
EXAMINATION COMMENTS AND CONCLUSIONS

- (c) The loan is not subject to any extension; and
- (d) The loan does not require a balloon payment of any kind.

The licensee is still in the process of collecting on old loans that were underwritten with an original term of 30 days which were underwritten prior to the last examination date.

As observed during the prior examination, the licensee is still utilizing the "Grace Period Payments Deferment Agreement." Some of the branch locations visited had pre-printed copies of the grace period payments deferment agreement in the customer files. The employees are also encouraging the customers to enter into this grace period payment deferment agreement.

This grace period payments deferment agreement consists of separating the interest and principal from the original amortized schedule payments and prolonging the payment of principal until the full interest is paid. This agreement has a schedule of 14 payments, which for the first seven payments the customer pays only interest. For the remaining seven payments, the customer pays the principal. The total amount paid under this agreement is higher from the original amortized payments scheduled under the original loan agreement.

The "Grace Period Payments Deferment Agreement" offered by TitleMax clearly contradicts with NRS 604A.445 (3). Please refer to the State violation section of the report for additional details.

Training

TitleMax provides periodic training to all employees. New employees are trained upon hire and annually thereafter. All employees are required to complete refresher courses on-line and as needed. The Compliance Department has the responsibility of overseeing that all training materials are up to date with any industry changes and demands.

Display of License, Notices, and Disclosures

The State of Nevada, Financial Institutions Division NRS 604A license is displayed conspicuously by the licensee which is in compliance with NRS 604A.635 and NAC 604A.060.

The contact number of the office of the Commissioner, notice of fees charged and business hours are posted conspicuously in the location where the licensee conducts business, which is in compliance with, NRS 604A.405, NAC 604A.130, NAC 604A.140, and NAC 604A.150.

Record Retention

As stated in the managers questionnaire, it is the licensee's policy to maintain all records for five years, which is in compliance with NRS 604A.700 and NAC 604A.200.



STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

REPORT OF EXAMINATION

APP 015661

Docket 74335 Document 2018-13698 RQA 010984

EXAMINATION COMMENTS AND CONCLUSIONS

Collection Agency Utilized by the Licensee

As of examination date, the licensee does not utilize a collection agency for accounts in default. The licensee's internal collections department currently handles these accounts.

FDCPA

TitleMax employees are required to be certified on an annual basis. All collection employees are required a minimum score of 80 percent to obtain the FDCPA certification. The store managers monitor all contact with debtors to ensure that policies and procedures are followed by all employees.

FinCen Registration

TitleMax is not considered a Money Services Business in accordance with 31 CFR Chapter X § 1022.380; as such, the licensee is not registered with FinCEN as a Money Service Business.

Complaints Filed Since the Previous Examination

The FID complaint database was verified and it indicates that there were three (3) complaints filed against the licensee since the last examination. Out of the three, one complaint was still open as of the close date of the examination. The complaint of Esther Vasquez under complaint number 68670 was still open.

Total Sample Size

As of Exam Date	May 4, 2015
-----------------	-------------

	Population	Sample Size	Penetration
LOAN TYPES:			
Active Loans	70	5	7.14%
Delinquent Loans	17	5	29.41%
Closed Loans	No Inventory	5	0.00%
Declined Loans	0	0	0.00%
Total Loans =	87	15	17.24%

During this follow-up examination, declined loans were not reviewed.

PREVIOUS VIOLATIONS OF STATUTES AND REGULATIONS

REPEAT VIOLATION

NRS 604A.450 Title loans: Prohibited acts by licensee regarding amount of loan and customer's ability to repay loan. A licensee who makes title loans shall not:

2. Make a title loan without regard to the ability of the customer seeking the title loan to repay the title loan, including the customer's current and expected income, obligations and employment.



STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
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REPORT OF EXAMINATION

APP 015662

ROA 010985

EXAMINATION COMMENTS AND CONCLUSIONS

The licensee was previously cited for underwriting loans without regard to the customer's ability to repay the title loan. This is no longer apparent since the licensee started underwriting loans with an original term of 210 days; therefore, this violation is deemed rectified.

NAC 604A.230 Prohibited acts: Miscellaneous acts.

NRS 604A.105 "Title loan" defined.

NRS 604A.115 "Title to a vehicle" or "title" defined. "Title to a vehicle" or "title" means a certificate of title or ownership issued pursuant to the laws of this State that identifies the legal owner of a vehicle or any similar document issued pursuant to the laws of another jurisdiction.

During the previous examination, the licensee was cited for allowing co-borrowers to be co-signors on the title loan where the co-borrower's name was not in the vehicle title. No such instance was found at this location. As such, this is deemed rectified.

NRS 604A.445 Title loans: Restrictions on duration of loan and periods of extension.

NRS 604A.210 Chapter does not prohibit licensee from offering customer grace period. The provisions of this chapter do not prohibit a licensee from offering a customer a grace period on the repayment of a loan or an extension of a loan, except that the licensee shall not charge the customer:

- 1. Any fees for granting such a grace period; or**
- 2. Any additional fees or additional interest on the outstanding loan during such a grace period.**

Since the previous examination, Titlemax implemented a 210 day title loan product that mirrors NRS 604A.445 (3). The current examination showed that Titlemax's original loan agreement complies with NRS 604A.445 (3). The examination also showed that Titlemax markets and offers an amendment to the original loan agreement that violates NRS 604A.445 (3) and NRS 604A.210. This is still apparent during the current examination and is cited as a repeat violation.

EXIT MEETING

The exit meeting was held telephonically on June 17, 2015. TitleMax was represented by the following:

Carrie E. Carbone, SVP of Compliance and Product General Counsel
Victoria Newman, Compliance and Corporate Counsel
Stephen Paris, Senior Regulatory Compliance Manager
Ted Helgeson, Divisional Vice President of Operations
Coleman Gaines, Senior Vice President of Operations-West
Melissa Ardis, Director of Compliance
Nicole Lovelock, Outside Counsel from Holland and Hart

The Financial Institutions Division was represented by the following:

Harveen Sekhon, Supervisory Examiner



STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

REPORT OF EXAMINATION

APP 015663

ROA 010986

EXAMINATION COMMENTS AND CONCLUSIONS

Christopher Eccles, Attorney
Ma. Theresa Dihiansan, Examiner-In-Charge
Dean Ventura, Examiner
Kelvin Lam, Examiner

CURRENT VIOLATIONS OF APPLICABLE STATUTES AND REGULATIONS

STATE

REPEAT VIOLATION

NRS 604A.445 Title loans: Restrictions on duration of loan and periods of extension.

Notwithstanding any other provision of this chapter to the contrary:

3. The original term of a title loan may be up to 210 days if:

- (a) The loan provides for payments in installments;
- (b) The payments are calculated to ratably and fully amortize the entire amount of principal and interest payable on the loan;
- (c) The loan is not subject to any extension; and
- (d) The loan does not require a balloon payment of any kind.

NRS 604A.210 Chapter does not prohibit licensee from offering customer grace period. The provisions of this chapter do not prohibit a licensee from offering a customer a grace period on the repayment of a loan or an extension of a loan, except that the licensee shall not charge the customer:

- 1. Any fees for granting such a grace period; or
- 2. Any additional fees or additional interest on the outstanding loan during such a grace period.

During the current examination, TitleMax underwrites title loans with an original term of 210 days which mirrors NRS 604A.445 (3). It was also apparent during the examination that Titlemax continued to offer the amendment to the original loan agreement that violates NRS 604A.445 (3) and NRS 604A.210.

Onsite visits to Titlemax locations and conversations with store employees showed that Titlemax currently offers the customers an amendment to the original loan agreement called the "Grace Period Payments Deferment Agreement" (hereinafter, the "Amended Agreement") during the term of the loan. The customer may enter into the grace period payments deferment agreement prior to default if the customer chooses to make lower monthly payments although the total amount owed by the customer in the amended agreement will be higher than the total amount owed under the original loan agreement.



STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

REPORT OF EXAMINATION

APP 015664

ROA 010987

EXAMINATION COMMENTS AND CONCLUSIONS

The text of the Amended Agreement provides:

"Because this is only an amendment and modification of the loan agreement in which we are only modifying and deferring your payments under the Title Loan Agreement, you acknowledge and agree that all of the terms and conditions of the Title Loan Agreement, including the charging of simple interest and waiver of jury trial and arbitration provision remain in full force and effect."

This statement shows an intent to avoid compliance with NRS 604A.445 (3). Under the original loan agreement the customer makes seven fully amortized payments (210 days) to pay the loan off without a balloon payment at the end, thereby complying with all provisions of NRS 604A.445(3). But, under the Amended Agreement, the customer makes 14 payments (390 days), the first seven payments are interest payments only and last seven payments are principal payments. Thus, the Amended Agreement separates interest and principal from the original amortized schedule of payments, and thereby prolongs the payment of principal until the full interest is paid.

For an example of how customers owe more under the Amended Agreement compared to the original agreement, please see below:

OPEN ACCOUNTS

Loan Number	Customer Name	Total Amount to be Paid Under the Original Loan Agreement	Total Amount to be Paid under the "Amended Loan Agreement"	Overage
14569-0155085	M. Scanlan	\$1,819.80	\$2,233.10	\$413.30
14569-0155120	J. Cronin	\$5,079.66	\$6,188.83	\$1,109.17
14569-0160496	Q. Jackson	\$1,819.80	\$2,233.10	\$413.30
14569-0164135	O. Morris	\$3,465.55	\$4,238.60	\$773.05
14569-0149622	L. Lopez-Verdin	\$3,500.21	\$4,281.00	\$780.79
14569-0153006	N. Richmond	\$2,176.60	\$2,670.96	\$494.36

Management Response: Victoria Newman, Compliance and Corporate Counsel stated that the licensee would respond in writing upon receipt of the written report of examination for all locations.



STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
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REPORT OF EXAMINATION

APP 015665

ROA 010988

EXAMINATION COMMENTS AND CONCLUSIONS

FEDERAL

No violations of Federal laws were noted during the examination. However, this examination should not be considered a full compliance examination relative to Federal statutes.

SUMMARY

Each licensee, upon completion of an examination, is rated "Satisfactory," "Needs Improvement," or "Unsatisfactory," based primarily on compliance with applicable statutes and regulations and the perceived capability of management to achieve and maintain such compliance. The rating of the licensee at this examination is "Unsatisfactory."

A rating of "Unsatisfactory" indicates that the licensee and the management of the licensee have demonstrated substantial lack of compliance with applicable laws and regulations and that immediate remedial action is required for the correction of the violations and deficiencies noted in the report made by the examiner pursuant to NRS and NAC. A rating of "Unsatisfactory" may be given if there were minor violations or deficiencies from a previous examination that were not corrected. Be advised that you may be subject to disciplinary action due to the nature of the violations. You may request an administrative hearing regarding the Division's findings of deficiencies and violations. If you do wish to request an administrative hearing, please state so in your response letter. A written response to the examination is required within 30 days outlining the actions that will be taken to correct all deficiencies and violations noted in the report. The Financial Institutions Division may conduct a follow up examination within three (3) months to ensure corrective actions have been implemented.



CONFIDENTIAL – SUPERVISORY SECTION

EXAMINER(S):	OFFSITE	ONSITE		
Ma. Theresa Dihiansan	2.0		DATE OF LAST EXAM	December 18, 2014
Edwin Castillo	.50	3.25	RATING OF LAST EXAM	Needs Improvement
Dean Ventura		3.25	MANAGER(S)	Nikki Brandon
CLERICAL TIME	1.0		OFFICE HOURS	9:00am-7:00pm M-F; Sat. 10:00am-4:00pm
SUPERVISORY REVIEW	2.0		NUMBER OF EMPLOYEES	2
TOTAL BILLABLE HOURS	5.50	6.50	EXAMINATION RATING	Unsatisfactory

SEND REPORT TO (List only if address is different than what is listed on the cover page. If the only difference is the Attn: then list below who the Attn: should be):

TitleMax of Nevada, Inc.
DBA: TitleMax
Attn: Victoria Newman, Compliance and Corporate Counsel
15 Bull St., Suite 200
Savannah, GA 31401

At the exit meeting, the licensee stated that the report of examination could be transmitted electronically to Victoria Newman, Compliance and Corporate Counsel at Victoria.Newman@titlemax.com.

MANAGEMENT:

Young, Tracy, CEO
Wall, Kelly, Vice President
Lawson, Justin, Chief Pilot
Reed, Lindsey, VP of Talent Acquisition
Nelson, Elizabeth, Chief Accounting Officer
Bielss III, Otto, Chief Operating Officer
Lee, Carrie, Corporate Office Manager
Thomas, Lauren, SVP of HR and Administration
Wall, Christopher, SVP of Finance
Bellerby III, Thomas, CIO Dallas Corp
Hargrove, Matthew, Chief Operating Officer-Online
Carbone, Carrie, SVP Compliance & Product GC



STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

REPORT OF EXAMINATION
APP 015667

ROA 010990

CONFIDENTIAL – SUPERVISORY SECTION

Houck, Harold, SVP of Legal & General Counsel

COMMENTS:

The licensee's Surety Bond was verified on June 17, 2015 through Capitol Indemnity Corporation at 925-262-2711. Miguel Palma handed the examiner's verification and told the examiner that the surety bond is effective until February 15, 2016.

The primary contact during the examination process was Jasmine Henry, General Manager at 4077 W. Charleston Blvd., Las Vegas, NV 89102. Ms. Henry can be reached telephonically at 702-878-6800 or via email at TM-LasVegas-NV19@titlemax.com.

The contact person at the Corporate Office location in Savannah, GA was Victoria Newman, Compliance and Corporate Counsel. Her contact information is as follows:

Email: Victoria.Newman@titlemax.com
Phone: 912-503-2824

The alternate contact at the Corporate Office location in Savannah, GA was Melissa Woodard, Store Compliance Auditor. Her contact information is as follows:

Email: Melissa.Woodard@titlemax.com
Phone: 912-503-2820

Five examiners helped in this follow-up examination, namely:

- Ma. Theresa Dihiansan, Examiner-In-Charge
- Edwin Castillo, Secondary Examiner
- Dean Ventura, Secondary Examiner
- Kelvin Lam, Secondary Examiner
- Armando Berumen, Secondary Examiner

Three complaints were filed against the licensee during the examination period. Complaint number 68670 made by Esther Vasquez was still open as of the close date of the examination. This complaint was still under the investigation process.

Complaint Number 68615 was filed by Mark Peltier on May 11, 2015 and was responded to by the licensee on June 10, 2014. The response due date was June 4, 2015 which was six days late from response due date.



STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
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REPORT OF EXAMINATION
APP 015668

ROA 010991

CONFIDENTIAL – SUPERVISORY SECTION

Complaint Number 68634 was filed by Cloviel Smith Jr. on May 12, 2015 and was responded to by the licensee on June 8, 2015. The response due date was on June 4, 2015 which was four days late from response due date.

Suggestions for future examination

The next EIC should start at the main store location at 4077 W. Charleston Blvd., Las Vegas, NV 89102. The loan inventory is printed from the main store location and the manager's questionnaires will be dropped off at said location as well. Ms. Henry assisted in the printing of the loan inventory for all locations. The loan reviews for the Northern Nevada location was also completed at the main store location.

During the current examination, the Compliance Team of the licensee from Savannah, GA was in Las Vegas, Nevada and Ms. Victoria Newman was onsite during the start date of the examination. Ms. Victoria Newman collected all the Manager's Questionnaire for completion and was provided back to the EIC by mail.

It is recommended to the next EIC should increase the sampling for paid off loans.

Reviewed By:

Harveen Sekhon

Harveen Sekhon
Supervisory Examiner



STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

REPORT OF EXAMINATION
APP 015669

ROA 010992

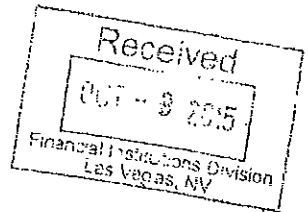
EXHIBIT D

APP 015670

ROA 010993

STATE OF NEVADA DEPARTMENT OF
BUSINESS AND INDUSTRY FINANCIAL
INSTITUTIONS DIVISION

2785 E Desert Inn Road Suite 180, Las Vegas, NV 89121
(702) 486-4120 * Toll free (866) 858-8951 * Fax (702) 486-4563
E-mail: FIDMaster@fid.state.nv.us www.fid.state.nv.us



COMPLAINT FORM

Please Print or Type

Your Name: Gloria Whitaker & Devon Whitaker

Address: 4801 E. Sahara Ave #11, LV, NV 89104 & 3866 Lincoln Rd, LV, NV 89115

Home Telephone: 702-613-7813

Business Telephone: _____

Please indicate if you are represented by legal counsel: Yes ☐ No ☒ Assisted by

Name of Person or Business complaint is against: TitleMax of Nevada, Inc. d/b/a TitleBucks
Address of Person or Business: 4750 W. Lake Mead #102, Las Vegas, NV 89108

Type of Licensee/Business (circle): State Chartered Bank State Chartered Credit Union Thrift Co Trust Co Money Transmitter
Installment Loan Check Cashing/Deferred Deposit/High Interest/Title Loan Collection Agency Uniform Debt Mgt Services

In filing this complaint, I understand that the Financial Institutions Division cannot provide legal advice or legal representation, act as a mediator in any dispute or compel financial remedy or refund. In this regard, we suggest that you seek private counsel to protect your interests. I am filing this complaint to notify your division of activities of a regulated industry and to request your assistance in resolving this matter.

Nature of Complaint:

I am 66 years old and my son, Devon, is 30 years old. In December 2013, I had custody of two of my grandchildren. My social security was \$737 a month and I received \$318 a month for my grandchildren. Devon was not working, as he was transitioning out of the military (his last month of income was October 2013). Our income was \$1055 a month. Devon owns a 2002 Ford F150 but no income so together we went to TitleBucks, at 4750 W. Lake Mead Blvd, to obtain a title loan. I showed TitleBucks my social security benefits letter and the money for my grandchildren, as our income. Devon had no income but he did have the title to the truck. TitleBucks did not ask us what our monthly expenses were. We were given a \$2000 loan on December 3, 2013 and were told to make payments every month until the loan was paid off. We struggled to make the payments, which were \$265 a month. We paid off the December 2013 loan on March 3, 2015 by making a double payment of \$530. Megan, the TitleBucks employee, did not give us the title back. Instead she and another employee named Marie told us we were preferred customers and TitleBucks knew we were struggling financially. I explained I wasn't getting money for my grandchildren anymore, but the employee offered us another loan, promising lower interest and low payments. She gave us papers to sign that were covered by other papers. She gave us another \$2000 loan. We did not receive a copy of the contract and no one explained the terms. They knew I received my social security on the 3rd of the month so we came on the 3rd or earlier, unless the 3rd fell on a weekend.

(additional space available on attached pages)

I declare under penalty of perjury that the above statement and attachment consisting of 23 total pages is true and correct to the best of my knowledge. I understand that a copy of this complaint may be sent to the person or business against whom I am filing this complaint.

Gloria Whitaker
Signature

Devon Whitaker

10-07-2015
Date **APP-015671**

10-07-2015
ROA 010994

Continuation of Complaint:

We believed she was helping us, so we signed and accepted the \$2000 loan.

We made the April payment right after getting my social security, paying \$200, on April 6, 2015. TitleBucks gave us a receipt (with no boxes checked) and only listed Devon's name for the loan. We realized that my name was not on the Title Loan Agreement (except for the signature page). When I asked TitleBucks for our paperwork a few months ago, they gave me a Title Loan Agreement front page with both of our names on it, but the form is in Spanish. We do not speak Spanish. TitleBucks also gave us an Affidavit with the papers, with only Devon's name on it (but with both of our signatures) which we do not remember reading or being told about before we signed it, stating we gave TitleBucks our income and obligations, etc., for the March 3, 2015 loan. But TitleBucks did not ask for, nor did we give them, any financial information in March 2015, except for me telling them I had LESS income that we did in December of 2013. Devon had no income so if he is the only one on the loan, TitleBucks gave a loan to a person with no income.

