

Kathryn Carter, #12969  
 Sarah M. Dietz #27457  
 Assistant Attorneys General  
 Office of the Kansas Attorney General  
 120 S.W. 10<sup>th</sup> Avenue, 2nd Floor  
 Topeka, Kansas 66612-1597  
 Tel: (785) 296-3751  
 Fax: (785) 291-3699

FILED BY CLERK  
 KS. DISTRICT COURT  
 THIRD JUDICIAL DIST.  
 TOPEKA, KS

2019 FEB -1 P 1:31

**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS  
 DIVISION 7**

**STATE OF KANSAS, *ex rel.*,** )  
**DEREK SCHMIDT, Attorney General,** )  
 )  
**Plaintiff,** )  
 )  
**v.** )  
 )  
**JUSTIN M. BOGINA, an individual** )  
**and** )  
**AUTO ACCEPTANCE CENTER CORP,** )  
**a corporation.** )  
 )  
**Defendants.** )

**Case No. 2017-CV-745**

**(Pursuant to K.S.A. Chapter 60)**

**CONSENT JUDGMENT NUNC PRO TUNC**

COMES NOW BEFORE THE COURT, on this date, the agreement and stipulation of the parties. Plaintiff State of Kansas, *ex rel.* Derek Schmidt, Kansas Attorney General, appears by and through counsel, Assistant Attorneys General Kathryn Carter and Sarah M. Dietz. Defendants appear by Brandon Kane, Kane Law Office.

Being duly advised in the premises, the Court enters the following findings of fact and conclusions of law, as agreed and stipulated by the parties:

1. Derek Schmidt is the duly elected, qualified, and acting Attorney General for the State of Kansas.

2. The Attorney General's authority to bring this action is derived from the statutory and common law of the State of Kansas, specifically the Kansas Consumer Protection Act, K.S.A. 50-623, *et seq.* (hereinafter referred to as the KCPA).

3. Defendant Auto Acceptance Center Corp is a Kansas For Profit Corporation with a principal place of business at 400 SE 29<sup>th</sup>, Topeka, Shawnee County, Kansas.

4. Defendant Justin Bogina is an individual and is the President and owner of Auto Acceptance Center Corp. He resides at 815 SE Dupont, Tecumseh, Shawnee County, Kansas.

5. This Court has personal and subject matter jurisdiction over this controversy pursuant to the Kansas Consumer Protection Act, pursuant to K.S.A. 50-623, *et seq.*, specifically K.S.A. 50-638(a) and venue is proper in the District Court of Shawnee County, Kansas, pursuant to K.S.A. 50-638(b).

6. On November 3, 2017, Plaintiff filed a Petition herein against Defendants, Justin M. Bogina and Auto Acceptance Center Corp ("Defendants").

7. On January 26, 2018, the Court entered Default Judgment against the Defendants.

8. On March 1, 2018, Defendants filed their Motion to Set Aside the Default Judgment, and the matter was heard and decision pending.

9. On November 30, 2018, Plaintiff filed a Motion for Imposition of Civil Penalties, which matter has not yet been heard by the Court.

10. There is no restitution due at this time.

11. The parties have reached an agreement to resolve all issues currently before the Court.

12. Defendants accept and acquiesce to the default judgment, including the findings of fact and conclusions of law, entered on January 26, 2018, except as recited herein.

13. Defendants accept and acquiesce to the further orders of the Court, which take precedence over any and all inconsistent orders made in the default judgment, as follow:

- a. Defendants are permanently enjoined from advertising, soliciting, performing, accepting payments for, supervising, operating or in any manner conducting any business related to the sale or service of automobiles or other vehicles within the State of Kansas, specifically from engaging in any consumer transactions, as defined in K.S.A. 50-624(c), related to automobiles or other vehicles.
- b. Defendants are permanently enjoined from entering into, forming, organizing or reorganizing into any partnership, corporation, sole proprietorship or any other legal structures, for the purpose of engaging in consumer transactions related to automobiles or other vehicles.
- c. Defendant Justin Bogina will formally and legally dissolve Auto Acceptance Corp. within 15 days of the effective date of this Consent Judgment.
- d. Defendant Justin Bogina will pay civil penalties to the Office of the Kansas Attorney General in the amount of \$210,000.
- e. Defendant Justin Bogina shall pay investigative fees and expenses in the amount of \$9,191.65 to the Office of the Kansas Attorney General, pursuant to K.S.A. 50-632(a)(4).

14. The parties agree, and Defendant Justin Bogina is ordered to pay \$500 each calendar month to the Office of the Kansas Attorney General beginning February 15, 2019, and the fifteenth day of each month thereafter, until judgment is satisfied.

15. The parties agree that \$200,000 of the civil penalties assessed in this matter shall be suspended on the condition that Defendant Justin Bogina comply with the orders of the Court and terms of this Consent Judgment, including the provision that Defendant Justin Bogina make

payments the fifteenth day of each calendar month in the amount of \$500 until judgment is satisfied.

16. Defendant Justin Bogina agrees that the suspension of the judgment for civil penalties in the amount of \$200,000 shall be lifted and set aside if, upon motion by Plaintiff, the Court finds that Defendant Justin Bogina has violated or failed to comply with any term of this Consent Judgment.

17. If the suspension of the judgment for civil penalties is lifted, the judgment becomes immediately due, in addition to the unsuspended penalties and fees, plus interest computed from the effective date of this Consent Judgment.

18. Defendant Justin Bogina is ordered to pay all Court costs and all costs associated with collecting, distributing and executing any judgment made by this Court.

