seq.*; MCL 445.1851 *et seq.*
3. Respondent, Todd L. Maffett, is not licensed under the Act or the Consumer Financial Services Act.



4. The Michigan Department of State's ('MDOS') Regulatory Monitoring Division investigated a complaint from E. Robinson ('Complainant'). After conducting their investigation, MDOS referred the complaint to Petitioner's Office of Consumer Finance ('OCF').
5. The Complainant alleged that dealer MLK Automotive LLC ('Dealer') (license #IS-0024604)<sup>1</sup> sold her a 2012 Jeep Liberty and allowed Respondent to conduct unlicensed activity, which was facilitated by the dealer. Ms. Robinson requested a refund of \$6,980.00, which is the amount she paid to Respondent.<sup>2</sup>
6. The DIFS staff's investigation included a review of the MDOS investigation report and documents, interviewing the Complainant, and reviewing additional documents submitted by the Complainant. DIFS staff attempted to contact Respondent on several occasions by first-class mail but were unsuccessful.
7. The Complainant stated to DIFS staff the following about the loan:
  - a. There was no written contract between her and the Respondent for the financing of the vehicle.
  - b. The amount of the loan obligation to Respondent was \$10,000.00.
  - c. The payment frequency was monthly.
  - d. The loan was a principal-only loan (no interest payments).
  - e. Although paperwork was signed at the dealer, delivery occurred at Mr. Maffett's residence.
8. DIFS staff used the National Automobile Dealers Association (NADA) value to estimate that the average price paid for the make/model, year, and odometer reading of the Complainant's vehicle was \$5,850 with prices paid between \$5,432 – \$6,243.<sup>3</sup> The Receipt for RD-108 form reflects the purchase price of the vehicle was \$2,500.00 with plate, title, and tax fees of \$268.00 for a total of \$2,768.00. The Application for Title and Registration form reflects the full amount of the sale was financed without a down payment.<sup>4</sup>

---

<sup>1</sup> Note: Petitioner's Complaint references MLK Automotive LLC's dealer license number as "IS-0024604"; MLK Automotive LLC's dealer license number is identified under Petitioner Exhibits 1 and 2 as "B209843".

<sup>2</sup> Petitioner Exhibits 1, 5, 6.

<sup>3</sup> Petitioner Exhibit 3, 4.

<sup>4</sup> Petitioner Exhibit 9, pp. 69-70.

9. The \$10,000.00 agreed-upon loan amount was per a verbal contract. Any amount over the \$2,768.00 total sale price is interest. The Interest Rates Act (IRA) caps interest for verbal contracts at 5% for an unlicensed lender. The Complainant has remitted \$6,980.00 to Respondent in payments, which is more than that permitted by the IRA.
10. DIFS Staff obtained information indicating that Respondent may have engaged in numerous additional unlicensed lending activities. Specifically, the Secretary of State provided a lien report to DIFS indicating that “Todd Maffett” and “Todd Lamar Maffett” was the lender for 10 additional vehicles, all to different customers.<sup>5</sup>
11. Respondent knew or should have known that MCL 493.1(2)(h) defines a “licensee” as a person licensed or required to be licensed under the Act.
12. Respondent knew or should have known that MCL 493.1(2)(j) defines a “loan” or “regulatory loan” as a loan made by a licensee to an individual for personal, family, or household use.
13. Respondent knew or should have known that MCL 493.2(1) provides that “[e]xcept as otherwise provided under this act, a person shall not engage in the business of making loans of money, credit, goods, or things in action and charge, contract for, or receive on the loan a greater rate of interest, discount, or consideration than the lender would be permitted by law to charge if the lender were not a licensee under this act and without first obtaining a license from the commissioner, or by obtaining a license under the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072.”
14. Respondent knew or should have known that MCL 438.31 limits an unlicensed lender to charging a maximum interest rate of 5% for loans predicated upon a verbal contract. By entering into the verbal contract with Complainant set forth above, Respondent has charged and received a greater rate of interest than that permitted for unlicensed lenders and has thus violated MCL 438.31.

---

<sup>5</sup> Petitioner Exhibit 9, pp. 73-103.

### **Conclusions of Law**

The principles that govern judicial proceedings also apply to administrative hearings. The burden of proof is upon Petitioner to prove by a preponderance of the evidence that grounds exist for the imposition of the Cease-and-Desist Order against Respondent.