I made the next \$200.00 payment on May 4, 2015 and received a receipt the same as last one. Before I made the June payment, Devon asked me why the Title Loan Agreement from March 3, 2015 said the loan was 7 months with payments of \$410.68 a month. That's not what we were told, nor was that what we were paying. We went to TitleBucks on June 4th to find out what was going on. Valsina Marshall told us the company needed to update their computers, that we were supposed to pay \$199.80 a month, and to sign the corrected page. We believed we were re-signing what we were told were the terms of loan on March 3, 2015 loan. The same day, TitleBucks charged me \$40 more because they said the payment was late, but they said they can't say it's a late fee, so they said it was "interest accrued." But we always paid on or near the 3rd of the month because that's when I get my social security and they knew that. They said they would let me pay the \$40 in two installments, so I paid it over 2 months. We paid again on June 30, 2015 and again on August 1, 2015. On September 8, 2015, I paid again and they told me I had another payment due on September 29th and that after that, the payments were going up to \$285 a month. My income is only \$737 a month! I cannot continue to afford these payments. I don't understand how they can tell us one thing, have us sign different agreements without any explanations, keep my son's title for 2 years, and yet we still owe \$2000. This month, TitleBucks told me to have another company "buy" the title loan from them so I can get a better interest rate and better payments.

We did not have the ability to repay the loans and TitleBucks knew that. Devon, the titled owner of the vehicle, had no income and gave no proof of income. My income was \$1055 a month. TitleBucks did not ask us our expenses. TitleBucks had us sign a 7 month loan but told us the loan was for 14 months. TitleBucks didn't tell me there was a month (July) where I was supposed to pay twice. When we asked them why we had the 7 month loan paperwork, TitleBucks told us it was a computer thing and had a us sign another agreement. TitleBucks did not explain anything about a "grace period" or offer a repayment plan. The 7 month Agreement says the interest is \$874.71. TitleBucks charged us \$1398.60 in interest for the loan over a 14 month period, plus \$40 in late fees, calling it accrued interest, on something they are now calling a "grace period" and "deferred period" but there is no deferment - TitleBucks is making over \$600 more in interest on the "grace period", but I don't know how much the interest rate is because it doesn't disclose the interest in that agreement. TitleBucks gave me an Account Summary when I asked for my documents. The Interest Rate shows 121.55% but the employee told me it's only 9.99%. I cannot figure it out.

I spoke to Anthony, from TitleBucks, on September 9, 2015. He told me, "NRS 604A" says everything TitleBucks did to us was legal. I asked what they could do to help me. Anthony said they could give us "a few weeks," but when I asked for a couple of months, Anthony said they can't do that. He did not offer us a repayment plan. He did not tell me what would happen if we defaulted on the loan. He said he couldn't do anything else to help, but give us a few weeks. He told me our next payment wouldn't be due until October 29, 2015. But we had a payment due on September 29, 2015, which we paid.

TitleBucks has taken advantage of my son and me. They have not told us the truth of what we were getting into; they had us sign documents but didn't explain what we were signing. They told us the loan was the same as the loan in 2013, but had a sign a completely different loan. TitleBucks didn't tell us the terms of the March 2015 loan but then charged us a late fee when we paid the same way we were paying for 2 years. Their practices should not be legal and we are asking that you investigate TitleBucks to stop them from doing to this financially fragile people.

APP 015672

ROA 010995

Customer Receipt/Extension & Receipt/Repayment Plan Receipt

4447400001 1021200-2274
Title MacLoan

NAME AND ADDRESS OF THE LICENSEE:
TitleMax of Nevada, Inc. d/b/a TitleBucks
4750 W. Lake Mead, #102
Las Vegas, NV 89108

PAYMENT MADE ON BEHALF OF OR BY:
Devon Whitaker
Gloria Whitaker
3866 Lincoln Rd
Las Vegas, NV 89115

LOAN AGREEMENT IDENTIFICATION NO.
12169-0081473

DATE/TIME OF RECEIPT OF PAYMENT:
10/03/2014 10:50:13

LOAN AGREEMENT DATE:
12/03/2013

If you have multiple loans, this payment was applied to the loan number identified above.

AMOUNT PAID:

\$265.00

AGENT RECEIVING PAYMENT:
Marie Matonovich (609)

TODAY'S PAYMENT ITEMIZATION

NEXT PAYMENT INFORMATION

PRINCIPAL PAID:

\$ 265.00

PRINCIPAL:

\$ 265.00

INTEREST PAID:

\$ 0.00

INTEREST:

\$ 0.00

CHARGES PAID:

\$ 0.00

FEES:

\$ 0.00

FEES PAID:

\$ 0.00

CHARGES:

\$ 0.00

TOTAL AMOUNT PAID TODAY:

\$ 265.00

BALANCE DUE ON LOAN:

\$ 1590.00

REPAYMENT PLAN MINIMUM

\$ 265.00

NEXT SCHEDULED DUE DATE:

10/6/2014

☐ Account paid in full by rescission
☐ Account paid in full
☒ Title Returned Upon Payment in Full. By signing below, you acknowledge that upon repayment in full, we returned the Vehicle's Title to you.
☐ Repayment Plan Agreement

Loan Agreement Extended as Provided Below and in Your Loan Agreement, Which Remains Outstanding.

By signing below, you acknowledge that we have extended the loan beyond the Due Date, under the original terms of the Loan Agreement. You acknowledge that pursuant to NRS § 604A.445, we may extend the Loan Agreement for not more than six periods of extension, with each such period not to exceed 30 days. To extend, you have paid at least the amount of the finance charges provided in the Loan Agreement. For each extension period, you have agreed to pay the amount of the finance charges pursuant to the Loan Agreement, and you have agreed to pay such amounts, plus the outstanding principal, at the end of such extension period. The finance charges disclosed on a yearly basis, as a percentage, are 178.12% per annum.

BECAUSE THIS IS ONLY AN EXTENSION OF THE LOAN AGREEMENT, YOU ACKNOWLEDGE AND AGREE THAT THE TERMS AND CONDITIONS OF THE LOAN AGREEMENT, INCLUDING THE ARBITRATION AGREEMENT, REMAIN IN FULL FORCE AND EFFECT. You further acknowledge that the terms of the Loan Agreement remain enforceable including but not limited to the Arbitration Agreement.

Extension Prepayment. Pursuant to the Loan Agreement, you may pay any extension thereof, in full or in part at any time, without an additional charge or before your extended due date listed above.

Security Interest. You have given us possession of the Title to the vehicle, and granted us a security interest in the Title. We continue to maintain possession of the Title.

Acknowledgments. By signing below, you acknowledge that the payment information noted above is accurate. You further represent that the information previously provided on the Covered Borrower Identification Statement is still accurate. You agree to inform the company and sign a new statement if you are as an active duty member of the Armed Forces (Army, Navy, Marine Corps, Air Force, or Coast Guard), or as a dependent or spouse of such member.

Devon Whitaker
Gloria Whitaker
Signature

Devon Whitaker
Gloria Whitaker
Signature

APP 015673

ROA 010996

Customer Receipt/Extension & Receipt/Repayment Plan Receipt

NAME AND ADDRESS OF THE LICENSEE:
TitleMax of Nevada, Inc. d/b/a TitleBucks
4750 W. Lake Mead, #102
Las Vegas, NV 89108

PAYMENT MADE ON BEHALF OF OR BY:
Devon Whitaker
Gloria Whitaker
3866 Lincoln Rd
Las Vegas, NV 89115

LOAN AGREEMENT IDENTIFICATION NO.
12169-0081473

DATE/TIME OF RECEIPT OF PAYMENT:
11/03/2014 09:51:24

LOAN AGREEMENT DATE:
12/03/2013

If you have multiple loans, this payment was applied to the loan number identified above.

AMOUNT PAID:

\$265.00

AGENT RECEIVING PAYMENT:
Valsina Marshall (600)

TODAY'S PAYMENT ITEMIZATION

PRINCIPAL PAID:

\$ 265.00

INTEREST PAID:

\$ 0.00

CHARGES PAID:

\$ 0.00

FEES PAID:

\$ 0.00

TOTAL AMOUNT PAID TODAY:

\$ 265.00

NEXT PAYMENT INFORMATION

PRINCIPAL:

\$ 265.00

INTEREST:

\$ 0.00

FEES:

\$ 0.00

CHARGES:

\$ 0.00

BALANCE DUE ON LOAN:

\$ 1325.00

REPAYMENT PLAN MINIMUM

\$ 265.00

NEXT SCHEDULED DUE DATE:

11/5/2014

☐ Account paid in full by rescission

☐ Account paid in full

☐ Title Returned Upon Payment in Full. By signing below, you acknowledge that upon repayment in full, we returned the Vehicle's Title to you.

☒ Repayment Plan Agreement

☐ Loan Agreement Extended as Provided Below and in Your Loan Agreement, Which Remains Outstanding.

Extension. By signing below, you acknowledge that we have extended the loan beyond the Due Date, under the original terms of the Loan Agreement. You acknowledge that pursuant to NRS § 604A.445, we may extend the Loan Agreement for not more than six periods of extension, with each such period not to exceed 30 days. To extend, you have paid at least the amount of the finance charges provided in the Loan Agreement. For each extension period, you have agreed to pay the amount of the finance charges pursuant to the Loan Agreement, and you have agreed to pay such amounts, plus the outstanding principal, at the end of such extension period. The finance charges disclosed on a yearly basis, as a percentage, are 178.12% per annum.

BECAUSE THIS IS ONLY AN EXTENSION OF THE LOAN AGREEMENT, YOU ACKNOWLEDGE AND AGREE THAT THE TERMS AND CONDITIONS OF THE LOAN AGREEMENT, INCLUDING THE ARBITRATION AGREEMENT, REMAIN IN FULL FORCE AND EFFECT. You further acknowledge that the terms of the Loan Agreement remain enforceable including but not limited to the Arbitration Agreement.

Prepayment. Pursuant to the Loan Agreement, you may pay any extension thereof, in full or in part at any time, without an additional charge or before your extended due date listed above.

Security Interest. You have given us possession of the Title to the vehicle, and granted us a security interest in the Title. We continue to maintain possession of the Title.

Acknowledgments. By signing below, you acknowledge that the payment information noted above is accurate. You further represent that the information previously provided on the Covered Borrower Identification Statement is still accurate. You agree to inform the company and sign a new statement if you are as an active duty member of the Armed Forces (Army, Navy, Marine Corps, Air Force, or Coast Guard), or as a dependent or spouse of such member.

on Whitaker

ame

Receipt-V.1.0-02.17.2012

Signature

Gloria Whitaker

APP 015674

ROA 010997

Ending of First Contract

Customer Receipt/Extension & Receipt/Repayment Plan Receipt

NAME AND ADDRESS OF THE LICENSEE: TitleMax of Nevada, Inc. d/b/a TitleBucks 4750 W. Lake Mead, #102 Las Vegas, NV 89108		PAYMENT MADE ON BEHALF OF OR BY: Devon Whitaker Gloria Whitaker 3866 Lincoln Rd Las Vegas, NV 89115
LOAN AGREEMENT IDENTIFICATION NO. 12169-0081473		DATE/TIME OF RECEIPT OF PAYMENT: 03/03/2015 12:59:32
LOAN AGREEMENT DATE: 12/03/2013 If you have multiple loans, this payment was applied to the loan number identified above.		
AMOUNT PAID: \$530.00	AGENT RECEIVING PAYMENT: Valsina Marshall (600)	

TODAY'S PAYMENT ITEMIZATION

PRINCIPAL PAID:	\$ 530.00
INTEREST PAID:	\$ 0.00
CHARGES PAID:	\$ 0.00
FEES PAID:	\$ 0.00
TOTAL AMOUNT PAID TODAY:	\$ 530.00

NEXT PAYMENT INFORMATION

PRINCIPAL:	\$ 0.00
INTEREST:	\$ 0.00
FEES:	\$ 0.00
CHARGES:	\$ 0.00
BALANCE DUE ON LOAN:	\$ 0.00
REPAYMENT PLAN MINIMUM	\$ 0.00
NEXT SCHEDULED DUE DATE:	2/3/2015

- ☐ Account paid in full by rescission
☒ Account paid in full
☒ Title Returned Upon Payment in Full. By signing below, you acknowledge that upon repayment in full, we returned the Vehicle's Title to you.
☒ Repayment Plan Agreement

Loan Agreement Extended as Provided Below and in Your Loan Agreement, Which Remains Outstanding.

Extension. By signing below, you acknowledge that we have extended the loan beyond the Due Date, under the original terms of the Loan Agreement. To extend, you have paid at least the amount of the finance charges provided in the Loan Agreement. For each extension period, you agreed to pay the amount of the finance charges pursuant to the Loan Agreement, and you have agreed to pay such amounts, plus the outstanding principal, at the end of such extension period. The finance charges disclosed on a yearly basis, as a percentage, are 178.12% per annum. BECAUSE THIS IS ONLY AN EXTENSION OF THE LOAN AGREEMENT, YOU ACKNOWLEDGE AND AGREE TO THE TERMS AND CONDITIONS OF THE LOAN AGREEMENT, INCLUDING THE ARBITRATION AGREEMENT, REMAIN IN FULL FORCE AND EFFECT. You further acknowledge that the terms of the Loan Agreement remain enforceable including but not limited to the Arbitration Agreement.

Extension Prepayment. Pursuant to the Loan Agreement, you may pay any extension thereof, in full or in part at any time, without an additional charge, before your extended due date listed above.

Security Interest. You have given us possession of the Title to the vehicle, and granted us a security interest in the Title. We continue to maintain possession of the Title.

Acknowledgments. By signing below, you acknowledge that the payment information noted above is accurate. You further represent that the information previously provided on the Covered Borrower Identification Statement is still accurate. You agree to inform the company and sign a new statement if your status as an active duty member of the Armed Forces (Army, Navy, Marine Corps, Air Force, or Coast Guard), or as a dependent or spouse, changes.

APP 015675

ROA 010998

Date: 3/3/2015

Title Loan Agreement

Customer & Co-Customer Information		ACCOUNT NUMBER: 12169-0153927		Number: 12169-0153927	
FIRST NAME Devon	LAST NAME Whitaker	CO-CUSTOMER FIRST NAME		CO-CUSTOMER LAST NAME	
SSN (SSN) XXX-XX-5416	DRIVERS LIC./STATE ID. NO NO.2600371012	CO-CUSTOMER SSN		CO-CUSTOMER'S DRIVERS LIC./STATE ID. NO.	
STREET ADDRESS 3866 Lincoln Rd		CO-CUSTOMER STREET ADDRESS			
City Las Vegas	STATE NV	ZIP CODE 89115	CO-CUSTOMER CITY		CO-CUSTOMER STATE
HOME PHONE (702)651-0152	DATE OF BIRTH 2/10/1985	CO-CUSTOMER HOME PHONE		CO-CUSTOMER ZIP CODE	
Motor Vehicle & Licensee Information		LICENSEE'S HOURS OF OPERATION: Monday to Friday 9:00 A.M. to 7:00 P.M., Saturday 10:00 A.M. to 4:00 P.M., Closed Sunday			
LICENSEE NAME TitleMax of Nevada, Inc. d/b/a TitleBucks		LICENSEE PHONE NUMBER (702)877-4141			
LICENSEE STREET ADDRESS 4750 W. Lake Mead, #102		LICENSEE CITY Las Vegas	LICENSEE STATE NV	LICENSEE ZIP CODE 89108	
VEHICLE IDENTIFICATION NUMBER (VIN) 1FTRW07632KA21562		LICENSE PLATE 833-TSP			
VEHICLE YEAR 2002	VEHICLE MAKE FORD	VEHICLE MODEL F150	COLOR GOLD		

Terms. In this Title Loan Agreement ("Loan Agreement"), "customer," "you," and "your" mean the customer who signed it. "Licensee," "we," "us" and "our" mean TitleMax of Nevada, Inc. d/b/a TitleMax, a title loan services provider licensed and regulated by the Nevada Financial Institutions Division, 2785 E Desert Inn Road, Suite 180, Las Vegas, Nevada 89121, Phone: (702) 486-4120, Fax: (702) 486-4563, <http://www.fid.state.nv.us/>. The word "Motor Vehicle" means the vehicle identified above. The word "Title" means a certificate of title or ownership to the Motor Vehicle.

Term, Principal, Interest, Charges and Payment. The original term of this loan is 210 days. You promise to timely pay us in cash or as otherwise agreed in writing \$2,000.00 ("Principal Amount"), which includes any filing fee listed below plus interest on the unpaid principal balance of this Loan Agreement at the daily rate of 0.333% from the date of this Loan Agreement until 09/29/2015 the earlier of: (i) the due date of your last payment as set forth in the Payment Schedule below; or (ii) payment in full. You also promise to pay any other charges provided for under this Loan Agreement. You agree to make your payment in the amounts and on the dates set forth in the Payment Schedule below ("Due Date") at the address indicated above, or at such other address as we direct you in writing. If any Due Date falls on a date we are not open for business, then you agree to pay us on the next business day, and we will credit such payment, as if we received it on the appropriate Due Date. The Loan Agreement will be consummated upon the date you sign this Loan Agreement. Time is of the essence in this Loan Agreement. In consideration of your delivering the Title to us and granting us a security interest in the Motor Vehicle as set forth below, your promise to timely pay and agreeing to this Loan Agreement, we agree to provide you a loan in the Principal Amount provided above.

APP 015676

ROA 010999

Any comments or questions may be directed to Customer Service at the following toll-free number: (800) 804-5368.

FEDERAL TRUTH-IN-LENDING DISCLOSURES			
ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate. 121.545 %	FINANCE CHARGE The dollar amount the credit will cost you. \$874.71	Amount Financed The amount of credit provided to you or on your behalf. \$2,000.00	Total of Payments The amount you will have paid after you have made all payments as scheduled. \$2,874.71

Your payment schedule will be:

Number of Payments	Amount of Payments	When Payments are Due
6	\$410.88	4/2/2015 and each 30 days thereafter
1	\$410.63	9/29/2015

Security: You are giving a security interest in the Title to the Motor Vehicle.
 Filing Fee: \$0.00
 Prepayment: If you pay off early, you will not have to pay a penalty, and you may be entitled to a refund of part of the finance charge.

See the terms below and on the other pages of this Loan Agreement for any additional information about nonpayment, default, any required repayment in full before the scheduled date and any prepayment refunds and penalties.

- Itemization of Amount Financed of
1. Amount given to you directly: \$2,000.00
 2. Amount paid on your account: \$2,000.00
 3. Amount paid to public officials: \$0.00
 4. Amount paid to _____ on your behalf: \$0.00

Calculation of Interest, Application of Payments and Security Interest. We use the simple interest method to calculate the interest. We calculated the simple interest assuming you will pay on the scheduled Payment Dates. If you make your payments on the dates set forth in the Payment Schedule, the Finance Charge box above discloses the total amount of interest you will owe us under this Loan Agreement. Payments are calculated to ratably and fully amortize the entire Principal Amount and interest payable. Interest is not compounded. Early payments may decrease the amount of interest you owe. Late payments may increase the amount of interest you owe. The amount of this increase or decrease will be reflected in the final payment. If an early payment is less than the scheduled installment, then you must pay the difference on or before the upcoming installment due date. Payments will be applied first to accrued interest, second to outstanding charges, if any, and third to principal. We require you to give us possession of the Title, and you hereby give us possession of the Title. You grant us a security interest in the Motor Vehicle listed above. We will maintain possession of the Title during this Loan Agreement.

Right to Rescind and Prepayment. You may rescind this loan pursuant to Nevada law. You may rescind before we close on our next business day, at the location listed above. We will not charge you any amount for rescinding. To rescind, you must deliver funds equal to the face value of the loan, less any fees charged. If you rescind, then we will return the Title to you, and refund any amount paid. You have the right to make payments in any amount in advance at any time without incurring any charge, fee or penalty. If you prepay any amount at any time, then the final payment amounts will be adjusted as appropriate to reflect any prepayments we receive. If you prepay pursuant to this Loan Agreement, then we will return the Title to you.