19. Compliance with this Consent Judgment does not relieve Defendants of any obligation imposed by applicable federal, state, or local law, nor shall Plaintiff be precluded from taking appropriate legal action to enforce civil or criminal statutes under Plaintiff's jurisdiction.

20. This Consent Judgment shall not be construed as an approval of or sanction by Plaintiff of the business practices of Defendants nor shall Defendants represent the decree as such approval. Any failure by Plaintiff to take any action in response to any information submitted pursuant to the Consent Judgment shall not be construed as an approval or sanction of any representations, acts or practices indicated by such information, nor shall it preclude action thereon at a later date.

21. Defendants are jointly and severally liable for judgment rendered herein.

22. Plaintiff withdraws its Motion for Imposition of Civil Penalties filed in the present matter.

23. Defendants' Motion to Set Aside Default Judgment is denied.

24. All prior orders of the Court entered in the present matter which conflict with or are inconsistent with the orders recited in this Consent Judgment are set aside and held for naught.

25. This Consent Judgment shall have the same effect as if filed on January 26, 2018.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that the Default Judgment entered by this Court on January 26, 2018, is affirmed and ratified as to the judgment entered therein, specifically:

a. Defendants are permanently enjoined from advertising, soliciting, performing, accepting payments for, supervising, operating or in any manner conducting any business related to the sale or service of automobiles or other vehicles within the State of Kansas, specifically from engaging in any consumer transactions, as defined in K.S.A. 50-624(c), related to automobiles or other vehicles.

b. Defendants are permanently enjoined from entering into, forming, organizing or reorganizing into any partnership, corporation, sole proprietorship or any other legal structures, for the purpose of engaging in consumer transactions related to automobiles or other vehicles.

c. Defendant Justin Bogina shall formally and legally dissolve Auto Acceptance Corp. within 15 days of the effective date of this Consent Judgment.

d. Defendant Justin Bogina shall pay civil penalties to the Office of the Kansas Attorney General in the amount of \$210,000, subject to the suspension recited herein.

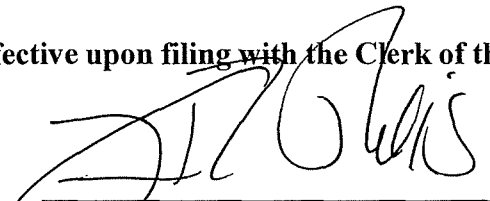
e. Defendant Justin Bogina shall pay investigative fees and expenses in the amount of \$9,191.65 to the Office of the Kansas Attorney General, pursuant to K.S.A. 50-632(a)(4).

f. Defendant Justin Bogina shall pay \$500 each calendar month to the Office of the Kansas Attorney General beginning February 15, 2019, and the fifteenth day of each month thereafter, until judgment is satisfied.

Comes ✓  
BK

- g. Defendant Justin Bogina is ordered to pay all Court costs and all costs associated with collecting, distributing and executing any judgment made by this Court.
- h. Defendants are jointly and severally liable for judgment rendered herein.
- i. Plaintiff's Motion for Imposition of Civil Penalties is withdrawn.
- j. Defendants Motion to Set Aside Default Judgment is denied.
- k. All prior orders of the Court entered in the present matter which conflict with or are inconsistent with the orders recited in this Consent Judgment are set aside and held for naught.
- l. This Consent Judgment shall have the same effect as if filed on January 26, 2018.

**IT IS SO ORDERED. This Order is effective upon filing with the Clerk of the Court.**

  
\_\_\_\_\_  
Honorable Franklin R. Theis  
Judge of the District Court  
2/1/2019

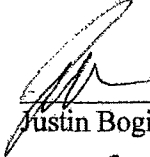
Respectfully submitted  
Plaintiff:

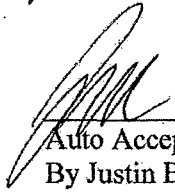
/s/ Derek Schmidt  
Derek Schmidt, KS #17781  
Attorney General  
Office of the Kansas Attorney General  
120 SW 10<sup>th</sup> Ave., 2<sup>nd</sup> Floor  
Topeka, Kansas 66612-1597  
Phone: (785) 296-2215


/s/ Kathryn Carter  
Kathryn Carter KS #12969  
Assistant Attorney General  
Office of the Kansas Attorney General  
120 S.W. 10<sup>th</sup> Avenue, 2nd Floor  
Topeka, Kansas 66612-1597  
Tel: (785) 296-3751  
Fax: (785) 291-3699  
[kate.carter@ag.ks.gov](mailto:kate.carter@ag.ks.gov)  
Attorney for Plaintiff

/s/ Sarah M. Dietz  
Sarah M. Dietz KS#27457  
Assistant Attorney General  
Office of the Kansas Attorney General  
120 S.W. 10<sup>th</sup> Avenue, 2nd Floor  
Topeka, Kansas 66612-1597  
Tel: (785) 296-3751  
Fax: (785) 291-3699  
[sarah.dietz@ag.ks.gov](mailto:sarah.dietz@ag.ks.gov)  
Attorney for Plaintiff

Approved by:  
Defendants

  
Justin Bogina                      1/31/19  
Date

 President + 1/31/19  
Auto Acceptance Center Corp Date  
By Justin Bogina Sole Shareholder

 22469 1/31/2019  
Brandon Kane KS#22469  
Kane Law Office  
111 W. 10<sup>th</sup> St., Ste 16  
Kansas City, MO 64105  
816-229-2708  
[Brandon@bkanelaw.com](mailto:Brandon@bkanelaw.com)  
**Attorney for Defendants**