

**STATE OF NEBRASKA**  
**Department of Banking & Finance**

IN THE MATTER OF:	)	
	)	
VW Credit, Inc.,	)	FINDINGS OF FACT
DBA Volkswagen Credit,	)	CONCLUSIONS OF LAW
DBA Audi Financial Services,	)	AND
1401 Franklin Boulevard,	)	CONSENT ORDER
Libertyville, Illinois	)	

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 45-353 (Reissue 2010; Supp. 2011) (“the Act”). Pursuant to Neb. Rev. Stat. § 45-346 (Reissue 2010) and Neb. Rev. Stat. § 45-348 (Reissue 2010), the DEPARTMENT has investigated the facts surrounding the applications of VW Credit, Inc., DBA Volkswagen Credit, DBA Audi Financial Services, 1401 Franklin Boulevard, Libertyville, Illinois, for a sales finance license for the years 2003 to 2011, inclusive.

As a result of such investigation, and being duly advised and informed in the matter, the Director and VW Credit, Inc. enter into the following Findings of Fact, Conclusions of Law, and Consent Order.

**FINDINGS OF FACT**

1. VW Credit, Inc. holds Sales Finance License #42 under the Act. License #42 was issued August 9, 1993, to VW Credit, Inc. and renewed on October 1<sup>st</sup> of each succeeding year through September 30, 2011, pursuant to Neb. Rev. Stat. § 45-348 (Reissue 2010).

2. On September 16, 1999, the DEPARTMENT received notice from VW Credit, Inc., DBA Volkswagen Credit/Audi Financial Services, that it had moved its place of business from 2333 Waukegan Rd., Deerfield, Illinois to its current location. Prior to that time, VW Credit, Inc. did not disclose to the DEPARTMENT that Volkswagen Credit or Audi Financial Services were 'doing business as' ("DBA") designations in connection with VW Credit, Inc. When VW Credit, Inc. renewed its license in the years 2000 to 2002, inclusive, it did not reference any DBAs.

3. For the renewal of licenses effective October 1, 2003, the DEPARTMENT began requiring Sales Finance Licensees to submit a standard renewal application form ("Renewal Application"). Question 1 of the Renewal Application stated: "Give name (including all DBA names), address and county of Main Office of Applicant to be licensed in Nebraska" ("Question 1").

4. In August 2003, the DEPARTMENT received a Sales Finance License Renewal Application from VW Credit, Inc. In response to Question 1 of the Renewal Application, VW Credit, Inc. listed its business name as "VW Credit, Inc." VW Credit, Inc. did not list Volkswagen Credit or Audi Financial Services as DBA names in response to Question 1. Furthermore, VW Credit, Inc. did not list Volkswagen Credit or Audi Financial Services as DBA names on its Sales Finance License Renewal Applications at any time prior to the 2011 Renewal Application. Each Renewal Application contained the representation that the information contained was true and complete.

5. On September 7, 2011, the DEPARTMENT received a Sales Finance License Renewal Application from VW Credit, Inc. In response to Question 1 of the Renewal Application, VW Credit, Inc. listed its business name as, "VW Credit, Inc., DBA Audi

Financial Services and Bentley Financial Services.” The DBA “Volkswagen Credit” was not included on the Renewal Application submitted to the DEPARTMENT at that time. The 2011 Renewal Application contained the representation that the information contained therein was true and complete and was signed by James Weston, Assistant Secretary.

6. On September 22, 2011, the DEPARTMENT contacted VW Credit, Inc. by email requesting the dates that each of the DBAs were first used in conjunction with its Nebraska business, a copy of each Nebraska Secretary of State filing for the use of the trade names, and an explanation as to the previous non-disclosure of the DBA names.

7. On September 23, 2011, VW Credit, Inc. responded to the DEPARTMENT’s September 22, 2011 inquiry by submitting by email the Trade Name filings that were filed with the Nebraska Secretary of State and stated that:

Audi Financial Services was filed with the Nebraska Secretary of State originally on July 24, 1997 and last renewed on February 2, 2007. Volkswagen Credit was filed with the Nebraska Secretary of State originally on May 7, 2009. Bentley Financial Services was listed in error, we do not have Bentley Dealers in Nebraska.

8. On September 23, 2011, the DEPARTMENT contacted VW Credit, Inc. by email asking again for an explanation as to why the DBA names had not been previously disclosed and why the DBA “Volkswagen Credit” was not included on the Renewal Application. The DEPARTMENT also asked VW Credit, Inc. to submit an amended page 1 of the Renewal Application which listed the correct name of the Licensee, the correct DBAs being used in Nebraska, and a bond rider reflecting the addition of all DBA names.

9. On September 23, 2011, VW Credit, Inc. responded to the DEPARTMENT’s September 23, 2011 inquiry by submitting by email a corrected page 1 of the Renewal

Application which listed VW Credit, Inc.'s name with Volkswagen Credit and Audi Financial Services as DBA names. VW Credit, Inc.'s explanation as to why the DBA names were not previously disclosed was, "It was an oversight."

10. The 2011 Renewal Application was provisionally granted effective October 1, 2011, pending resolution of the naming issues identified in the above Findings of Facts.

11. VW Credit, Inc.'s failure to supply the DBA name, Audi Financial Services, in its 2003 through 2010 Renewal Applications and the DBA name, Volkswagen Credit, in its 2009 through 2011 Renewal Applications, represents eleven (11) violations of Neb. Rev. Stat. § 45-348 (Reissue 2010).