Grace Period. For purposes of this Loan Agreement, the term "grace period" means the gratuitous period of payments deferment (i) which we offer to you after entering into this Agreement pursuant to the provisions of NRS 604A.70 and NRS 604A.210, (ii) you voluntarily accept such terms of the payments deferment after entering into the Loan Agreement, and (iii) you and we agree to such terms of payments deferment in a written and signed "Grace Period Payments Deferment Agreement." We allow customers that are in good standing during the term of this Loan Agreement to request and enter into a Grace Period Payments Deferment Agreement. You may request and enter into a Grace Period Payments Deferment Agreement by returning to our store not later than one business day following the date of this Loan Agreement. If you enter into a Grace Period Payments Deferment Agreement, your obligation to pay simple interest under this Loan Agreement remains unchanged. Other than the interest and fees originally provided for in this Loan Agreement, we do not charge you any additional fees or interest for entering into a Grace Period Payments Deferment Agreement.

Any comments or questions may be directed to Customer Service at the following toll-free number: (800) 804-5368.

APP 015677

ROA 011000

Repayment Plan Disclosure: If you default on the process of alternative dispute resolution, or before we repossess the Motor Vehicle, we must offer a Repayment Plan to you before we commence any civil action or

Repayment Plan. If you default and are entitled to enter into a Repayment Plan, we will offer you a "Repayment Plan." We will give you the opportunity to enter into a Repayment Plan for 30 days after such default. The minimum term of the "Repayment Plan" is 90 days. We may require you to make an initial payment of not more than 20 percent of the total amount due under the terms of the Repayment Plan. We shall not except as otherwise provided by this NRS 604A, charge any other amount to you, including, without limitation, any amount or charge payable directly or indirectly by you and imposed directly or indirectly by us as an incident to or as a condition of entering into a repayment plan. Such an amount includes, without limitation: (i) any interest, regardless of the name given to the interest, other than the interest charged pursuant to the original loan agreement at a rate which does not exceed the annual percentage rate charged during the term of the original loan agreement; or (ii) any origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fee. We will not take additional security for entering into a Repayment Plan or attempt to collect an amount that is greater than the amount owed under the terms of the Repayment Plan. We will not sell you any insurance or require you to purchase insurance or any other goods or services to enter into the Repayment Plan. We will not make any other loan to you while you are in a Repayment Plan. Upon default of your obligations under the Repayment Plan, we may repossess the Motor Vehicle.

Default, Acceleration, Repossession, and Post-Default Interest

You will be in default and entitled to enter into a Repayment Plan on the day immediately following the date you fail to (i) make a scheduled payment on this loan; (ii) make a scheduled payment on or before the due date for the payment under the terms Grace Period Payments Deferment Agreement; (iii) pay this loan in full on or before the expiration of the initial loan period as set forth herein unless you have entered into a Grace Period Payments Deferment Agreement; (iv) pay this loan in full on or before the expiration of the period as set forth Grace Period Payments Deferment Agreement; or (v) pay any payment under any Grace Period we have extended under NRS 604A.210. We may waive a default and reinstate your account to good status if you bring your account current or make satisfactory payment arrangements with us. However, we are not required to make an offer for you to enter into a Repayment Plan more than once for each loan. Provided that the due date of the repayment plan does not violate the provisions of Nevada Law, you will be in default and not entitled to enter into a Repayment Plan, if you fail (i) to make a scheduled payment on this loan on or before the due date for the payment under the terms of any repayment plan relating to this loan or (ii) to pay a loan in full on or before the due date any repayment plan relating to the loan. If you are in default and entitled to enter into a Repayment Plan, we may accelerate the balance; but we cannot repossess the Motor Vehicle before offering you a Repayment Plan. If you are in default under the Loan Agreement and Grace Period Payments Deferment Agreement and not entitled to enter into a Repayment Plan or if you are in default under the Repayment Plan, we may seek repossession and sale of the Motor Vehicle as well as any other remedy allowed by Nevada law. If you use fraud to secure a title loan, or if you wrongfully transfer any interest in the Motor Vehicle to a third party, then we may bring a civil action against you for any or all of the following relief: (I) the amount of the loan obligation, including, without limitation, the aggregate amount of the interest, charges and fees negotiated and agreed to by us and you as permitted, less any prior payments made by you; (II) reasonable attorney's fees and costs; and (III) any other legal or equitable relief that the court or arbitrator deems appropriate. If we do not use one or more remedies following your default, we do not waive our right to the same or another remedy or remedies. Our rights herein are cumulative, not exclusive.

Governing Law and Assignment

Nevada law governs this Loan Agreement, except the Federal Arbitration Act ("FAA") governs the Waiver of Jury Trial and Arbitration Provision. We may assign or transfer this Loan Agreement or any of our rights.

Affidavit. You acknowledge and agree that you provided us with an affidavit stating: (a) The customer provided licensee with true and correct information concerning the customer's income, obligations, employment and ownership of the Motor Vehicle; and (b) The customer has the ability to repay the title loan.

WAIVER OF JURY TRIAL AND ARBITRATION PROVISION. Arbitration is a process in which persons with a dispute: (a) waive their rights to file a lawsuit and proceed in court and to have a jury trial to resolve their disputes; and (b) agree, instead, to submit their disputes to a neutral third person (an "arbitrator") for a decision. Each party to the dispute has an opportunity to present some evidence to the arbitrator. Pre-arbitration discovery may be limited. Arbitration proceedings are private and less formal than court trials. The arbitrator will issue a final and binding decision resolving the dispute, which may be enforced as a court judgment. A court rarely overturns an arbitrator's decision. **THEREFORE, YOU ACKNOWLEDGE AND AGREE AS FOLLOWS:**

1. For purposes of this Waiver of Jury Trial and Arbitration Provision (hereinafter the "Arbitration Provision"), the words "dispute" and "disputes" are given the broadest possible meaning and include, without limitation (a) all claims, disputes, or controversies arising from or relating directly or indirectly to the signing of this Arbitration Provision, the validity and scope of this Arbitration Provision and any claim or attempt to set aside this Arbitration Provision; (b) all federal or state law claims, disputes or controversies, arising from or relating directly or indirectly to this Loan Agreement (including the Arbitration Provision), the information you gave us before entering into this Loan Agreement, and/or any past agreement or agreements between you and us; (c) all counterclaims, cross-claims and third-party claims; (d) all common law claims, based upon contract, tort, fraud, or other intentional torts; (e) all claims based upon a violation of any state or federal constitution, statute or regulation; (f) all claims asserted by us against you, including claims for money damages to collect any sum we are owed by you; (g) all claims asserted by you individually against us and/or any of our employees, agents, directors, officers, shareholders, governors, managers, members, parent company or affiliated entities (hereinafter collectively referred to as "related third parties"), including claims for money damages for equitable or injunctive relief; (h) all claims asserted on your behalf by another person; (i) all claims asserted by you as a private attorney general, as a representative and member of a class of persons, or in any other representative capacity, against us and/or related third parties (hereinafter referred to as "representative Claims"); and/or (j) all claims arising from or relating directly or indirectly to the disclosure by us or related third parties of any non-public personal information about you.

Any comments or questions may be directed to Customer Service at the following toll-free number: (800) 804-5368.

ROA 011001

2. You acknowledge and agree that by entering into this Arbitration Provision:
- (a) YOU ARE WAIVING YOUR RIGHT TO HAVE A TRIAL BY JURY TO RESOLVE ANY DISPUTE ALLEGED AGAINST US OR RELATED THIRD PARTIES;
 - (b) YOU ARE WAIVING YOUR RIGHT TO HAVE A COURT, OTHER THAN A SMALL CLAIMS TRIBUNAL, RESOLVE ANY DISPUTE ALLEGED AGAINST US OR RELATED THIRD PARTIES; and
 - (c) YOU ARE WAIVING YOUR RIGHT TO SERVE AS A REPRESENTATIVE, AS A PRIVATE ATTORNEY GENERAL, OR IN ANY OTHER REPRESENTATIVE CAPACITY, AND/OR TO PARTICIPATE AS A MEMBER OF A CLASS OF CLAIMANTS, IN ANY LAWSUIT FILED AGAINST US AND/OR RELATED THIRD PARTIES.
3. Except as provided in Paragraph 6 below, all disputes including any Representative Claims against us and/or related third parties shall be resolved by binding arbitration only on an individual basis with you. THEREFORE, THE ARBITRATOR SHALL NOT CONDUCT CLASS ARBITRATION; THAT IS, THE ARBITRATOR SHALL NOT ALLOW YOU TO SERVE AS A REPRESENTATIVE, AS A PRIVATE ATTORNEY GENERAL, OR IN ANY OTHER REPRESENTATIVE CAPACITY FOR OTHERS IN THE ARBITRATION.

4. Any party to a dispute, including related third parties, may send the other party written notice by certified mail return receipt requested of their intent to arbitrate and setting forth the subject of the dispute along with the relief requested, even if a lawsuit has been filed. Regardless of who demands arbitration, you shall have the right to select either of the following arbitration organizations to administer the arbitration: the American Arbitration Association (1-800-778-7879) <http://www.adr.org>, or JAMS (1-800-352-5267) <http://www.jamsadr.com>. However, the parties may agree to select a local arbitrator who is an attorney, retired judge, or arbitrator registered and in good standing with an arbitration association and arbitrate pursuant to such arbitrator's rules. If the arbitration associations listed above are not available and the parties cannot otherwise agree on a substitute, then any party may petition a court pursuant to section 5 of the Federal Arbitration Act, 9 U.S.C. sections 1-16 to select an arbitration organization, provided such arbitration organization shall enforce the terms of this Loan Agreement and the Arbitration Provision, including the prohibition on class arbitration. The party receiving notice of arbitration will respond in writing by certified mail return receipt requested within twenty (20) days. If you demand arbitration, you must inform us in your demand of the arbitration organization you have selected or whether you desire to select a local arbitrator. If related third parties or we demand arbitration, you must notify us within twenty (20) days in writing by certified mail return receipt requested of your decision to select an arbitration organization or your desire to select a local arbitrator. If you fail to notify us, then we have the right to select an arbitration organization. The parties to such dispute will be governed by the rules and procedures of such arbitration organization applicable to consumer disputes, to the extent those rules and procedures do not contradict the express terms of this Loan Agreement or the Arbitration Provision, including the limitations on the arbitrator below. You may obtain a copy of the rules and procedures by contacting the arbitration organization listed above.

5. Regardless of who demands arbitration, we will advance your portion of the expenses associated with the arbitration, including the filing, administrative, hearing and arbitrator's fees ("Arbitration Fees"). Throughout the arbitration, each party shall bear his or her own attorneys' fees and expenses, such as witness and expert witness fees. The arbitrator shall apply applicable substantive law consistent with the FAA, and applicable statutes of limitation, and shall honor claims of privilege recognized at law. The arbitration hearing will be conducted in the county of your residence, or within 30 miles from such county, or in the county in which the transaction under this Loan Agreement occurred, or in such other place as shall be ordered by the arbitrator. The arbitrator may decide, with or without a hearing, any motion that is substantially similar to a motion to dismiss for failure to state a claim or a motion for summary judgment. In conducting the arbitration proceeding, the arbitrator shall not apply any federal or state rules of civil procedure or evidence. If allowed by statute or applicable law, the arbitrator may award statutory damages and/or reasonable attorneys' fees and expenses. If the arbitrator renders a decision or an award in your favor resolving the dispute, then you will not be responsible for reimbursing us for your portion of the Arbitration Fees, and we will reimburse you for any Arbitration Fees you have previously paid. If the arbitrator does not render a decision or an award in your favor resolving the dispute, then the arbitrator shall require you to reimburse us for the Arbitration Fees we have advanced, not to exceed the amount which would have been assessed as court costs if the dispute had been resolved by a state court with jurisdiction, less any Arbitration Fees you have previously paid. At the timely request of any party, the arbitrator shall provide a written explanation for the award. The arbitrator's award may be filed with any court having jurisdiction.

6. All parties, including related third parties, shall retain the right to seek adjudication in a small claims tribunal for disputes within the scope of such tribunal's jurisdiction. Any dispute, which cannot be adjudicated within the jurisdiction of a small claims tribunal, shall be resolved by binding arbitration. Any appeal of judgment from a small claims tribunal shall be resolved by the exercise of any power under the Loan Agreement or under applicable law, (b) to exercise self-help (a) to foreclose against the Motor Vehicle by the exercise of any power under the Loan Agreement or under applicable law, (b) to exercise self-help remedies such as set off or repossession, or (c) to obtain provisional or ancillary remedies such as pre-judgment seizure of property, detinue, replevin, or injunctive relief, or to seek or obtain any other traditional equitable relief which does not claim money damages from a court having jurisdiction. The arbitration and maintenance by you or us of any action set forth in this Paragraph 6 shall not constitute a waiver of the right to submit any dispute to arbitration, including any counterclaim asserted.

7. This Arbitration Provision is made pursuant to a transaction involving interstate commerce and shall be governed by the FAA. If a final non-appealable judgment of a court having jurisdiction over this transaction finds, for any reason, that the FAA does not apply to this transaction, then our agreement to arbitrate shall be governed by the arbitration law of the State of Nevada.

Any comments or questions may be directed to Customer Service at the following toll-free number: (800) 804-5368.

APP 015679

ROA 011002

8. This Arbitration Provision is binding upon and benefits us, our successors and assigns, and related third parties. The Arbitration Provision continues in full force and effect, even if your obligations have been prepaid, paid or discharged through bankruptcy. The Arbitration Provision survives any termination, amendment, expiration or performance of any transaction between you and us and continues in full force and effect unless you and we otherwise agree in writing.

9. **OPT-OUT PROCESS.** You may choose to opt-out of this Arbitration Provision but only by following the process set-forth below. If you do not wish to be subject to this Arbitration Provision, then you must notify us in writing within sixty (60) calendar days of the loan date at the following address: TitleMax of Nevada, Inc. d/b/a TitleMax, Attn: Legal Dept, P.O. Box 8323, Savannah, GA 31412. Your written notice must include your name, address, Account number, the loan date, and a statement that you wish to opt out of the Arbitration Provision. If you choose to opt out, then your choice will apply only to this Loan Agreement.

Acknowledgments. This Loan Agreement contains a binding Waiver of Jury Trial and Arbitration Provision. By signing this Loan Agreement you acknowledge that it was filled in before you did so and that you received a completed copy of it. You agree that the information you provided before entering into this Loan Agreement is accurate. You warrant that you are not a debtor under any proceeding in bankruptcy and have no intention to file a petition for relief under any chapter of the United States Bankruptcy Code. You agree that the amount of the loan does not exceed the fair market value of the Motor Vehicle. You agree that you have the ability to repay this Loan Agreement, based upon your current and expected income, obligations, and employment. You acknowledge that the loan does not require a balloon payment of any kind. You further acknowledge that you have read, understand, and agree to all of the terms of this Loan Agreement, including the Waiver of Jury Trial and Arbitration Provision.

THIS DOCUMENT IS SUBJECT TO A SECURITY INTEREST IN FAVOR OF, AND PLEDGED AS COLLATERAL TO, WELLS FARGO BANK, NATIONAL ASSOCIATION, AS COLLATERAL AGENT.

TitleMax of Nevada, Inc. d/b/a TitleBucks

Duan Whitaker
Customer's Signature

3-3-15
Date

[Signature]
Its Authorized Agent

3-3-15
Date

Gloria Whitaker
Co-Customer's Signature

3-3-15
Date

STATE OF NEVADA
COUNTY OF CLARK

Affidavit

Title Loan Agreement No.: 12169-0153927
Date: 03/03/2015

Customer Name: DEVON WHITAKER
Address: 3866 LINCOLN RD
LAS VEGAS, NV 89115
Co-Borrower Name: GLORIA WHITAKER
Address: 3866 LINCOLN RD
LAS VEGAS, NV 89115

Licensee Name: TitleMax of Nevada, Inc. d/b/a Titlebucks
Address: 4750 W. Lake Mead #102
LAS VEGAS, NV 89108

Vehicle Information: VIN: 1FTRW07632KA21562
License Plate State and No: 833TSP Color: Gold Year: 2002 Make: ford Model: f150

In this Affidavit ("Affidavit"), the words "affiant," customer," "you" and "your" mean the customer who has signed it. The words "Licensee," "we," "us" and "our" mean TitleMax of Nevada, Inc. d/b/a Titlebucks, a provider of title loan services, registered, licensed, and operating in accordance with Nevada law and regulated by the Nevada Financial Institutions Division, 406 E. 2nd Street, Suite 3, Carson City, Nevada 89701-4758, Phone: (775) 684-1830, Fax: (775) 684-1845. The word "Vehicle" means the vehicle identified above. The word "Title" means a certificate of title or ownership issued pursuant to the laws of the State of Nevada that identifies the legal owner of a vehicle or any similar document issued pursuant to the laws of another jurisdiction.

Pursuant to N.R.S. 604A.450-1, we have evaluated the Vehicle's fair market value. Pursuant to N.R.S. 604A.450-2, we have reviewed your application information regarding current and expected income, obligations and employment.

Pursuant to N.R.S. 604A.450-3, you are required to give us an affidavit which states: (a) The customer has provided the licensee with true and correct information concerning the customer's income, obligations, employment and ownership of the vehicle; and (b) The customer has the ability to repay the title loan.

The undersigned, DEVON WHITAKER, being first duly sworn, states as follows:

1. You have provided us with true and correct information concerning your income, obligations, employment and ownership of the vehicle; and
2. You have the ability to repay the title loan.

FURTHER, AFFIANT SAYETH NOT.

Customer Signature: Devon Whitaker

Co-Borrower Signature: Gloria Whitaker

Patrick J. Reilly, Esq.
Nevada Bar No. 6103
Joseph G. Went, Esq.
Nevada Bar No. 9220
HOLLAND & HART LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134
Tel: (702) 669-4600
Fax: (702) 669-4650
Email: preilly@hollandhart.com
jgwent@hollandhart.com

Attorneys for TitleMax of Nevada, Inc.

**STATE OF NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION**

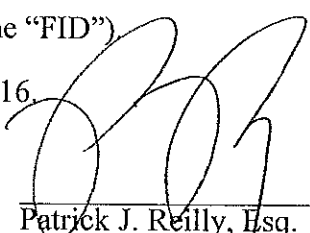
IN THE MATTER OF:

TITLEMAX OF NEVADA, INC. AND
TITLEBUCKS d/b/a TITLEMAX

**REPLY MEMORANDUM IN SUPPORT
OF MOTION FOR DECLARATORY
RULING AND TO STAY DEADLINES**

TitleMax of Nevada, Inc. dba TitleMax and/or TitleBucks ("TitleMax"), by and through its attorneys of record, the law firm of Holland & Hart LLP, hereby submits this reply in support of its motion requesting a legal interpretation of NRS 604A.210, NRS 604A.445, or NAC 604A.230 and in response to the Opposition to TitleMax's Motion for a Declaratory Ruling and To Stay Deadlines ("Opposition") filed by the State of Nevada, Department of Business and Industry, Financial Institutions Division (the "FID").

DATED this 10th day of March, 2016.



Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

Attorneys for TitleMax of Nevada, Inc.

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1 interpretation of the law, without opposition from TitleMax, and without any semblance of due
2 process. The FID's blatantly contradictory positions highlight how blind the FID has become to
3 the law, first in its substantive interpretation of NRS and NAC Chapter 604A, and now with its
4 relentless forum shopping and gamesmanship in pursuit of a desired result.