By operation of the default and default judgment granted Petitioner, all facts alleged in the Complaint and Notice of Intention to Issue Cease and Desist Order are adopted by the Tribunal as true. *Smith v Lansing School District*, 428 Mich. 248 (1987).

Accordingly, the evidence establishes by a preponderance that Respondent, in violation of MCL 493.2(1), engaged in the business of making loans of money, credit, goods, or things in action and charge, contracted for, or received on the loan a greater rate of interest, discount, or consideration than he, as the lender, was permitted for unlicensed lenders under the Act. The evidence further establishes that Respondent engaged in such activity without first obtaining a license from the commissioner or by obtaining a license under the Consumer Financial Services Act, 1988 PA 161, MCL 487.2051 to 487.2072.

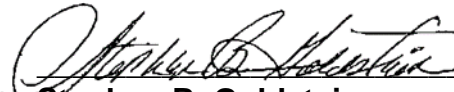
The evidence further establishes that, in violation of MCL 438.31, Respondent, as an unlicensed lender, exceeded the maximum interest rate of 5% for loans predicated upon a verbal contract. The evidence establishes that, by entering into the verbal contract with Complainant, Respondent charged and received a greater rate of interest than that permitted for unlicensed lenders, thus also violating MCL 438.31.

Respondent's unlicensed lending activity establishes that he has, is, or is about to engage in a practice posing a threat of financial loss or threat to the public welfare, or that Respondent has or is about to violate a law or rule, justifying an Order pursuant to MCL 493.9a, requiring Respondent to cease and desist from engaging in unlicensed lending activities in violation of the Act. The evidence also supports imposition on Respondent of the following corrective actions:

- (a) Respondent shall provide DIFS with a list of all Michigan borrowers to whom it issued loans governed by the RLA. Such list shall include each borrower's contact information and complete account information.
- (b) Respondent shall refund all interest and fees collected from the borrowers identified on the list provided pursuant to paragraph 15(a) above. Respondent shall provide DIFS with account statements for unsatisfied loans or cancelled checks for satisfied loans evidencing the completed refund or credit to the borrowers.

**Proposed Decision**

Based on the above Findings of Fact and Conclusions of Law, the Tribunal proposes that the Director or the Director's designee issue a Final Order affirming Petitioner's June 24, 2024, Complaint and Notice of Intention to Issue Cease and Desist Order.

  
\_\_\_\_\_  
**Stephen B. Goldstein**  
**Administrative Law Judge**

**EXCEPTIONS**

The parties may file Exceptions to this Proposal for Decision within twenty-one (21) days after it is issued and entered. An opposing party may file a Response to Exceptions within fourteen (14) days after initial Exceptions are filed (see computation of filing time at Mich Admin Code, [R 792.10104](#)). For any Exceptions and Responses to Exceptions, a party must:

- 1) State the **case name and docket number** as shown on the first page of this Proposal for Decision;
- 2) File with the Michigan Office of Administrative Hearings and Rules-General Adjudication, by **e-mail (preferred)**: [MOAHR-GA@michigan.gov](mailto:MOAHR-GA@michigan.gov); **fax**: 517-763-0148; **regular mail**: MOAHR-GA, P.O. Box 30695, Lansing, Michigan 48909-8195; or **overnight carrier delivery (UPS, FedEx, DHL)**: MOAHR-GA, c/o Department of Licensing and Regulatory Affairs, Mail Services, 2407 N. Grand River Avenue, Lansing, Michigan 48906; and
- 3) **Serve a copy on all parties** to the proceeding at the email/regular mail addresses shown on the attached Proof of Service.

**Notice to Agency to Provide MOAHR with Subsequent Agency or Court Orders**

Pursuant to Mich Admin Code, R 792.10120(2)(i), the state agency that is a party to this matter, and/or referred this matter to MOAHR shall serve MOAHR with any subsequent orders entered as a result of this ALJ's decision or proposed decision, including but not limited to the agency's final order, order to remand the matter to MOAHR for further proceedings, or order on appeal, as soon as practicable following entry of the order to:

Michigan Office of Administrative Hearings and Rules, General Adjudication, by **email (preferred)** to: [MOAHR-GA@michigan.gov](mailto:MOAHR-GA@michigan.gov); **or by regular mail** to: MOAHR-GA, P.O. Box 30695, Lansing, Michigan 48909-8195.

See: Mich Admin Code, R 792.10120(2)(i).