12. The DEPARTMENT could conclude that the actions of VW Credit, Inc. warrant the commencement of administrative proceedings to determine whether it should impose an administrative fine in an amount up to one thousand dollars per violation, plus investigation costs, pursuant to Neb. Rev. Stat. § 45-351 (Reissue 2010).

13. The DEPARTMENT incurred a minimum of one thousand dollars (\$1,000.00) in investigation costs in this matter.

### **CONCLUSIONS OF LAW**

1. Neb. Rev. Stat. § 45-346 (Reissue 2010) provides that an application for a sales finance license under the Act shall be on a form prescribed and furnished by the Director of the DEPARTMENT. The Director shall 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.

2. Neb. Rev. Stat. § 45-348 (Reissue 2010) provides that every licensee shall annually, on or before the first day of October, submit such information as the Director may require to indicate any material change in the information contained in the original application or succeeding renewal applications.

3. As set forth in Findings of Fact #s 3 through 5, the DEPARTMENT required disclosure of an applicant's DBA name(s) in the Renewal Application form for a sales finance license beginning with the 2003 licensing period and continuously thereafter. VW Credit, Inc. failed to disclose its DBA name, Audi Financial Services, on the Renewal Applications it submitted between 2003 and 2010, and its DBA name, Volkswagen Credit, on the Renewal Application it submitted for the years 2009 through 2011. As a result, VW Credit, Inc. committed eleven (11) violations of Neb. Rev. Stat. § 45-348 (Reissue 2010).

4. Neb. Rev. Stat. § 45-351 (Reissue 2010) states that if the Director finds, after notice and opportunity for hearing in accordance with the Administrative Procedure Act, 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.

5. The facts listed in the above Findings of Fact constitute a sufficient basis for the Director to have determined that VW Credit, Inc. has violated the Act, and that an

administrative fine in an amount of not more than one thousand dollars for each separate violation plus costs of investigation should be imposed in accordance with Neb. Rev. Stat. § 45-351 (Reissue 2010).

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

7. It is in the best interest of VW Credit, Inc. and the best interest of the public for VW Credit, Inc. and the DEPARTMENT to resolve the issues included herein.

### **CONSENT ORDER**

The DEPARTMENT and VW Credit, Inc. agree as follows:

Stipulations: In connection with this Consent Order, VW Credit, Inc. and the Director stipulate to the following:

1. The DEPARTMENT has jurisdiction as to all matters herein.
2. This Consent Order shall resolve all matters between the DEPARTMENT and VW Credit, Inc. in connection with the Findings of Fact set forth above. Should future circumstances warrant, the facts from this matter may be considered in future administrative action by the DEPARTMENT.
3. This Consent Order shall be in lieu of all other proceedings available to the DEPARTMENT, except as specifically referenced in this Consent Order.

VW Credit, Inc. further represents as follows:

1. VW Credit, Inc. 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. VW Credit, Inc. is acting free from any duress or coercion of any kind or nature.

3. This Consent Order is executed to avoid further proceedings and constitutes an admission of violations solely for the purpose of this Consent Order and for no other purpose whatsoever.

IT IS THEREFORE AGREED as follows:

1. Within ten (10) days after the effective date of this Consent Order, VW Credit, Inc. shall pay a fine of one thousand dollars (\$1,000.00) for each of its eleven (11) violations of Neb. Rev. Stat. § 45-348 (Reissue 2010).

2. Within ten (10) days after the effective date of this Consent Order, VW Credit, Inc. shall pay the DEPARTMENT's investigation costs in this matter in the amount of one thousand dollars (\$1,000.00).

3. The total amount of the fine, eleven thousand dollars (\$11,000.00), plus the total amount of investigation costs, one thousand dollars (\$1,000.00), shall be payable in one check or money order in the amount of twelve thousand dollars (\$12,000.00) to the DEPARTMENT.

4. Within ten (10) business days after VW Credit, Inc.'s compliance with this Consent Order, the DEPARTMENT shall issue a Non-Provisional License to VW Credit, Inc.

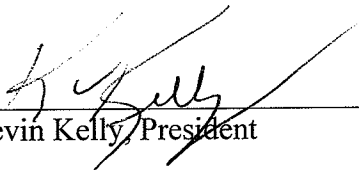
5. In the event VW Credit, Inc. fails to comply with any of the provisions of this Consent Order, the DEPARTMENT may commence such action as it deems necessary and appropriate in the public interest.

6. If, at any time, the DEPARTMENT determines VW Credit, Inc. has committed any other violation of the Act or other state law applicable to VW Credit, Inc.'s business, the DEPARTMENT may take any action available to it under the Act.

7. The effective date of this Consent Order will be the date of the Director's signature.

DATED this 23 day of December, 2011.


**VW CREDIT, INC.  
DBA VOLKSWAGEN CREDIT  
DBA AUDI FINANCIAL SERVICES**

By:   
Kevin Kelly, President

1401 Franklin Boulevard  
Libertyville, Illinois 60048

DATED this 23<sup>rd</sup> day of December, 2011.

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

By:   
John Munn, Director

Commerce Court, Suite 400  
1230 "O" Street  
Lincoln, Nebraska 68508  
(402) 471-2171