5 TitleMax's frustration in this regard is very real. From the beginning, all it has sought is
6 an unbiased interpretation of the law. And, from the beginning, all the FID has done is thwart
7 every attempt to obtain such an interpretation. The FID's attempt to avoid a judicial
8 interpretation by inserting purported issues of disputed fact, but this is truly a dispute about
9 interpretation of certain laws and their application to very discrete facts. The FID fails to
10 provide a single valid reason that prevents this tribunal from making a ruling on the
11 interpretation now. Rather, the FID contends that its interpretation of the law must prevail based
12 solely upon the Administrative Law Judge seeing the number of co-borrowers and/or number of
13 customers that entered into the Grace Period Payment Deferment Agreements. Yet, the
14 determination of what the law means has nothing to do with the number of co-borrowers or the
15 number of executed Grace Payment Deferment Agreements. Critically, the FID's position
16 suggests that its strategy is that prejudice should prevail over the application of law. TitleMax
17 trusts that this matter will be decided upon the application of law to facts—not based upon
18 volume or prejudice. Briefing has been completed and this tribunal can resolve the legal issues
19 now, which will either obviate the need for an evidentiary hearing and/or severely limit the scope
20 of it.

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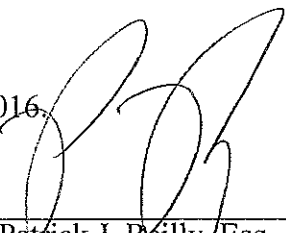
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1 TitleMax thanks this tribunal for its time and attention to this matter, and urges it to issue
2 an opinion interpreting NRS 604A.210, NRS 604A.445, and NAC 604A.230, as set forth in its
3 hearing brief.

4 DATED this 10th day of March, 2016,


5
6 Patrick J. Reilly, Esq.
7 Joseph G. Went, Esq.
8 HOLLAND & HART LLP
9 9555 Hillwood Drive, Second Floor
10 Las Vegas, Nevada 89134

11 *Attorneys for TitleMax of Nevada, Inc.*

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Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of March, 2016, a true and correct copy of the foregoing **REPLY MEMORANDUM IN SUPPORT OF MOTION FOR DECLARATORY RULING AND TO STAY DEADLINES** was served by the following method(s):

☒ U.S. Mail: by depositing same in the United States mail, first class postage fully prepaid to the persons and addresses listed below:

Denise S. McKay, Esq.
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Hearing Officer

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Attorney General
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*Attorneys for State of Nevada Department of
Business and Industry Financial Institutions
Division*

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*Attorneys for State of Nevada Department of
Business and Industry Financial Institutions
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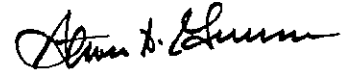

An Employee of Holland & Hart LLP

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EXHIBIT A

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ROA 011009



CLERK OF THE COURT

1 **MDSM**
2 ADAM PAUL LAXALT
3 Attorney General
4 Christopher Eccles, #9798
5 Deputy Attorney General
6 David J. Pope, #8617
7 Senior Deputy Attorney General
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9 Las Vegas, Nevada 89101
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12 ceccles@ag.nv.gov
13 Attorneys for Nevada Department of Taxation

8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10
11 TITLEMAX OF NEVADA, INC., a Nevada
12 corporation,

13 Plaintiffs,

14 vs.

15 STATE OF NEVADA, ex rel. it's
16 DEPARTMENT OF BUSINESS AND
17 INDUSTRY, FINANCIAL INSTITUTIONS
18 DIVISION,

19 Defendants.

Case No. A-15-719176-C
Dept No. XXI

**NEVADA FINANCIAL
INSTITUTIONS DIVISION'S
MOTION TO DISMISS FOR
FAILURE TO EXHAUST
ADMINISTRATIVE REMEDIES**

Date of Hearing _____, 2015

Time of Hearing _____

20 COMES NOW, Defendant State of Nevada, ex rel. it's Department of Business and
21 Industry, Financial Institutions Division, by and through its attorneys, Adam Paul Laxalt,
22 Attorney General, and David J. Pope, Senior Deputy Attorney General and Christopher
23 Eccles, Deputy Attorney General, and hereby moves this Court for an order granting this
24 MOTION TO DISMISS FOR FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES.

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1 This Motion is filed pursuant to NRCP Rule 12(b)(5) and is also based on all
2 pleadings and papers on file herein, the attached Memorandum of Points and Authorities
3 and any oral arguments the Court may allow at the time of the hearing on this matter.

4 Respectfully submitted this 6th day of October, 2015.

5 ADAM PAUL LAXALT
6 Attorney General

7 By:

8 /s/ DAVID J. POPE
9 David J. Pope
10 Sr. Deputy Attorney General
11 Nevada State Bar #8617
12 Christopher Eccles
13 Deputy Attorney General
14 Nevada State Bar #9798
15 555 E. Washington Ave., #3900
16 Las Vegas, NV 89101
17 Attorneys for Defendant

18 **NOTICE OF MOTION**

19 PLEASE TAKE NOTICE that the foregoing Motion to Dismiss for Failure to Exhaust
20 Administrative Remedies will be heard before the above-entitled Court on the 18
21 day of NOVEMBER, 2015 at 9:30A, in Department XXI, or as soon thereafter as
22 counsel may be heard.

23 Dated October 6th, 2015

24 ADAM PAUL LAXALT
25 Attorney General

26 By /s/ DAVID J. POPE
27 David J. Pope
28 Sr. Deputy Attorney General
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Christopher Eccles
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Attorneys for Defendant

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1 I. FACTS AND PROCEDURAL HISTORY

2 On June 1, 2015, Plaintiff, Titlemax of Nevada, Inc. (hereinafter "TitleMax"), filed its
3 Complaint commencing the current action against the State of Nevada, ex rel. it's
4 Department of Business and Industry, Financial Institutions Division (hereinafter "FID").
5 Through the Complaint, TitleMax seeks declaratory relief regarding the FID's application of
6 several statutes in Chapter 604A of the NRS to business activities of Titlemax. See
7 *Complaint*.

8 Titlemax ran to this court to get ahead of the administrative proceedings that were
9 coming. Subsequent to the commencement of this case, Titlemax has been examined by
10 the FID and given the opportunity to request a hearing with regard to the matters at issue in
11 this case. See *Cover Page to Examination Report attached hereto as Exhibit A*. Titlemax
12 was given 30 days to request an administrative hearing. *Id.* While the parties have been
13 discussing how to proceed with this litigation, the 30 day period was extended, by agreement
14 of the parties, for two weeks. See *Exhibit B*.¹ In addition, TitleMax will eventually receive a
15 hearing regarding suspension unless it comes into compliance. NRS 604A.820.

16 In Averment #13 in the Complaint, Titlemax states, "Based on the examiner's
17 incorrect application of NAC 604A.230, the FID issued a "Needs Improvement" rating,
18 thereby indicating that Titlemax had demonstrated less than satisfactory compliance in the
19 examination." NAC 604A.230 prohibits TitleMax from "requiring" or "accepting" a guarantor
20 to a transaction. Averment #12 states, "When there is a co-borrower not listed on the title of
21 the vehicle associated with said loan, the co-borrower becomes contractually bound as a
22 principal obligor, and not as a guarantor." FID's examiner applied NAC 604A.230 to the
23 facts as they were seen by the examiner and determined that TitleMax either "required" or
24 "accepted" a guarantor. The Nevada Supreme Court has determined that state agencies are
25 the experts that are supposed to decide issues of fact related to questions regarding
26

27 ¹ This deadline was extended again, through September 21, 2015, via separate stipulation.
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1 application of the agencies statutes. *Malecon Tobacco, LLC v. Dept. of Taxation*, 118 Nev.
2 837, 840-841, 59 p.3d 474 (2002).

3 In Averment #18 of the Complaint, Titlemax states, "Based on the examiner's
4 incorrect understanding of the Deferment Agreement, the FID issued a 'Needs Improvement'
5 rating thereby indicating that Titlemax had demonstrated less than satisfactory compliance in
6 the examination." Averment #17 states, "The FID examiner's conclusion was incorrect in
7 determining that the foregoing constituted a violation of NRS 604A.210 and NRS 604A.445."
8 NRS 604A.210 and NRS 604A.445 prohibit the collection of interest during a grace period
9 and require that such a loan be fully amortized. "Grace period payment deferment
10 agreement," as used by TitleMax, is not a statutory term. *Complaint, para. 16*. The
11 examiner looked at the facts and determined that TitleMax had not complied with NRS
12 604A.210 and NRS 604A.445. Again, the Nevada Supreme Court has determined that
13 factual issues related to the application of an agency's statutes are to be determined by that
14 agency. *Malecon*, 118 Nev. 840-841. By avoiding an administrative hearing, TitleMax
15 avoids the facts as determined by the examiner.

16 From the time of the examination referenced in the Complaint to the more recent
17 examination, TitleMax did not change its business practice and, as a result, it received
18 unsatisfactory ratings rather than the needs improvement ratings referenced in the
19 Complaint. *Exhibit A*. The unsatisfactory ratings afforded TitleMax the option of complying
20 with the FID's interpretation of the statutes or requesting a hearing. *See Affidavit of Harveen*
21 *Sekhon* attached hereto as *Exhibit C*. TitleMax could also receive a cease and desist order
22 with an opportunity for a hearing or a pre-suspension hearing. *Id.*; NRS 604A.810; NRS
23 604A.820.

24 Pursuant to NRS 604A.810, FID can issue an order to "desist or to refrain" from a
25 violation. If such an order is disregarded, the FID can also notice a hearing regarding
26 suspension of the license. NRS 604A.820. Pursuant to NRS 604A.820, a hearing can be
27 noticed with regard to any violation of Chapter 604A of the NRS following such a hearing,
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1 an order will be entered "either dismissing the charges, revoking the license or suspending
2 the license for a period of not more than 60 days, which period must include any prior
3 temporary suspension." Such a hearing can occur before a cease and desist order is
4 issued.

5 II. ARGUMENT

6 A. STANDARD OF REVIEW

7 TitleMax has failed to state a claim upon which relief can be granted. NRCP 12(b)(5).
8 NRCP Rule 12(b), states, in relevant part:

9 [E]very defense . . . to a claim for relief in any pleading . . . shall
10 be asserted in the responsive pleading thereto if one is required,
11 except that the following defenses may at the option of the
pleader be made by motion . . . (5) failure to state a claim upon
which relief can be granted . . .

12 TitleMax's sole remedy is a Chapter 233B petition for judicial review. NRS 233B.130(6).
13 Because TitleMax has not obtained an administrative decision and filed a petition for judicial
14 review, this court does not have jurisdiction to hear these issues at this time and therefore
15 TitleMax has failed to state a claim upon which relief can be granted.

16 When reviewing an order granting a motion to dismiss, the court considers whether
17 the challenged pleading sets forth allegations sufficient to establish the elements of a right to
18 relief. *Kaldi v. Farmers Ins. Exch.*, 117 Nev. 273, 278, 21 P.3d 16, 19 (2001). Dismissal is
19 appropriate where it appears beyond a doubt that the plaintiff could prove no set of facts
20 which, if accepted by the trier of fact, would entitle him or her to relief. *Simpson v. Mars*, 113
21 Nev. 188, 190, 929 P.2d 966, 967 (1997); *Buzz Stew, LLC v. City of N. Las Vegas*, __ Nev.
22 __, 181 P.3d 670, 672 (Adv. Op. 21, April 17, 2008). The pleadings must be liberally
23 construed, and all factual allegations in the complaint accepted as true. *Blackjack Bonding*
24 *v. City of Las Vegas Mun. Court*, 116 Nev. 1213, 1217, 14 P.3d 1275, 1278 (2000).
25 Because this court does not have jurisdiction, Plaintiff can prove no set of facts entitling it to
26 relief.

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1 **B. THIS CASE MUST BE DISMISSED BECAUSE TITLEMAX FAILED TO**
2 **EXHAUST ADMINISTRATIVE REMEDIES**

3 In their Complaint, TitleMax admits that FID has jurisdiction over the issues raised in
4 this case. In fact, FID has original jurisdiction² and this court does not obtain jurisdiction
5 until TitleMax files a petition for judicial review, pursuant to Chapter 233B of the NRS,
6 seeking review of a final administrative decision. NRS 233B.130(6); *Kame v. Employment*
7 *Sec. Dep't.*, 105 Nev. 22, 25, 769 P.2d 66, 67 (1989); *See Nevada Power Co. v. Eighth*
8 *Judicial District Court*, 120 Nev. 948, 959, 102 P.3d 578 (2004) (concluding that "the district
9 court could have deferred action under the primary jurisdiction doctrine for the PUC to
10 address one issue implicated in the amended complaint . . .")³; *See Allstate Insurance Co.*
11 *v. Thorpe, M.D.*, 123 Nev. 565, 571, 170 P.3d 989 (2007) (stating, "whether couched in
12 terms of subject-matter jurisdiction or ripeness, a person generally must exhaust all
13 available administrative remedies before initiating a lawsuit, and failure to do so renders the
14 controversy nonjusticiable. The exhaustion doctrine gives administrative agencies an
15 opportunity to correct mistakes and conserves judicial resources, so its purpose is valuable;
16 requiring exhaustion of administrative remedies often resolves disputes without the need for
17 judicial involvement").

18 Exhaustion of administrative remedies is the rule. With the adoption of the
19 Administrative Procedures Act in 1965, *aka* Chapter 233B of the NRS, the Legislature has
20 stated its intention that the provisions in such chapter "are the exclusive means of judicial

21 _____
22 ² FID receives applications for licenses, investigates the applicants and grants and denies licenses. NRS
23 604A.600; NRS 604A.625; NRS 604A.630; NRS 604A.635; NRS 604A. "For the purpose of discovering
24 violations of this chapter or securing information lawfully required under this chapter," FID may investigate any
25 licensee and any person that FID has reasonable cause to believe is violating or about to violate any provision
26 of Chapter 604A of the NRS. NRS 604A.710. FID conducts annual examinations. NRS 604A.730. FID can
27 issue cease and desist orders, notice hearings and even immediately suspend a license. NRS 604A.810;
28 NRS 604A.820; NRS 604A.800. Since the Legislature has bestowed all facets of regulation upon the FID, to
the extent that FID can summarily suspend a license pending a hearing, it is clear that FID has original
jurisdiction and that the Legislature wants the FID to hold administrative hearings before such matters proceed
to District Court.

³ The primary jurisdiction doctrine "is premised on two policies: "(1) the desire for uniformity of regulation and,
(2) the need for an initial consideration by a tribunal with specialized knowledge." *Nevada Power Co. v. Eighth*
Judicial District Court, 120 Nev. 948, 959 (2004) (citation omitted). Both of these policies are rendered
meaningless if TitleMax is not required to exhaust administrative remedies.

1 review of, or judicial action concerning, a final decision in a contested case involving an
2 agency to which this chapter applies." NRS 233B.130(6) (emphasis added).

3 A July 1990 publication for the State Bar of Nevada sets forth the basis for applying
4 judicial review to final administrative decisions. It states:

5 Judicial review is designed to expedite the passage of an
6 administrative case through the judicial system. It is also meant
7 to minimize the intrusion of courts into administrative functions,
8 such as fact-finding, while relieving district courts of the burden
and expense of trying an administrative case as if the case had
been filed as an original matter in district court.

9 *INTER ALIA*, July 1990, *The Basics of Nevada Administrative Law*, p. 8. Relevant
10 legislative history provides:

11 Mr. McGaughey referred to page 2, line 28, 'The court shall not
12 substitute its judgment for that of the agency as to the weight of
13 evidence on a question of fact.' He asked Mr. Campbell to
14 explain that statement. Mr. Campbell replied the Administrative
Law Committee does not want the courts to substitute their
expertise for the expertise of the administrative agency. Mr.
Sourwine mentioned that this language exists in present law.

15 Mr. Campbell explained the court is not required to affirm the
16 decision of an agency. Mr. Sourwine said AB 884 allows the
17 court to modify or reverse an agency decision if it is clearly
18 erroneous in view of reliable evidence on the whole record.
19 Since the court does not hear the testimony of witnesses, the
20 court is not in a position to judge credibility. Therefore, in
21 reviewing records of an administrative agency, the court merely
looks for evidence in the record that supports the agency's
decision. At that point, the court defers to the agency's expertise
in the particular area.

22 *Minutes of the Nevada State Legislature, Assembly Committee on*
23 *Government Affairs, page 8, June 6, 1989.*

24 This court will not have jurisdiction over these issues until a Chapter 233B petition for
25 judicial review, seeking review of a final administrative decision, is filed. NRS 233B.130
26 states in pertinent part:

27 APP 015693

1. Any party who is:
 - (a) Identified as a party of record by an agency in an administrative proceeding; and
 - (b) Aggrieved by a final decision in a contested case, is entitled to judicial review of the decision. Where appeal is provided within an agency, only the decision at the highest level is reviewable unless a decision made at a lower level in the agency is made final by statute. Any preliminary, procedural or intermediate act or ruling by an agency in a contested case is reviewable if review of the final decision of the agency would not provide an adequate remedy
2. Petitions for judicial review must:
 - (a) Name as respondents the agency and all parties of record to the administrative proceeding;
 - (b) Be instituted by filing a petition in the district court in and for Carson City, in and for the county where the agency proceeding occurred; and
 - (c) Be filed within 30 days after service of the final decision of the agency.

...
The filing of a petition for judicial review in a timely manner is jurisdictional. *Kame v. Employment Sec. Dep't.*, 105 Nev. 22, 25, 769 P.2d 66, 67 (1989). The Nevada Supreme Court in *Kame* wrote:

When a party seeks judicial review of an administrative decision, strict compliance with the statutory requirements for such review is a precondition to jurisdiction by the court of judicial review. . . . Noncompliance with the requirements is grounds for dismissal of the appeal...Thus, the time period for filing a petition for judicial review of an administrative decision is mandatory and jurisdictional...In the past, this court has upheld the dismissal of appeals for failure to timely commence them.

Id. at 25, 68 (citations omitted). The sole means of this court taking action regarding the issues presented in this case will be by reviewing a final agency decision by way of a petition for judicial review. NRS 233B.130(6).

TitleMax should not be allowed to bypass the administrative proceedings. "The exhaustion doctrine is concerned with the timing of judicial review of administrative action." *Nevada Power Co. v. Eighth Judicial District Court*, 120 Nev. 948, 959 (2004) (citation omitted). Because TitleMax is jumping ahead of the procedures set forth in NRS 604A.810 and NRS 604A.820, TitleMax has prematurely brought this matter before this court.

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1 There are very few exceptions to the exhaustion requirement. In *Glusman v.*
2 *Glusman*, 98 Nev. 412, 419 (1982), the Nevada Supreme Court stated that it had the
3 discretion to not apply the exhaustion doctrine "where the issues relate solely to the
4 interpretation or constitutionality of a statute." (emphasis added). In *Dept. of Taxation v.*
5 *Scottsman Mfg. Co., Inc.*, 109 Nev. 252, 255 (1993), the Nevada Supreme Court cited to
6 *Glusman* and stated, "The exhaustion doctrine will not deprive the court of jurisdiction
7 'where the issues relate solely to the interpretation or constitutionality of a statute.'" (emphasis added). Thereafter, in *Malecon Tobacco, LLC v. Dept. of Taxation*, 118 Nev.
8 837, 839 (2002), the Nevada Supreme Court set forth two exceptions: (1) "when the issues
9 'relate solely to the interpretation or constitutionality of a statute'; and, (2) "when resort to
10 administrative remedies would be futile." The *Malecon* court also differentiated between
11 "facial" and "as applied" constitutional challenges and clarified that "as applied"
12 constitutional challenges are to be heard by the agency because the facts need to be
13 decided by the agency. *Id.* at 840-841. These exceptions were reaffirmed in *Déjà vu*
14 *Showgirls of Las Vegas, LLC v. Department of Taxation*, 334 P.3d 392, 397 (Nev. 2014).

15
16 In Averments #13 and #18 in the Complaint, TitleMax has pled the basis of factual
17 disputes. Though the interpretation of a contract is usually a question of law, the actions of
18 TitleMax and the customers in relation to the need for a "guarantor" and the signing of an
19 agreement by a "guarantor," as those terms are used in the Complaint, create facts that are
20 best determined by the agency experts and through administrative proceedings. *Malecon*,
21 118 Nev. 837, 840-841. Again, though the interpretation of a contract is a question of law,
22 the actions of TitleMax and its customers in relation to the "Deferment Agreement"
23 referenced in the Complaint create facts that were reviewed by the examiner and are best
24 determined through administrative proceedings. *Malecon*, 118 Nev. 837, 840-841.
25 Nonetheless, TitleMax seems to have based the filing of their Complaint on the exception
26 for issues "related solely to interpretation . . . of a statute." *Malecon*, 118 Nev. 837, 839
27 (2002) (emphasis added).

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1 To the extent TitleMax disagrees with FID's application of regulatory statutes to
2 TitleMax's business activity, the remedy is an administrative hearing followed by a Chapter
3 233B petition for judicial review. TitleMax has been afforded the opportunity to request a
4 hearing challenging FID's application of the statutes. *Exhibit A*. In addition, TitleMax will
5 have an opportunity for a NRS 604A.820 hearing should they continue to disagree with
6 FID's interpretation. *Exhibit C; NRS 604A.810(1); NRS 604A.820*. Though an NRS
7 604A.820 hearing is held when it is believed that there is reasonable grounds for seeking
8 suspension of a license, no suspension will occur, if at all, until after the hearing.
9 Consequently, TitleMax should have exhausted administrative remedies but rather chose to
10 file this action to get ahead of the completion of the recent examination and availability of
11 the administrative remedy and avoid the administrative hearing.

12 TitleMax did have, and still has, an administrative remedy. The failure to exhaust
13 administrative remedies does not give this court jurisdiction; it deprives this court of
14 jurisdiction. This court should not review an agency's application of its own statute before
15 the agency has a chance to obtain a final administrative decision regarding its own
16 interpretation through an administrative proceeding.⁴ If this court provides TitleMax with
17 declaratory relief, this court will render NRS 604A.810 and NRS 604A.820 meaningless and
18 statutory construction principles dictate that such an outcome is to be avoided. *Harris*
19 *Associates v. Clark County School District*, 119 Nev. 638, 642 (2003); *See Allstate*
20 *Insurance Co. v. Thorpe, M.D.*, 123 Nev. 565, 571 (2007) (noting, "We have previously
21 stressed the importance of state agencies' exclusive original jurisdiction over legislatively
22 created administrative and regulatory schemes." (citation omitted). Further providing, "[i]t is
23 not conceivable that the legislature would give its extensive time and attention to study,
24 draft, meet, hear, discuss and pass this important piece of legislation were it not to serve a
25 useful purpose." (citation omitted)).

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27 ⁴ In this case, a "hearing officer" from the Department of Business and Industry will render the final decision.
28 NRS 233B.122(2).

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III. CONCLUSION

Based on the foregoing, the FID respectfully requests that this Honorable Court issue an order granting FID's Motion to Dismiss because allowing TitleMax to by-pass the administrative remedies is contrary to Chapter 233B of the NRS and contrary to Nevada Supreme Court precedent and renders portions of Chapter 604A of the NRS meaningless.

Respectfully submitted this 6th day of October, 2015.

ADAM PAUL LAXALT
Attorney General

By: /s/ DAVID J. POPE
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Sr. Deputy Attorney General
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Attorneys for State of Nevada

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CERTIFICATE OF SERVICE

I, hereby certify that on the 6th day of October, 2015, I served the **NEVADA FINANCIAL INSTITUTIONS DIVISION'S MOTION TO DISMISS FOR FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES**, by causing to be delivered to the Department of General Services for mailing at Las Vegas, Nevada and via hand delivery, a true copy thereof, addressed to:

Pat Reilly, Esq.
Holland & Hart
9555 Hillwood Dr.
Las Vegas, Nevada 89134
Attorneys for Plaintiff

/s/ Debra Turman
An Employee of the Office of Attorney General

APP 015698

EXHIBIT B

APP 015699

ROA 011022


CLERK OF THE COURT

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15 dpope@ag.nv.gov
16 Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

11 TITLEMAX OF NEVADA, INC., a Nevada
12 Corporation,
13
14 Plaintiff,

Case No. A-15-719176-C
Dept. No. XXXII

14 vs.

15 STATE OF NEVADA, ex rel. it's
16 DEPARTMENT OF BUSINESS AND
17 INDUSTRY, FINANCIAL INSTITUTIONS
18 DIVISION,

Defendant.

**OPPOSITION TO MOTION FOR PRELIMINARY
INJUNCTION ON ORDER SHORTENING TIME**

21 COMES NOW Defendant State of Nevada, ex rel. it's Department of Business and
22 Industry, Financial Institutions Division (hereinafter "FID"), by and through its counsel Adam
23 Paul Laxalt, Attorney General, Christopher Eccles, Deputy Attorney General and David J.
24 Pope, Sr. Deputy Attorney General, and hereby submits its Opposition to Plaintiff TitleMax of
25 Nevada, Inc.'s (hereinafter "TitleMax") Motion for Preliminary Injunction on Order Shortening
26 Time.
27
28

APP 015700

ROA 011023

1 This Opposition is made and based on all pleadings and papers on file herein, the
2 pleadings and papers incorporated by reference, the attached memorandum of Points and
3 Authorities, and any additional evidence and oral argument that this Court may allow at the
4 time of the hearing in this matter.

5 INTRODUCTION

6 TitleMax commenced this case in June of 2015, while the 2015 examination of its
7 business was taking place. There was no reason to commence this action, other than to
8 avoid an administrative hearing.

9 The Nevada Legislature created the administrative remedies set forth in Chapter 604A
10 of the NRS. NRS 604A.820 provides for an administrative hearing. TitleMax is required to
11 exhaust administrative remedies,¹ unless an exception to the exhaustion requirement applies.

12 NRS 33.010 provides that an injunction *may* be granted only when: (1) it appears by
13 the complaint that the plaintiff is entitled to the relief demanded; and, (2) it appears that not
14 ordering the injunction would produce great or irreparable injury to the plaintiff; or, (3) it
15 appears that the defendant's act violates the plaintiff's rights with respect to the subject.
16 TitleMax cannot meet this burden.

17 TitleMax has not shown, and cannot show, a likelihood of success on the merits. The
18 plain language of the relevant statutes express an unambiguous meaning that is contrary to
19 TitleMax's interpretation and therefore TitleMax is not likely to prevail. In fact, the FID has
20 merely applied the plain language and therefore FID is likely to prevail because there is no
21 reason to look beyond the language of the statute for a different meaning.

22 In addition, TitleMax has failed to present any evidence that there is great or irreparable
23 injury. TitleMax claims that there is irreparable harm because its license is subject to possible
24 suspension or revocation. It is true that NRS 604A.820 sets forth an administrative remedy
25 that can result in a suspension or revocation, but no such suspension or revocation will occur,
26 if at all, until after an administrative hearing. Although NRS 604A.800 allows for a summary

27
28 ¹ FID is also working on filing a motion to dismiss for failure to exhaust administrative remedies and therefore
does not waive any rights to contest subject matter jurisdiction.

APP 015701

1 suspension, FID has noticed this matter for an NRS 604A.820 hearing and not an NRS
2 604A.800 hearing. See *Exhibit A*. Consequently, TitleMax is not currently subject to a
3 summary suspension.

4 Even if this matter was noticed for a summary suspension hearing, post-deprivation
5 review meets the requirements of due process² and the Nevada Legislature clearly expressed
6 that such suspensions are decisions to be made by the Commissioner of the FID. NRS
7 604A.800. In addition, NRS 604A.800 applies in conjunction with the safeguards set forth in
8 NRS 233B.127(3) which provides:

9 No revocation, suspension, annulment or withdrawal of any license
10 is lawful unless, before the institution of agency proceedings, the
11 agency gave notice by certified mail to the licensee of facts or
12 conduct which warrant the intended action, and the licensee was
13 given an opportunity to show compliance with all lawful
14 requirements for the retention of the license. If the agency finds
15 that public health, safety or welfare imperatively require emergency
16 action, and incorporates a finding to that effect in its order,
17 summary suspension of a license may be ordered pending
18 proceedings for revocation or other action. An agency's order of
19 summary suspension may be issued by the agency or by the Chair
20 of the governing body of the agency. If the order of summary
21 suspension is issued by the Chair of the governing body of the
22 agency, the Chair shall not participate in any further proceedings of
23 the agency relating to that order. Proceedings relating to the order
24 of summary suspension must be instituted and determined within
25 45 days after the date of the order unless the agency and the
26 licensee mutually agree in writing to a longer period.

27 Moreover, the Legislature is presumed to have knowledge of Chapter 33 of the NRS and likely
28 did not take the time to create NRS 604A.800 and NRS 604A.820 if there was a belief or
understanding that any Chapter 604A licensee could run to District Court and obtain a
preliminary injunction by pointing to NRS 604A.800 and/or NRS 604A.820 and pleading that it
will be irreparably harmed if FID suspends its license either immediately or following a
hearing. This would lead to the statutes never being used and FID never having a pre-
suspension hearing or a post-suspension hearing. It will also lead to all of FID's issues with

² *Barry v. Barchi*, 443 U.S. 55, 63-66, 99 S.Ct. 2642, 2648-2650 (1979) (finding that a state statute authorizing summary suspension, without a pre-suspension hearing, "[did] not affront the due process clause" and determining that all that was lacking was the assurance of a prompt post-suspension hearing.)

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Chapter 604A licensees being litigated in court rather than in administrative hearings in accordance with Chapter 233B of the NRS.

Granting a preliminary injunction and prohibiting the administrative hearing is contrary to the exhaustion of administrative remedies doctrine, contrary to Chapter 233B of the NRS and contrary to Nevada Supreme Court cases stating that issues involving facts need to be decided by the agency first.

The FID believes TitleMax is violating NRS 604A.210, NRS 604A.445, NAC 604A.230, NRS 604A.105 and NRS 604A.115 and should present its case in an administrative hearing. Unless the administrative regulatory scheme is to be rendered meaningless, bringing a licensee into compliance cannot be considered irreparable harm.

FACTS

TitleMax is licensed pursuant to Chapter 604A of the NRS. The FID has original jurisdiction over licensing and disciplinary matters involving Chapter 604A.³

TitleMax was examined in 2014 and received needs improvement ratings with regard to the issues raised in the Complaint. Following the 2015 examination, TitleMax received unsatisfactory ratings. *Exhibit A*.

"Unsatisfactory" ratings are given when a licensee has previously been given "needs improvement" ratings and doesn't stop violating Nevada law, *i.e.* doesn't improve. See *Affidavit of Harveen Sekhon attached hereto as Exhibit B*. Because TitleMax did not change its practices and continued to violate the relevant statutes, TitleMax received "unsatisfactory ratings." *Id.*

Following the completion of the 2015 examination, TitleMax received the results of the examination. At the same time, TitleMax was given 30 days to submit a plan indicating what

³ FID receives applications for licenses, investigates the applicants and grants and denies licenses. NRS 604A.600; NRS 604A.625; NRS 604A.630; NRS 604A.635; NRS 604A. "For the purpose of discovering violations of this chapter or securing information lawfully required under this chapter," FID may investigate any licensee and any person that FID has reasonable cause to believe is violating or about to violate any provision of Chapter 604A of the NRS. NRS 604A.710. FID conducts annual examinations. NRS 604A.730. FID can issue cease and desist orders, notice hearings and even immediately suspend a license. NRS 604A.810; NRS 604A.820; NRS 604A.800. Since the Legislature has bestowed all facets of regulation upon the FID, to the extent that FID can even summarily suspend a license pending a hearing, it is clear that FID has original jurisdiction and that the Legislature wants the FID to hold administrative hearings before such matters proceed to District Court.

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1 changes it was going to make in order to comply with the applicable statutes and/or request
2 an administrative hearing. *Exhibit A*. TitleMax did neither.

3 TitleMax didn't wait for the examination to be completed. Indeed, TitleMax commenced
4 the instant action while the examination was still in progress.

5 For some reason, TitleMax wants to avoid an administrative hearing. If TitleMax is so
6 sure that there will be a suspension following an NRS 604A.820 hearing, circumstantially that
7 confidence should be viewed as an indication that TitleMax doesn't believe that it is likely to
8 succeed on the merits. Simply put, an injunction will allow TitleMax to continue to violate the
9 statutes while litigating toward the inevitable. If this court grants the preliminary injunction, this
10 court allows TitleMax to continue to charge additional interest and to make title loans to
11 persons who should not be title loan borrowers and to avoid the statutorily imposed
12 administrative hearing.

13 ARGUMENT

14 **A. TitleMax has failed to exhaust it's administrative remedies.**

15 TitleMax's Complaint and Motion for Preliminary Injunction is premature. NRS
16 233B.130(1) requires a "final decision" in a contested case before the matter can proceed to
17 court via a petition for judicial review. A "contested case" is defined as a proceeding "in which
18 the legal rights, duties or privileges of a party are required by law to be determined by an
19 agency after an opportunity for hearing, or in which an administrative penalty may be
20 imposed." NRS 233B.032. The subject matter of this case constitutes a contested case
21 because TitleMax is arguing that its legal rights and privileges are at stake.⁴ *Id.* In addition,
22 FID is statutorily required to determine the matter via a hearing. NRS 604A.820; NRS
23 604A.800. Therefore, this matter is not ripe for review by this court. *See also City of*
24 *Henderson v. Kilgore*, 122 Nev. 331, 336-37, 131 P.3d 11 (2006) (the Court found that
25 because Kilgore had failed to exhaust his administrative remedies, the matter was not ripe for
26
27
28

⁴ Though there is no right to conduct business in a way that violates statutes.

1 district court review.).⁵ Failure to exhaust renders the controversy "nonjusticiable." *Allstate*
2 *Ins. Co. v. Thorpe*, 123 Nev. 565, 572, 170 P.3d 989 (2007).

3 Courts are generally in agreement that the exhaustion doctrine provides a valuable
4 method to resolve conflicts and save valuable court resources. *Allstate*, 123 Nev. at 571. The
5 administrative agency is the one who has the expertise, knowledge and ability to enforce its
6 governing statutes and regulations. See NRS 233B.135(3) ("The court shall not substitute its
7 judgment for that of the agency as to the weight or evidence on a question of fact."); *Brocas v.*
8 *Mirage Hotel & Casino*, 109 Nev. 579, 582-583, 854 P.2d 862 (1993) ("This court is limited to
9 the record below and to a determination of whether the administrative body acted arbitrarily or
10 capriciously"). Even with questions of law, the administrative agency is given great deference
11 if the question of law is closely related to the agency's view of the facts, and is supported by
12 substantial evidence. *Campbell v. Nevada Tax Comm'n*, 109 Nev. 512, 853 P.2d 717 (1993).
13 Moreover, questions of law are reviewed through petitions for judicial review pursuant to NRS
14 233B.135(3). Once the agency has made findings of fact and conclusions of law and a final
15 order, if a party is not satisfied with the outcome, he may then petition the court for judicial
16 review. NRS 233B.130. However, the agency must first render a final decision. NRS
17 233B.130(1)(b).

18 On or about October 6, 2015, TitleMax was served with an administrative complaint
19 and a hearing notice scheduling an administrative hearing for October 27, 2015. *Exhibit C*.
20 Because TitleMax is ready to litigate these issues in court, it cannot argue that it's not ready
21 for an administrative hearing or that it will be harmed. Indeed, the administrative hearing is
22 the remedy that the Legislature created and intended to be used. NRS 604A.820. Though
23 NRS 604A.810(2) allows FID to commence an action seeking an injunction, FID has noticed
24 an NRS 604A.820 hearing. If FID were to pursue an injunction, irreparable harm would be

25
26 ⁵ There are limited circumstances where the party does not have to exhaust administrative remedies such as
27 the interpretation or constitutionality of a statute or where initiation of administrative proceedings would be futile.
28 *Department of Taxation v. Scotsman*, 109 Nev. 252, 849 P.2d 317 (1993); *Déjà vu Showgirls of Las Vegas, LLC*
v. Dept. of Taxation, 334 P.3d 387 (2014) ("We have recognized limited exceptions to that rule, however, when a
statute's interpretation or constitutionality is at issue, or when the initiation of administrative proceedings would
be futile." (citing *State v. Scotsman Mfg. Co., Inc.*, 109 Nev. 252, 255, 849 P.2d 317, 319 (1993))). None of these
exceptions apply to this matter.

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1 presumed and FID would simply have to show that the statute has been violated. *State of*
2 *Nevada v. NOS Communications, Inc.*, 120 Nev. 65, 68, 84 P.3d 1052 (2004). Perhaps this is
3 why TitleMax has jumped to seeking an injunction. Regardless, if FID was seeking an
4 injunction, it's unlikely the court would find irreparable harm for both FID and TitleMax. The
5 violation of a statute enacted to protect the public triggers a presumption of irreparable harm
6 in favor the agency seeking the injunction. *Id.* Therefore, the preliminary injunction should not
7 be granted and the administrative hearing should proceed.

8 In addition, Chapter 604A does not authorize a licensee to seek an injunction. Though
9 Chapter 33 allows for injunctions, the Nevada Legislature is presumed to have had knowledge
10 of Chapter 33 when it was enacting Chapter 604A and it still adopted the remedies allowing
11 for suspension and revocation. NRS 604A.820; NRS 604A.800. It's absurd to conclude that
12 the Legislature intended for licensees to be able to avoid suspension and revocation hearings
13 simply by pointing to the statutes providing the same as the required remedies. *State v.*
14 *Webster*, 102 Nev. 450, 453, 726 P.2d 831 (1986) ("The meaning of certain words in a statute
15 may be determined after examination of the context in which they are used and by considering
16 the spirit of the law. (citation omitted). Additionally, statutory construction should always
17 avoid an absurd result. (citation omitted)."). As an agency in the executive branch of state
18 government, FID is obligated to apply the statutes as written⁶ and, in this case, FID intends to
19 provide the statutory remedy. This court should deny the motion for preliminary injunction and
20 allow FID to follow the law and enforce the statutes as written.

21 The Notice of Hearing and administrative complaint inform TitleMax that a hearing will
22 be held on October 20, 2015. As previously stated, the documents also provide the requisite
23 notice of a "statement of legal authority and jurisdiction," "[a] reference to the particular
24 sections of the statutes and regulations involved," and a "short and plain statement of the
25 matters asserted" as required by NRS 233B.121(2).

26 The Nevada Legislature has given the FID original jurisdiction over licensing and

27 ⁶ *Galloway v. Truesdell*, 83 Nev. 13, 20, 422 P.2d 237 (1994) ("The executive power extends to the carrying out
28 and enforcing the laws enacted by the Legislature. Except where there is a constitutional mandate or limitation,
the Legislature may state which actions the executive shall or shall not perform.")

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1 regulation of Chapter 604A licensees.⁷ In doing so, the Nevada Legislature has empowered
2 the FID to be the fact finder and interpreter of the statutes that it enforces. *Galloway v.*
3 *Truesdell*, 83 Nev. 13, 29, 422 P.2d 237 (1967) ("It is well settled that under the division of
4 powers, these ministerial fact-finding duties may not be delegated to courts . . ."). FID wants
5 to give TitleMax a fair opportunity to present the facts at an NRS 604A.820 hearing. FID also
6 wants to enforce the statutes as written in accordance with the separation of powers doctrine.⁸
7 Contrary to TitleMax's assertions, unless an exception to the exhaustion requirement applies,
8 it does not have the right to declaratory relief until after there is an administrative decision and
9 the district court reviews such decision for errors of law. NRS 233B.130; *Kilgore*, 122 Nev.
10 331, 336-337 (2006); *Déjà vu Showgirls of Las Vegas, LLC v. Dept. of Taxation*, 130 Nev.
11 Adv. Op. 72, 334 P.3d 387 (2014). As a state agency, the FID is not allowed to seek
12 declaratory relief pursuant to Chapter 30 of the NRS. See NRS 30.020 (defining "person" as,
13 "any person, partnership, joint stock company, unincorporated association or society, or
14 municipal or other corporation of any character whatsoever." In conjunction therewith, NRS
15 0.039 excludes "a government, governmental agency or political subdivision of a government"
16 from the definition of "person."). Since FID cannot seek declaratory relief, the Legislature has
17 expressed its intent that the FID declare what its statutes mean. In fact, FID can issue
18 declaratory orders. NRS 233B.120. In addition, the Legislature has expressed that it wants
19 the FID to use its expertise and knowledge to determine what the relevant evidence is and
20 what weight to give the evidence. NRS 233B.135(3) ("The court shall not substitute its
21 judgment for that of the agency as to the weight of evidence on a question of fact."); NRS
22 233B.123 (both parties are afforded the opportunity to present evidence and testimony of
23 witnesses). Granting TitleMax declaratory relief in this case allows TitleMax to avoid obtaining
24 the statutorily required final administrative decision.

25 TitleMax will receive due process and there is no need for a preliminary injunction. As
26 stated, a person must generally exhaust all administrative remedies. *Allstate*, 123 Nev. at

27 ⁷ See Footnote #3.

28 ⁸ As part of the executive branch of state government, FID is required to enforce the statutes as written and, in
this case, FID is simply enforcing the plain language of the statutes. See Footnote #6.

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571. That has not occurred here. For some reason, TitleMax doesn't want it to occur.⁹ As stated, the Motion for Preliminary Injunction is premature because this court does not have subject matter jurisdiction. *Kilgore*, 122 Nev. 331, 336-337 (2006). Pursuant to NRCPC 12(h)(3), this court can, at any time, dismiss this case, *sua sponte*, for lack of subject matter jurisdiction. FID has noticed this matter for an administrative hearing and issued a complaint setting forth the "statement of legal authority and jurisdiction," "[a] reference to the particular sections of the statutes and regulations involved," and the "short and plain statement of the matters asserted" as required by NRS 233B.121(2). A review of the administrative complaint provides the reviewer with information sufficient to show that factual issues exist and therefore this matter is not limited to the analysis of the words in the statute. *See Galloway v. Truesdell*, 83 Nev. 13, 25 (1967) (Though Article 6, Section 6, of the Nevada Constitution states that the "District Courts, and the Judges thereof shall have the power to issue writs of . . . , Injunction . . . , it also states that "They shall also have final appellate jurisdiction in cases arising in Justice Courts, and such other inferior tribunals as may be established by law.").

Pursuant to NRS 604A.940, a court can exercise jurisdiction in civil actions brought by customers of a licensee against the licensee. A court would also obtain jurisdiction if FID commenced an action seeking an injunction pursuant to NRS 604A.810. If the courts already had jurisdiction over Chapter 604A matters, there would have been no need for the Legislature to enact NRS 604A.940 and NRS 604A.810. Consequently, the statutes indicate that a court could have jurisdiction only in these limited circumstances.

Alternatively, if this Court believes that it should consider a preliminary injunction at this time, the FID argues that TitleMax has failed to meet its burden to show 1) that it has a likelihood of success on the merits, and 2) that having a hearing prior to possible suspension pursuant to NRS 604A.820 will cause irreparable harm.

B. A preliminary injunction should not be granted.

The District Court has the discretion to grant or deny a preliminary injunction. *Nevada Escrow Servs. v. Crockett*, 91 Nev. 201, 533 P.2d 471 (1975). In order for a preliminary

⁹ TitleMax avoids fines by avoiding the administrative hearing. *See NRS 604A.810(2)(b)*.

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injunction to be granted, the moving party has the burden to show that he is likely to succeed on the merits and that, if the non-moving party's conduct continues, he will suffer irreparable harm for which there is no adequate remedy at law. *Department of Conservation and Natural Res. v. Foley*, 121 Nev. 77, 109 P.3d 760 (2005); *Dangberg Holdings Nev., L.L.C. v. Douglas County and its Bd. of County Comm'rs*, 115 Nev. 129, 978 P.2d 311 (1999).

In this case, because TitleMax is not likely to succeed on the merits, this court doesn't have to consider irreparable harm. If the second prong is considered, TitleMax will suffer no irreparable injury because it has been acting contrary to statute and needs to change its practices to comply with the law. In *Sobal v. Capital Management*, 102 Nev. 444, 446, 726 P.2d 335, 337 (1986), the Nevada Supreme Court stated that "acts committed *without just cause* which unreasonably interfere with a business or destroy its credit or profits, *may* do an irreparable injury."¹⁰ (emphasis added). Because TitleMax is violating the statutes, FID's actions do not constitute "acts committed without just cause" nor do those actions "unreasonably interfere" with a business. *Id.* TitleMax shouldn't be doing what it's doing and therefore it cannot be said that FID is destroying TitleMax's "credit or profits." *Id.*¹¹

1. TitleMax is not likely to succeed on the merits.

It is each licensee's duty to abide by the statutes and regulations. Before starting a new business practice, a licensee can request advice from FID in the form of an advisory opinion or declaratory order. NRS 233B.120 ("Each agency shall provide by regulation for the filing and prompt disposition of petitions for declaratory orders and advisory opinions as to the applicability of any statutory provision, agency regulation or decision of the agency. Declaratory orders disposing of petitions in such cases shall have the same status as agency decisions. A copy of the declaratory order or advisory opinion shall be mailed to the

¹⁰ The *Sobal* court noted that the usurpation of the business name "interfere[d] with the operation of a legitimate business by creating public confusion, infringing on goodwill, and damaging reputation in the eyes of creditors." 102 Nev. 444, 446. The same facts do not exist in this case. To the extent that the business practices at issue in this case violate the related statutes, they are not legitimate business practices.

¹¹ Even if *Com. V. Yameen*, 401 Mass. 331, 516 N.E.2d 1149, 1151 (1987) states, "A licensee whose license has been revoked or suspended *immediately* suffers the irreparable penalty of loss of [license] for which there is no practical compensation[.]" TitleMax is still required to show that it is likely to succeed on the merits. (emphasis added). Moreover, the FID is not pursuing an immediate suspension revocation.

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petitioner.”). TitleMax didn’t request advice from FID before putting the practices at issue in this case in place and offering them to the public.

To succeed on the merits, TitleMax has to show that its interpretation is within the plain statutory language. Unless this court finds ambiguity in the statutory language, it cannot venture beyond the statutory language to find a different meaning. *State v. Lucero*, 249 P.3d 1226, 1228 (2011) (“The starting point for determining legislative intent is the statute’s plain meaning; when a statute ‘is clear on its face, a court cannot go beyond the statute in determining legislative intent.’”).

a. Grace Period Deferment Agreement.

With regard to TitleMax’s Grace Period Deferment Agreement, NRS 604A.445(3)(b) states that the loan must be fully amortized. TitleMax admits that the loans are not fully amortized.¹² *Motion*, pp. 6-8. This should be enough to show that the transactions do not comply with Chapter 604A.

In addition, NRS 604A.210 states, “the licensee shall not charge the customer. . . [a]ny fees for granting such a grace period [] or . . . [a]ny additional fees or additional interest on the outstanding loan during such a grace period”. TitleMax states that it “unilaterally offers each borrower under the installment loan a grace period of deferment gratuitously . . .” *Motion*, p. 6, ln. 20-21. “Gratuitously” is defined as, “Given or received without cost or obligation: FREE.” Webster’s II New College Dictionary, 487 (1999). Contrary to NRS 604A.210’s prohibition against charging additional interest, TitleMax admits, and the examinations show, that TitleMax charges interest during the first seven months and during the last seven months when it is also charging the principle. *Motion*, pp. 6-8. The statutes limit the loan to a seven month loan that is fully amortized. NRS 604A.210; NRS 604A.445. Moreover, no additional interest is supposed to be charged during a grace period. NRS 604A.210. That means that TitleMax should not be charging interest during the first seven months and questions the

¹² “An ‘amortization plan’ for the payment of an indebtedness is one where there are partial payments of the principal, and accrued interest, at stated periods for a definite time, at the expiration of which the entire indebtedness will be extinguished.” Black’s Law Dictionary, 83 (6th Ed. 1980).

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1 propriety of the first seven months of the agreement. *Id.* According to NRS 604A.045¹³, the
2 grace period should occur after there is a default. In this case, there is no default prior to the
3 initiation of the alleged grace period. In reality, the alleged grace period extends the loan.
4 Because the loan is intended to be closed ended with a maximum term of seven months,
5 TitleMax can only offer a seven month loan that is fully amortized. By collecting seven months
6 of interest before the seven-month statutory loan product is said to begin to get repaid with
7 amortized payments, TitleMax is collecting additional interest in violation of NRS 604A.210.

8 Consequently, TitleMax is not likely to succeed on the merits.

9 **b. Title Loans and Non-Owners of the Vehicles.**

10 With regard to the title loans, TitleMax is not only violating NAC 604A.230, it is violating
11 NRS 604A.105 and NRS 604A.115 by making loans to unauthorized persons. NRS 604A.105
12 restricts title loan borrowers to those who legally own the vehicle. The statute states that the
13 customer must secure the loan by either:

- 14 (1) Giving possession of the title to a vehicle legally owned by the
15 customer to the licensee or any agent, affiliate or subsidiary of the
16 licensee; or
17 (2) Perfecting a security interest in the vehicle by having the name
of the licensee or any agent, affiliate or subsidiary of the licensee
noted on the title as a lienholder.

18 NRS 604A.105. Subsection 1 requires the customer to secure the loan by giving possession
19 of the title to TitleMax. *Id.* It also requires the customer to be the legal owner of the vehicle.
20 *Id.* The legal owner of the vehicle is listed on the title. NRS 604A.115 (defining "title" to mean
21 "a certificate of title or ownership issued pursuant to the laws of this State that identifies the
22 legal owner of a vehicle or any similar document issued pursuant to the laws of another
23 jurisdiction."). Consequently, the customer/borrower is the person whose name is on the title.
24 *Id.* If TitleMax's alleged co-borrower is not listed on the title, the person cannot be a borrower
25 and therefore cannot be a co-borrower. If they are not co-borrowers, what are they?

26
27
28 ¹³ "Default" means the failure of a customer to . . . (a) Make a scheduled payment on a loan on or before the due
date for the payment under the terms of a lawful loan agreement and any grace period that complies with the
provisions of NRS 604A.210 . . ." NRS 604A.045.

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1 TitleMax has not explained why they require an additional person in order to complete
2 the loan agreements. The answer to this question will likely be flushed out through an
3 administrative hearing process. In any event, pursuant to statute, title loans can only be made
4 to the person, or persons, named on the title. NRS 604A.105.

5 Consequently, TitleMax is not likely to succeed on the merits.

6 **2. TitleMax is not in danger of suffering irreparable harm.**

7 Because FID will succeed on the merits, this court does not even have to consider
8 whether this prong is met.

9 Nonetheless, in order to succeed on a motion for preliminary injunction, TitleMax must
10 prove that the FIDs conduct, if allowed to continue, will cause irreparable harm for which
11 compensatory relief is inadequate. *Finkel v. Cashman Profl, Inc.*, 128 Nev.Adv.Op. 6, 270
12 P.3d 1259 (2012). On review, a finding of irreparable harm will be reversed if not supported
13 by substantial evidence. *Id.* A decision that is not supported by substantial evidence is
14 considered arbitrary and capricious and therefore would be an abuse of discretion. *Finkel*,
15 270 P.3d at 1262, *quoting Stratosphere Gaming Corp. v. Las Vegas*, 120 Nev. 523, 528, 96
16 P.3d 753 (2004). The Nevada Supreme Court has defined substantial evidence as "that
17 quantity and quality of evidence which a reasonable man could accept as adequate to support
18 a conclusion." *Dubray v. Coeur Rochester, Inc., et al.*, 112 Nev. 332, 334, 913 P.2d 1289,
19 1290 (1996) (quoting *Maxwell v. State Indus. Ins. Sys.*, 109 Nev. 327, 331, 849 P.2d 267, 270
20 (1993) (citation omitted)). TitleMax's argument that it has and will suffer economic damages
21 must fail first because the alleged lost profits are made in violation of the statutes at issue
22 and, secondly, it therefore cannot produced any substantial evidence of the alleged harm.

23 TitleMax alleges that the statutory administrative remedies enacted by the Legislature
24 are the proposed causes of its asserted irreparable harm. This argument is nonsensical. As
25 explained above, the Legislature simply wouldn't waste all the time and resources involved in
26 creating the statutory remedies if it didn't want them to be used. Moreover, the administrative
27 remedies are the means by which FID pursues compliance.

28 TitleMax argues that any of the statutory remedies "would interfere with TitleMax's

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1 business, which constitutes irreparable injury." *Motion*, p. 11, ln. 21-22. The problem with this
2 argument is that TitleMax has been making money that it shouldn't be making because it is
3 violating the statutes at issue in this case. Because FID's interpretation is correct, there is no
4 harm to TitleMax by stopping it from collecting additional interest that it should not collect and
5 making title loans that it should not make. Offering due process to TitleMax via an NRS
6 604A.820 hearing does not create irreparable harm. In addition, nothing prohibits TitleMax
7 from attempting to obtain an injunction prohibiting imposition of a suspension should that be
8 the outcome of a hearing. Though the FID would argue against it and argue that an NRS
9 233B.130 judicial review would be the appropriate remedy and an adequate legal remedy and
10 that such a decision would remain enforceable until reversed or modified, TitleMax could try
11 again. Allowing the FID to enforce its procedures to put an end to these statutory violations
12 does not create irreparable harm. Indeed, it affords Chapter 604A licensees the treatment
13 prescribed by the Legislature.

14 Accordingly, TitleMax has failed to show that the FID's conduct, if allowed to continue,
15 will cause irreparable harm for which compensatory relief is inadequate.

16 **3. Protection of the Public.**

17 TitleMax characterizes the harm to the public as an "inconvenience" to FID. TitleMax's
18 failure to comply with the statutes is the catalyst to this court being inconvenienced with a
19 matter over which it lacks subject matter jurisdiction and the inconvenience to FID having to
20 jump through these hoops and spend taxpayer resources to plead for the ability to enforce the
21 statutory remedies that the Legislature has directed be used in such cases. According to
22 TitleMax, FID is "an overly aggressive government entity." *Motion*, p. 12, ln. 11. Factually,
23 FID discovered statutory violations when conducting examinations in accordance with the
24 Legislature's direction. Having advised TitleMax of the violations, FID simply cannot be seen
25 as overly aggressive when all it is doing is following the statutory directives of the Legislature.
26 In fact, taking no action could possibly subject FID to a writ of mandamus¹⁴ and/or criticism for
27 not enforcing the statutes.

28 ¹⁴ *Danberg Holdings Nevada, LLC v. Douglas County*, 115 Nev. 129, 140, 978 P.2d 311 (1999).

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1 FID is statutorily obligated to police the activity of its licensees to maintain compliance. If
2 meeting its statutory obligations in this regard subjects it to being handcuffed by a preliminary
3 injunction, then the district courts are going to be doing FID's job and there is no reason for
4 NRS 604A.820 and NRS 604A.810 to even exist because they will have been rendered
5 meaningless.

6 In reality, the inconvenience referred to by TitleMax is the expenditure of public resources
7 to protect the public as intended by our Legislature. Titlemax has no right to carry on
8 business practices that violate Chapter 604A of the NRS and therefore TitleMax will not
9 endure any "substantial hardships." *Guion v. Terra Mktg. of Neva., Inc.*, 90 Nev. 237, 240,
10 523 P.2d 847, 848 (1974) ("The right to carry on a lawful business without obstruction is a
11 property right, and acts committed *without just cause or excuse* which interfere with the
12 carrying on of plaintiff's business or destroy its custom, its credit or its profits, do an
13 irreparable injury and thus authorize the issuance of an injunction." (citation omitted)
14 (emphasis added)); *Motion*, p. 12, ln. 8-9. To the contrary, TitleMax should not be allowed to
15 profit from violating the law.

16 As set forth above, the violations at issue result in borrowers paying more interest than
17 they should and title loans being made to people who shouldn't get them. An NRS 604A.820
18 hearing is an adequate remedy at law which will provide sufficient basis for the decision of the
19 hearing officer, even if the decision is to suspend the license, and to protect the public.

20 If this court grants an injunction, the public will continue to be harmed while the injunction
21 is in place. In addition, it's entirely possible that obtaining a final decision through this case
22 will take more time than represented by TitleMax. Whereas, a Chapter 233B petition for
23 judicial review could be filed in a fairly short amount of time and the process moves along
24 quickly.

25 CONCLUSION

26 TitleMax's Motion for Preliminary Injunction on Order Shortening Time should be
27 denied in its entirety because TitleMax has failed to exhaust its administrative remedies. In
28 the alternative, the motion should be denied because TitleMax has failed to show that it is

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1 likely to succeed on the merits or that it will suffer irreparable harm through an administrative
2 hearing that constitutes an adequate remedy at law.

3 Based on the foregoing, Defendant FID respectfully requests that this Honorable Court
4 deny TitleMax's Motion for Preliminary Injunction on Order Shortening Time in its entirety.

5 DATED this 6th day of October, 2015.

6 ADAM PAUL LAXALT
7 Attorney General

8
9 By: /s/ DAVID J. POPE
10 DAVID J. POPE
11 Sr. Deputy Attorney General
12 CHRISTOPHER ECCLES
13 Deputy Attorney General
14 Attorneys for Defendant
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CERTIFICATE OF SERVICE

I, hereby certify that on the 6th day of October, 2015, I served the **OPPOSITION TO MOTION FOR PRELIMINARY INJUNCTION ON ORDER SHORTENING TIME**, by causing to be delivered to the Department of General Services for mailing at Las Vegas, Nevada and via hand delivery, a true copy thereof, addressed to:

Pat Reilly, Esq.
Holland & Hart
9555 Hillwood Dr.
Las Vegas, Nevada 89134
Attorneys for Plaintiff

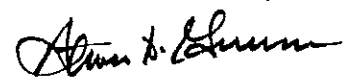
/s/ Debra Turman
An employee of Office of Attorney General

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EXHIBIT C

APP 015717

ROA 011040



CLERK OF THE COURT

REPLY
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DISTRICT COURT
CLARK COUNTY, NEVADA

TITLEMAX OF NEVADA, INC., a Nevada
corporation,

Plaintiffs,

vs.

STATE OF NEVADA, ex rel. it's
DEPARTMENT OF BUSINESS AND
INDUSTRY, FINANCIAL INSTITUTIONS
DIVISION,

Defendants.

Case No. A-15-719176-C
Dept No. XXI

**NEVADA FINANCIAL
INSTITUTIONS DIVISION'S REPLY
TO ITS MOTION TO DISMISS FOR
FAILURE TO EXHAUST
ADMINISTRATIVE REMEDIES**

Date of Hearing: December 9, 2015

Time of Hearing: 9:30 a.m.

COMES NOW, Defendant State of Nevada, ex rel. it's Department of Business and Industry, Financial Institutions Division, by and through its attorneys, Adam Paul Laxalt, Attorney General, and David J. Pope, Senior Deputy Attorney General and Christopher Eccles, Deputy Attorney General, and hereby files its Reply to its Motion to Dismiss for Failure to Exhaust Administrative Remedies. This Reply is based on all pleadings and

.....

.....

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1 papers on file herein, the attached Memorandum of Points and Authorities and any oral
2 arguments the Court may allow at the time of the hearing on this matter.

3 Respectfully submitted this 4th day of December, 2015.

4 ADAM PAUL LAXALT
5 Attorney General

6 By: /s/ DAVID J. POPE
7 David J. Pope
8 Senior Deputy Attorney General
9 Nevada Bar No. 8617
10 Christopher Eccles
11 Deputy Attorney General
12 Nevada Bar No. 9798
13 Attorneys for Nevada Department of
14 Business And Industry, Financial Institutions Division
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APP 015719

MEMORANDUM OF POINTS AND AUTHORITIES

1
2 In its Amended Complaint, TitleMax admits that FID has jurisdiction over the issues
3 raised in this case. In fact, FID has original jurisdiction and this court does not obtain
4 jurisdiction until TitleMax files a petition for judicial review, pursuant to Chapter 233B of the
5 NRS, seeking review of a final administrative decision. NRS 233B.130(6); see *Allstate*
6 *Insurance Co. v. Thorpe, M.D.*, 123 Nev. 565, 571 170 P.3d 989, 993 (2007) (stating,
7 "whether couched in terms of subject-matter jurisdiction or ripeness, a person generally
8 must exhaust all available administrative remedies before initiating a lawsuit, and failure to
9 do so renders the controversy nonjusticiable. The exhaustion doctrine gives administrative
10 agencies an opportunity to correct mistakes and conserves judicial resources, so its
11 purpose is valuable; requiring exhaustion of administrative remedies often resolves
12 disputes without the need for judicial involvement.").

13 Exhaustion of administrative remedies is the rule. With the adoption of the
14 Administrative Procedures Act in 1965, aka Chapter 233B of the NRS, the Legislature has
15 stated its intention that the provisions in such chapter "are the exclusive means of judicial
16 review of, or judicial action concerning, a final decision in a contested case involving an
17 agency to which this chapter applies." NRS 233B.130(6) (emphasis added).

18 TitleMax should not be allowed to strip the administrative process of its fact finding
19 duties. "The exhaustion doctrine is concerned with the timing of judicial review of
20 administrative action." *Nevada Power Co. v. Eighth Judicial District Court*, 120 Nev. 948,
21 959, 102 P.3d 578, 585 (2004). Judicial review of agency actions should not occur until
22 after there is a final agency decision in a contested case. NRS 233B.130. Contrary to
23 TitleMax's assertions that the administrative hearing is some sort of a reaction to TitleMax
24 commencing this case, TitleMax simply jumped ahead of the administrative proceedings
25 and is seeking declaratory relief and summary judgment to avoid the administrative
26 proceeding and potential administrative fines and voiding of contracts. NRS
27 604A.820(2)(b); NRS 604A.900; *TitleMax's Opposition to Motion to Dismiss, Exhibit 2*.

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1 TitleMax is also trying to avoid agency fact finding which will be given deference in a
2 Chapter 233B petition for judicial review proceeding. See *Galloway v. Truesdell*, 83 Nev.
3 13, 29, 422 P.2d 237 (1967) ("It is well settled that under the division of powers, these
4 ministerial fact-finding duties may not be delegated to courts . . ."); NRS 233B.135(3).

5 Exhaustion of administrative remedies is not required when it can be shown that
6 initiation of administrative proceedings would be futile.¹ In this case, TitleMax cannot show
7 that exhaustion would be futile because an administrative hearing process is underway and
8 documents are currently being submitted to the Administrative Law Judge and it cannot be
9 said that FID is precluded by statute from providing "any relief at all." *TitleMax's Opposition*
10 *to Motion to Dismiss, Exhibit 2; Benson v. State Engineer*, 358 P.3d 221, 225, 131
11 Nev.Adv.Op. 78 (2015) (explaining that this exception applies when that facts "prove that
12 the agency is statutorily precluded from granting a party any relief at all . . ." because the
13 statute of limitations within which to initiate such proceedings has passed. (emphasis
14 added). In addition, these issues have never been heard and FID has not obtained a
15 hearing decision regarding the issues. Moreover, the Administrative Law Judge is an
16 objective individual and TitleMax cannot show that the Administrative Law Judge's mind is
17 already made up. In *Benson*, the Nevada Supreme Court concluded, "we do not consider
18 administrative proceedings to be futile solely because the statute prevents the petitioner
19 from receiving his or her ideal remedy through administrative proceedings." 358 P.3d 221,
20 226 (2015).

21 Another exception to the exhaustion requirement is applicable when the issues
22 relate solely to the interpretation of the words in a statute or the constitutionality of the
23

24 ¹ In *Malecon Tobacco, LLC v. Dept. of Taxation*, 118 Nev. 837, 839, 59 P.3d 474 (2002), the Nevada Supreme
25 Court set forth two exceptions: (1) "when the issues 'relate solely to the interpretation or constitutionality of a
26 statute'"; and, (2) "when resort to administrative remedies would be futile." More recently, in *Benson v. State*
27 *Engineer*, 358 P.3d 221, 225, 131 Nev.Adv.Op. 78 (2015), the Nevada Supreme Court stated that the exhaustion
28 doctrine is excused "where initiation of administrative proceedings would be futile." Discussing the *Scotsman*
case, the *Benson* court noted that, because the three-year statute of limitations had passed, "[t]he statutory
procedure offer[ed] Scotsman no relief at all." *Id.* "Thus, when the facts of a particular case prove that the agency
is statutorily precluded from granting a party any relief at all, administrative proceedings are futile." *Id.* (citation
omitted). That is not the case here.

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1 statute. *Glusman v. Glusman*, 98 Nev. 412, 419, 651 P.2d 639 (1982) (explaining that the
2 Nevada Supreme Court stated that it had the discretion to not apply the exhaustion doctrine
3 "where the issues relate solely to the interpretation or constitutionality of a statute."
4 (emphasis added)); *State of Nevada, Dept. of Business and Industry, Financial Inst. Div. v.*
5 *Check City Partnership, LLC*, 337 P.3d 755, 758, n. 5, 130 Nev.Adv.Op. 90 (Nev. 2014)
6 ("Exhaustion is not required where, as here, the only issue is the interpretation of a
7 statute.") (emphasis added). TitleMax has not asserted any constitutional issues. Though
8 TitleMax asserts that the issues are related only to statutory interpretation, TitleMax is
9 seeking a determination that its business practices fit within the statutory limitations which
10 is a mixed question of law and fact. Moreover, these are issues over which FID has
11 original jurisdiction. Consequently, this exception is not applicable and this court should
12 allow the facts to be decided through the administrative proceedings. *Malecon*, 118 Nev.
13 837, 840-841 (2002); *Galloway*, 83 Nev. 13, 29.

14 The failure to exhaust administrative remedies deprives this court of jurisdiction
15 and/or renders this case non-justiciable. This court should not review an agency's
16 application of its own statutes before the agency has a chance to obtain a final
17 administrative decision regarding its own interpretation and actions through an
18 administrative proceeding. See *Allstate Insurance Co. v. Thorpe, M.D.*, 123 Nev. 565, 571,
19 170 P.3d 989, 993 (2007) (stating, "whether couched in terms of subject-matter jurisdiction
20 or ripeness, a person generally must exhaust all available administrative remedies before
21 initiating a lawsuit, and failure to do so renders the controversy nonjusticiable."); See *City of*
22 *Henderson v. Kilgore*, 122 Nev. 331, 336-337, 131 P.3d 11 (2006) (the Court found that
23 because Kilgore had failed to exhaust his administrative remedies, the matter was not ripe
24 for district court review.); See *Malecon*, 118 Nev. 837, 840-841 (2002) (explaining that fact
25 finding should be done by the agency); See *Galloway*, 83 Nev. 13, 29, 422 P.2d 237 (1967)
26 ("It is well settled that under the division of powers, these ministerial fact-finding duties may
27 not be delegated to court . . .").

28 APP 015722

1 If TitleMax is given declaratory relief in this case, NRS 604A.820 and the FID's
2 original jurisdiction will be rendered meaningless. Statutory construction principles dictate
3 that such an outcome is to be avoided. *Harris Associates v. Clark County School District*,
4 119 Nev. 638, 642 (2003); *See Thorpe*, 123 Nev. 565, 571 (2007) (noting, "We have
5 previously stressed the importance of state agencies' exclusive original jurisdiction over
6 legislatively created administrative and regulatory schemes." (citation omitted). Further
7 providing, "[i]t is not conceivable that the legislature would give its extensive time and
8 attention to study, draft, meet, hear, discuss and pass this important piece of legislation
9 were it not to serve a useful purpose." (citation omitted)). The issues regarding who the
10 additional persons are and why they are included as parties to the loans and whether the
11 Grace Period Payment Deferment Agreements violate the statutes include issues of fact
12 and the issues fall within the original jurisdiction of FID.

13 In Averment #13 in the Amended Complaint, TitleMax states, "Based on the
14 examiner's incorrect application of NAC 604A.230, the FID issued a "Needs Improvement"
15 rating, thereby indicating that TitleMax had demonstrated less than satisfactory compliance
16 in the examination." NAC 604A.230 prohibits TitleMax from "requiring" or "accepting" a
17 guarantor to a transaction. Averment #12 states, "When there is a co-borrower not listed
18 on the title of the vehicle associated with said loan, the co-borrower becomes contractually
19 bound as a principal obligor, and not as a guarantor." Averment #11 states, "The FID
20 examiner concluded erroneously that the co-borrower was a 'guarantor' and that TitleMax
21 was violating NAC 604A.230." FID's examiner applied NAC 604A.230 to the facts as they
22 were seen by the examiner and determined that TitleMax either "required" or "accepted" a
23 guarantor. TitleMax's only explanation is that the additional parties to the loans are co-
24 borrowers. Yet, TitleMax has never stated why a non-owner of the vehicle is included as a
25 party to the loan. These missing facts create issues of fact.

26 In Averment #19 of the Amended Complaint, TitleMax states, "Based on the
27 examiner's incorrect interpretation of the foregoing statutes, the FID issued a 'Needs
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1 Improvement' rating thereby indicating that TitleMax had demonstrated less than
2 satisfactory compliance in the examination." The changes made in the Amended
3 Complaint do not change the outcome of this matter. Averment #17 states, "The ROEs
4 [(Reports of Examination)] provided that TitleMax violated NRS 604A.210 and NRS
5 604A.445 whenever a customer executed a grace period payment deferment agreement . .
6" NRS 604A.210 and NRS 604A.445 prohibit the collection of interest or fees during a
7 grace period and require that such a loan be ratably and fully amortized. In addition,
8 "Grace Period Payments Deferment Agreement," as used by TitleMax, is not a statutory
9 term. NRS 604A.010, et seq. Pursuant to TitleMax's documents, it charges more interest
10 via a Grace Period Payments Deferment Agreement than it charges via the 210 day
11 original loan. See *Opposition to Motion for Summary Judgment, Exhibit C* (Bates No. 011
12 and 016) (the total amount paid increases from \$7,212.73 to \$8,748.52 though the principle
13 remains the same amount of \$4,420.00). Yet, TitleMax asserts that no additional interest
14 or fees are collected. *Motion for Summary Judgment*, p. 11-13. TitleMax cannot disregard
15 the facts for the purpose of asserting that the issues are purely issues of statutory
16 interpretation. There are issues of fact.

17 The FID examiner looked at the facts and determined that TitleMax had not
18 complied with NRS 604A.210 and NRS 604A.445. The Grace Period Payments Deferment
19 Agreement is not allowed by statute because it nearly doubles the length of the statutorily
20 allowed 210 day loan, it does not ratably and fully amortize the amount of the loan and it
21 charges additional fees or interest for additional periods therefore there is no grace period.
22 *Opposition to Motion for Summary Judgment, Exhibit C* (Bates No. 016). Though it has
23 been represented that the first seven payments are interest only and the last seven
24 payments are principle only, the Grace Period Payment Deferment Agreement states: "You
25 acknowledge that simple interest is charged on the unpaid principal balance of this Loan
26 Agreement at the daily rate of 0.4663% from the date of this Loan Agreement until the
27 earlier of: (i) the date of your last payment as set forth in the original Payment Schedule; or
28

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(ii) payment in full. *Opposition to Motion for Summary Judgment, Exhibit C* (Bates No. 17). The agreement also says, "Now that the Payment Schedule has changed . . ." *Id.* The Payment Schedule changes but the Federal Truth-in-Lending Disclosures do not change to inform the customer of the increased finance charge. *Id.* (Bates No. 1). The stated finance charge is \$2,792.73 and the amount financed is \$4,420.00, for a total to be paid in the amount of \$7,212.73. *Id.* When the loan converts to a Grace Period Payments Deferment Agreement, the amount financed, or borrowed, doesn't change but the total of all payments increases to \$8,748.52. *Id.* (Bates No. 016). Because interest is charged on the entire principle for each of the first seven months, the finance charge increases by \$1,535.79. *Id.* (Bates Nos. 011 and 016). This increase in the finance charge is either additional interest or additional fees and is contrary to NRS 604A.210. TitleMax disagrees with this interpretation of the facts creating a question a fact.

If allowed to avoid an administrative hearing, TitleMax avoids the facts as determined by the examiner and any deference they may be given in accordance with NRS 233B.135 and related case law. *United Exposition Services, Co. v. State Industrial Insurance System*, 109 Nev. 421, 423, 851 P.2d 423, 424 (1993) ("It is well recognized that this court, in reviewing an administrative agency decision, will not substitute its judgment of the evidence for that of the administrative agency." (citation omitted). *Clements v. Airport Authority of Washoe County*, 111 Nev. 717, 722, 896 P.2d 458, 461 ("Although a reviewing court may decide pure legal questions without deference to an agency determination, an agency's conclusions of law which are closely related to the agency's view of the facts are entitled to deference and should not be disturbed if they are supported by substantial evidence.")

A. Contrary To TitleMax's Assertions, The Division Is Not Forum Shopping By Acting In Accordance With The Legislatively Adopted Administrative Remedies.

As set forth in the instant motion, FID has original jurisdiction over the issues asserted by TitleMax through this litigation. Because the agency has original jurisdiction,

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1 these issues will be properly decided through the administrative proceeding that is currently
2 pending before the Administrative Law Judge. Again, the administrative hearing is
3 proceeding pursuant to NRS 604A.820 and in accordance with the regulatory scheme
4 chosen by the Legislature.²

5 Contrary to TitleMax's assertions, the *Malecon*, NAS³ and *Check City* cases actually
6 support the FID's position. *Malecon* sets forth two exceptions to the exhaustion
7 requirement and stresses that fact-finding is to be done through the administrative
8 proceedings. 118 Nev. 837, 839-842, 59 P.3d 474, 476-477. *Malecon* and *Check City*
9 both state that issues of pure statutory interpretation are an exception to the exhaustion
10 requirement, but they merely set forth the exception and the applicability of the exception is
11 determined on a case-by-case basis.

12 In *Check City*, the issue was "whether NRS 604A.425 unambiguously states that the
13 25-percent cap includes both the principal amount borrowed and any interest or fees
14 charged." 337 P.3d 755, 756-757, 130 Nev.Adv.Op. 90 (2014). NRS 604A.425 states: "A
15 licensee shall not . . . [m]ake a deferred deposit loan that exceeds 25 percent of the
16 expected gross monthly income of the customer when the loan is made." Analyzing the
17 language of NRS 604A.425 and NRS 604A.050, the Nevada Supreme Court read the
18 statutory scheme as a whole and treated the issue as an issue of pure statutory
19 interpretation. *Id.* at 756-758.

20 In *Malecon*, the taxpayers were challenging the constitutionality of several statutes
21 as applied to them. 118 Nev. 837, 841. The Nevada Supreme Court determined that the
22 Taxpayers' complaint alleged a factual issue. *Id.* The Court stated, "The constitutionality of
23 the statutes challenged here, as applied, involves a factual evaluation, and this evaluation
24

25 ² TitleMax refers to the FID's enforcement of the regulatory scheme as an act of arrogance. *Opposition*, p. 8, In.
26 25. Case law describes administrative fact finding as ministerial duties. *Galloway v. Truesdell*, 83 Nev. 13, 29,
27 422 P.2d 237 (1967) ("It is well settled that under the division of powers, these ministerial fact-finding duties may
28 not be delegated to courts . . ."). FID is enforcing statutes adopted by the legislature and, according to the
separation of powers doctrine, this is what FID is supposed to do. *Id.*

³ *State of Nevada, Dept. of Business and Industry, Financial Institutions Div. v. Nevada Assoc. Services, Inc.*, 294
P.3d 1223, 128 Nev.Adv.Op. 34 (2012).

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1 is best left to the Department of Taxation, which can utilize its specialized skill and
2 knowledge to inquire into the facts of the case." *Id.* Similarly, the FID should be allowed to
3 inquire into the facts of the case at hand before this matter is brought before this court.⁴

4 In *NAS*, 294 P.3d 1223, 1227-1228 (Nev. 2012) the Nevada Supreme Court
5 determined that FID did not have jurisdiction to issue the advisory opinion or take
6 disciplinary action. That simply is not the case in the instant action. Here, FID has original
7 jurisdiction and has statutory authority to hold the pending hearing to resolve these issues.
8 Considering the *Benson* decision, TitleMax is drawing at straws and has no basis upon
9 which to assert that the *NAS* case renders the FID's position frivolous.⁵

10 Exceptions to the exhaustion requirement are determined on a case by case basis.
11 In this case, TitleMax inaccurately asserts that the basic facts are undisputed. Because
12 questions of fact exist, these issues are not purely questions of statutory interpretation and
13 the exception to the exhaustion requirement does not apply. In addition, exhaustion of
14 administrative remedies is not futile in this case.

15 FID is simply acting in accordance with the regulatory scheme set forth in Chapter
16 604A. Consequently, it cannot be said that FID is forum shopping.

17 **B. By Ignoring NRS 604A.105 And NRS 604A.115, TitleMax Has Created**
18 **Questions Of Fact And Therefor This Is Not Purely An Issue Of Statutory**
19 **Interpretation.**

20 NRS 604A.105 and NRS 604A.115 state that a customer, or borrower, must prove
21 that they are the legal owner of the vehicle being used to obtain the title loan. The statutory
22 language is clear. During the examination, TitleMax should have been able to show the
23 FID examiner that the additional persons on the loans were also legal owners of the

24 ⁴ The *Malecon* court determined that two administrative remedies existed: "(1) seeking a refund for illegally
25 collected taxes, or (2) seeking an advisory opinion from the Department regarding the constitutionality of the
26 statutes" Similarly, in the case at hand, TitleMax did not request an advisory opinion before taking the actions
27 at issue.

28 ⁵ In *Benson*, the Nevada Supreme Court stated, "This court has held that exhaustion is not required when
administrative proceedings are "vain and futile" or when the "agency clearly lacks jurisdiction." *Engelmann v.*
Westergard, 98 Nev. 348, 353, 647 P.2d 385, 389 (1982)." (emphasis added). 358 P.3d 221, 224 (Nev. 2015).
TitleMax cited to the *Engelmann* case in its opposition to the instant motion and yet it still argues that the *NAS*
case supports its position in the case at hand.

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1 vehicles. Rather than provide such information, or alternatively admit that the additional
2 persons were not legal owners, TitleMax avoids the real issue by arguing that the additional
3 owners are co-borrowers and not guarantors. This actually creates additional questions of
4 fact because TitleMax never provided any explanation as to why the additional person is
5 included on the loan and therefore these facts are missing.

6 In order to show that these additional persons are statutorily authorized borrowers,
7 TitleMax has to provide additional facts showing that they are legal owners of the vehicles.
8 Similarly, in order to prove that the additional persons are not guarantors, TitleMax has to
9 provide facts showing what purpose these additional persons serve in terms of the lending
10 agreement.

11 The statutes are too clear for TitleMax to be questioning whether a non-legal owner
12 of a vehicle can obtain a title loan against the vehicle the person doesn't own. The real
13 question is why are these additional people included on the loan? After this question is
14 answered through the administrative proceedings, the clear statutory language can be
15 applied to the facts.⁶

16 **C. The Grace Period Payments Deferment Agreement Is Not A Statutory**
17 **Compliant Product And There Are Questions Of Fact Related To It And**
18 **Therefor This Case Does Not Involve Pure Issues Of Statutory Interpretation.**

19 The lending product is not a statutorily compliant 210 loan because it charges
20 additional interest or fees in exchange for extending the repayment period. In addition, it

21 ⁶ TitleMax asserts that the following are undisputed facts: (1) that "TitleMax allows a co-borrower to be on a title
22 loan when the co-borrower is not on the title to the vehicle"; and, (2) "TitleMax provides a grace period on 210-day
23 installment loans . . ." *TitleMax's Opposition*, p. 3, pp. 10-15. Because there is no explanation as to why the
24 additional persons are included on the lending product and no proof that they are legal owners, it cannot be
25 determined, let alone agreed, that the additional persons are co-borrowers. If these additional persons are not
26 legal owners, they are not statutorily authorized customers/borrowers and therefore should not be on the loan.
27 NRS 604A.105; NRS 604A.115. In addition, "co-borrower" is not a term defined in Chapter 604A. Furthermore, no
28 definition of the term was found in Black's Law Dictionary (6th Ed. 1990). "Borrower" is defined as "[h]e to whom a
thing or money is lent at his request." Black's Law Dictionary, 185 (6th Ed. 1990). Because the statutes prohibit
lending to someone who doesn't own the vehicle, a non-owner cannot be a borrower and therefore cannot be a co-
borrower. NRS 604A.105; NRS 604A.115. In addition, no grace period is being provided and additional interest
and/or fees are being charged. Moreover, the Grace Period Payments Deferment Agreements are not statutorily
compliant 210 day loans. Therefore, these are not undisputed facts and TitleMax is merely making unsupported
assertions in the hope of obtaining an advisory opinion from this court. So, we are not applying undisputed facts to
the clear statutory language and TitleMax erroneously relies on the cases cited on page 3 of its opposition.

1 does not provide for a grace period even though its name attempts to indicate that it does.
2 As a result, the facts are not undisputed, as asserted by TitleMax. Because there are
3 questions of fact, the exception to the exhaustion requirement for pure issues of statutory
4 interpretation does not apply. See *Malecon*, 118 Nev. 837, 841 (2006) (the Court
5 determined that the complaint alleged a factual issue); See *Check City*, 337 P.3d 755, 758,
6 n. 5, 130 Nev.Adv.Op. 90 (Nev. 2014) ("Exhaustion is not required where, as here, the only
7 issue is the interpretation of a statute.").

8 **1. There is no grace period.**

9 TitleMax asserts that there is a grace period. As argued by FID in its Opposition to
10 the Motion for Summary Judgment, there is no grace period offered by the Grace Period
11 Payments Deferment agreement.

12 Pursuant to NRS 604A.070, the term "grace period" is defined as "any period of
13 deferment offered gratuitously by a licensee to a customer if the licensee complies with the
14 provisions of NRS 604A.210." "Deferment" is defined as "A postponement or extension to
15 a later time" Black's Law Dictionary, 421 (6th Ed. 1990). "Defer" is defined as "[d]elay;
16 put off; . . . postpone to a future time." *Id.* Because the Grace Period Payments Deferment
17 Agreements charge interest on the entire original outstanding principle for the first seven
18 periods and a payment is due in every period of the extended payment schedule, there is
19 no deferment. *Id.* In addition, "gratuitous" is defined as "[g]iven or received without cost or
20 obligation: FREE." Webster's II New College Dictionary, 487 (1999). Because TitleMax
21 charges more interest through the Grace Period Payments Deferment Agreement than
22 through the original 210 day loan, the extended repayment schedule offered through the
23 Grace Period Payments Deferment Agreement is not obtained for free and there is no
24 grace period. *Id.*

25 The term "grace period" is defined as "[a] period of extra time allowed for taking
26 some required action (such as making payment) without incurring the usual penalty for
27 being late." Black's Law Dictionary, 705 (7th Ed. 1999). The term is defined elsewhere as

28 **APP 015729**

1 "[t]he amount of time after a payment due date when no interest is charged." See Fn. 6,
2 *infra*. Based on what is known at this time, there is no grace period experienced when an
3 original 210 day loan is amended to become a Grace Periods Payment Deferment
4 Agreement. *Id*.

5 The statutory language of NRS 604A.070 is plain and unambiguous. Because
6 TitleMax is arguing that there is a grace period, there must be unknown facts which create
7 issues of fact that must be determined through the pending administrative proceeding.
8 *Malecon*, 118 Nev. 837, 841 (2002) (providing, "this evaluation [of facts] is best left to the
9 [agency], which can utilize its specialized skill and knowledge to inquire into the facts of the
10 case."); *Galloway v. Truesdell*, 83 Nev. 13, 29, 422 P.2d 237 (1967).

11 Therefore, TitleMax cannot say that it's undisputed that there is a grace period and
12 that there are no factual issues. The factual determinations should be made through the
13 pending administrative proceeding. *Malecon*, 118 Nev. 837, 841 (2002); *Galloway v.*
14 *Truesdell*, 83 Nev. 13, 29, 422 P.2d 237 (1967).

15 **2. TitleMax charges additional interest.**

16 TitleMax asserts that it doesn't charge additional interest. As argued by FID in its
17 Opposition to the Motion for Summary Judgment, any interest charged in excess of that
18 which could have been charged during the original 210 day loan is additional interest
19 charged in violation of NRS 604A.210.⁷

20 NRS 604A.210 states that grace periods can be given provided no fee is charged
21 and no additional fees or interest are charged on the outstanding loan. Reading the
22 statutory scheme as a whole, a licensee can charge 210 days of interest. NRS
23 604A.445(3); NRS 604A.210. Because TitleMax charges more interest through the Grace
24 Period Payments Deferment Agreements than it could during the original 210 loan,
25

26 ⁷ In the sample original 210 day loan contained in FID's *Opposition to Motion for Summary Judgment, Exhibit C*
27 (*Bates No. 011*), the total amount of the loan is \$7,212.73, the principle is \$4,420.00 and the total interest that can
28 be charged is \$2,792.73. *Id*. After the loan is amended and morphed into the Grace Period Payments Deferment
Agreement, the total amount of the loan increases to \$8,748.52 while the amount of the principle remains
\$4,420.00 which means that the interest increases from \$2,792.73 to \$4,328.52. *Id*.

1 TitleMax is charging additional interest or fees on the outstanding principle. Interest is not
2 charged during grace periods.⁸ Because no interest accrues during a grace period, the
3 only interest that can be charged is the statutorily allowed 210 days of interest. Any other
4 interest or fees charged constitute additional interest or fees charged in violation of NRS
5 604A.230. Charging interest during a grace period extends the loan in violation of NRS
6 604A.445(3)(c). The facts presented to this court to show that additional interest or fees
7 are being charged were not presented by TitleMax in the same way as they have been
8 presented by FID. TitleMax's assertions have glossed over the factual disputes. If
9 TitleMax actually agreed with the facts as seen by the FID, TitleMax would have to agree
10 with the FID that additional interest is being charged. But, TitleMax doesn't agree that
11 additional interest is being charged. Moreover, the different views of the facts have not
12 been presented to the Administrative Law Judge and findings of fact have not been made.
13 This fact-finding should be done through the administrative proceedings without
14 involvement of the courts. *Malecon*, 118 Nev. 837, 840-841 (2002); *Galloway v. Truesdell*,
15 83 Nev. 13, 29, 422 P.2d 237 (1967) ("It is well settled that under the division of powers,
16 these ministerial fact-finding duties may not be delegated to courts . . .").

17 Therefore, TitleMax cannot say that it's undisputed that no additional interest or fees
18 are charged or that there are no factual disputes.

19 **D. TitleMax Has An Adequate Remedy.**

20 In this case, the administrative hearing is proceeding pursuant to NRS 604A.820.
21 The subject matter of such hearing is the violations discovered during the examination. As
22 asserted in the Affidavit in *Exhibit C* attached to the instant motion to dismiss, the FID
23 completes the examination report, provides a copy to the licensee and thereafter the
24 licensee has the option of complying with the statutes or stating that it won't comply.

25
26 ⁸ "Grace Period" is "[t]he amount of time after a payment due date when no interest is charged."
27 <https://www.lendingtree.com/glossary/what-is-grace-period>. Also defined as "the number of days between a
28 consumer's credit card statement date and payment due date when interest does not accrue"
<http://www.investopedia.com/terms/grace-period-credit.asp>.

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1 Exhibits A and C. If the licensee decides not to comply, they'll either receive an NRS
2 604A.820 hearing or an NRS 604A.810 hearing.

3 TitleMax unconvincingly argues that there is no remedy by arguing that there is no
4 statutory authority for a licensee to challenge a report of examination. When licensees fall
5 out of compliance, or challenge the FID's interpretations, the administrative remedies are
6 set forth in Chapter 604A of the NRS and a licensee's violations noted in an exam report
7 can be presented in an administrative hearing.

8 Moreover, administrative hearings proceed in accordance with Chapter 233B of the
9 NRS. Licensees are afforded notice and an opportunity for a hearing. NRS 233B.121.
10 The parties have the ability to present evidence and examine witnesses. NRS 233B.123.
11 Upon being aggrieved by a final written decision, licensees can file a petition for judicial
12 review pursuant to NRS 233B.130.

13 These statutory remedies are not made up. Moreover, they are adequate remedies and
14 should not be bypassed on the baseless claims of TitleMax that it had no other option but
15 to seek declaratory relief. *TitleMax's Opposition*, p. 8. Ln. 12-14.⁹

16 **E. Titlemax Has Failed To State A Claim Upon Which Relief Can Be Granted.**

17 For all the reasons stated, this court does not have jurisdiction and the case is not
18 justiciable and/or is not ripe. A purpose of the exhaustion requirement is to potentially take
19 care of contested cases without the need for court involvement or resources and to
20 otherwise obtain a final agency decision rendering the matter a justiciable case in
21 controversy. *Thorpe*, 123 Nev. 565, 571 (2007). Until there is a final agency decision, this
22 court cannot hear this matter and it must be dismissed. *Id.*; *See Doe v. Bryan*, 102 Nev.
23 523, 525, 728 P.2d 443, 444 (1986) (stating, "the issue involved in the controversy must be
24 ripe for judicial review.").

25
26 ⁹ TitleMax seems to disrespectfully assert that this court would be "foisting" the Legislatively approved statutory
27 hearing as an adequate remedy. *TitleMax's Opposition*, p. 8, ln. 15. TitleMax subjects itself to the administrative
28 remedy when it takes action before, and/or without, seeking advice from the FID and deciding not to comply with
the FID's advice after FID discovers the violations, provides notice of the violations and gives direction as to how to
comply through the exam process.

1 TitleMax has not been aggrieved by a final agency decision. NRS 233B.130 states
2 that a party to an administrative proceeding who is aggrieved by a final agency decision
3 can file a petition for judicial review seeking the courts review of the final decision.
4 Because TitleMax has not yet been aggrieved by a final agency decision, this matter is not
5 ripe for review.¹⁰ Because it's not ripe and/or the court lacks jurisdiction, there is no merit
6 to TitleMax's claims and no claim upon which relief can be granted has been stated or can
7 be stated.

8 Moreover, similar motions to dismiss for failure to exhaust administrative remedies
9 based on NRCP 12(b)(5) were filed in *Harrah's Operating Co., Inc. v. State, Dept. of*
10 *Taxation*, 321 P.3d 850, 2014 WL 1096723 (2014) and *Sierra Pacific Power Co., et al. v.*
11 *Dept. of Taxation, et al.*, 338 P.3d 1244 (Nev. 2014). See *Exhibit D*.¹¹ The motions were
12 never rendered ineffective for the reason that they were brought pursuant to NRCP
13 12(b)(5).

14 TitleMax argues that Nevada is a notice pleading state, and it is. Though the instant
15 motion is not a pleading, it has provided plenty of notice regarding the issues. NRCP 7.

16 TitleMax was made well aware of the issue, *i.e.* failure to exhaust administrative
17 remedies, and responded. More recent case law indicates that failure to exhaust is an
18 issue of non-justiciability. See *Thorpe*, 123 Nev. 565, 571, 170 P.3d 989 (2009) (stating,
19 "whether couched in terms of subject matter jurisdiction or ripeness, a person generally
20 must exhaust all available administrative remedies before initiating a law suit, and failure to
21 do renders the controversy nonjusticiable."); See *City of Henderson v. Kilgore*, 122 Nev.
22 331, 336-337, 131 P.3d 11 (2006) (the Court found that because Kilgore had failed to
23 exhaust administrative remedies, the matter was not ripe for district court review). Based
24 on case law, FID could have asserted NRCP 12(b)(5) and/or NRCP 12(b)(1). Nonetheless,
25

26 ¹⁰ *Thorpe*, 123 Nev. 565, 571, 170 P.3d 989 (2007).

27 ¹¹ Though the cited cases are published, the related writ petition cases were not published. The Department is not
28 attempting to cite to matters in violation of SCR 123, but offers the motions to dismiss as either relevant to each of
the cited cases as "law of the case," respectively, which is an exception stated within SCR 123, and/or as
persuasive examples of similar motions brought pursuant to NRCP 12(b)(5).

1 because the issues are not ripe, TitleMax cannot state a claim upon which relief can be
2 granted. Consequently, this court can and should dismiss this case.¹²

3 **F. The Futility Exception Does Not Apply.**

4 In support of its argument that the futility exception applies, TitleMax cites to *State v.*
5 *Scotsman Mfg. Co.*, 109 Nev. 252, 255, 849 P.2d 317, 319 (1993), *Malecon*, 118 Nev. 837,
6 839 and *Engelman v. Westergard*,¹³ 98 Nev. 348, 647 P.2d 385 (1982).¹⁴ In *Scotsman*, the
7 Nevada Supreme Court determined that it would have been futile to require Scotsman to
8 submit administrative refund requests because the time for doing so had already passed
9 and the Nevada Supreme Court had already determined that the sales tax assessment was
10 unconstitutional and granted a refund. 109 Nev. 252, 253. Moreover, the *Scotsman* court
11 also determined that barring the refund would have been contrary to the United States
12 Supreme Court's decision in *McKesson Corp. v. Division of Alcoholic Beverages and*
13 *Tobacco*, 496 U.S. 18, 31, 110 S.Ct. 2238, 2247 (1990). No such facts exist in this case.¹⁵
14 The *Scotsman* court stated, "The statutory procedure offers Scotsman no relief at all given
15 the three-year period of limitations invoked by the state" because the refund claims would
16 have been time barred. *Scotsman*, 109 Nev. 252, 255 (1993) (citation omitted).

17 TitleMax cited to *Malecon* to cite to *Karches v. City of Cincinnati*, 526 N.E.2d 1350,
18 1355-56 (Ohio 1988), which is not a Nevada case, for the purpose of arguing that
19 exhaustion is not required when "administrative remedies would be futile or unusually
20 onerous." *TitleMax's Opposition*, p. 9, ln. 5. The pending administrative hearing is not
21 "onerous or unusually expensive" as compared to what the *Karches* went through. 526
22 N.E.2d 1350, 1355-57. To the extent the *Karches* decision indicates that exhaustion is not
23 required when there is no administrative remedy available which can provide the relief

24
25 ¹² FID cited to NRCP 12(b) generally and specifically mentioned NRCP 12(b)(5). Even if its determined that FID
26 should have cited NRCP 12(b)(1), "[i]f a judgment or order of a trial court reaches the right result, although it is
based on an incorrect ground, the judgment or order will be affirmed on appeal." *D. Wyatt v. State*, 86 Nev. 294,
298, 468 P.2d 338, 341 (1970) (citation omitted).

27 ¹³ The Nevada Supreme Court found that the administrative remedy was no longer viable because the 30 day
period for seeking an extension had expired two years earlier. 98 Nev. 348, 353.

28 ¹⁴ The rest of the cases cited to by TitleMax on this issue are non-Nevada cases.

¹⁵ Unlike *Scotsman*, TitleMax has not complied with the law under protest. 109 Nev. 252, 255 (1993).

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1 the PUC to address one issue implicated in the amended complaint . . .). In the case at
2 hand, there are technical issues to be determined through the administrative proceedings.
3 In addition, there is a desire for uniformity in regulation and there is a need for the
4 specialized knowledge of FID to be utilized via the administrative proceedings. The
5 reasons for the existence of the doctrine are present in this case and the purpose it serves
6 will be aided by its application.

7 **CONCLUSION**

8
9 Based on the foregoing, the Department respectfully requests that this Honorable
10 Court Order the following:

- 11 1. The Plaintiff's claims are dismissed;
12 2. The administrative hearing shall proceed; and,
13 3. Any other relief this court deems appropriate.

14 Respectfully submitted this 4th day of December, 2015.

15 ADAM PAUL LAXALT
16 Attorney General

17 By: /s/ DAVID J. POPE

18 David J. Pope
19 Senior Deputy Attorney General
20 Nevada Bar No. 8617
21 Christopher Eccles
22 Deputy Attorney General
23 Nevada Bar No. 9798
24 Attorneys for Nevada Department of
25 Business And Industry, Financial Institutions Division
26
27
28

APP 015735

CERTIFICATE OF SERVICE

(X) I hereby certify that I electronically filed the foregoing NEVADA FINANCIAL INSTITUTIONS DIVISION'S REPLY TO ITS MOTION TO DISMISS FOR FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES, along with Exhibits D – E, with the Clerk of the Court by using the electronic filing system on the 4th day of December, 2015.

The following participants in this case are registered electronic filing systems users and will be served electronically:

Patrick Reilly, Esq.
Nicole Lovelock, Esq.
Holland & Hart
9555 Hillwood Dr., 2nd Floor
Las Vegas, NV 89134

() I certify that some of the participants in the case are not registered electronic filing system users and I have mailed the foregoing documents by First-Class Mail, postage prepaid to:

() I certify that I have served the foregoing documents by First-Class Mail, postage prepaid and by e-mailing same to participant's personal e-mail address as follows:

/s/ Debra Turman
An employee of the Office of the Attorney General

APP 015736

BEFORE THE DEPARTMENT OF BUSINESS & INDUSTRY
LAS VEGAS, NEVADA

IN THE MATTER OF:
FINANCIAL INSTITUTIONS DIVISION,
Claimants,
v.
TITLEMAX OF NEVADA, INC. AND
TITLEBUCKS D/B/A TITLEMAX,
Respondents.

**ORDER DENYING MOTION FOR
DECLARATORY RULING AND TO
STAY DEADLINES**

This is a contested case in which Claimant FID requests the imposition of administrative penalties against Respondent TitleMax under NRS 604A.820. This matter is properly before me pursuant to NRS 233B.122.

Though initially set for hearing on November 5, 2015, I continued the proceedings in an order dated October 29, 201⁵~~6~~, to ensure the parties were fully noticed of the nature of the proceedings and prepared for hearing. I have continued various filing deadlines multiple times at the parties' request, with their joint evidentiary packet presently due on March 30, 2016. In the interim, the parties have each made multiple filings. This order will address TitleMax's February 12, 2016, motion for a declaratory ruling and to stay deadlines. Specifically, TitleMax requested that this tribunal issue a declaratory ruling concerning NAC 604A.230, 604A.210, and 604A.445 and stay nearly all deadlines in this administrative action until such a declaratory ruling is issued. Claimant FID responded in writing in an opposition brief dated February 24, 2016, and TitleMax filed its reply on March 10, 2016. TitleMax's motion is denied for the reasons explained below.

Nevada law provides a mechanism by which a person may request a declaratory order or advisory opinion from a state agency, "as to the applicability of any statutory

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1 provision, agency regulation or decision of the agency." NRS 233B.120. FID created
2 regulations, embodied in NAC 232.040, to govern this process that set forth the
3 procedural requirements for making such a request. The regulations specifically prohibit
4 interested persons from filing a request for a declaratory order "concerning a question
5 or matter that is an issue in an administrative, civil or criminal proceeding in which the
6 interested person is a party." NAC 232.040(4).

7 The prohibition in NAC 232.040(4) is fatal to TitleMax's motion. The central issue
8 in this administrative action is whether TitleMax has violated NAC 604A.230, 604A.210,
9 and 604A.445, and, of course, TitleMax is a party to this action. Therefore, TitleMax
10 may not request a declaratory order seeking the interpretation of those Code provisions.

11 Based on the foregoing, IT IS SO ORDERED:

12 TitleMax's request for a declaratory ruling is denied.

13 TitleMax's request for a stay of these proceedings pending the issuance of a
14 declaratory order is denied.

15 Dated this 18th day of March, 2016.

16
17 /s/ Denise S. McKay
18 Denise S. McKay
19 Administrative Law Judge
20 State of Nevada
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APP 015738

CERTIFICATE OF MAILING

I, Michelle Metivier, do hereby certify that I deposited in the U.S. mail, postage prepaid, via First Class Mail and Certified Return Receipt Requested, a true and correct copy of the foregoing ORDER DENYING MOTION FOR DECLARATORY RULING AND TO STAY DEADLINES to the following:

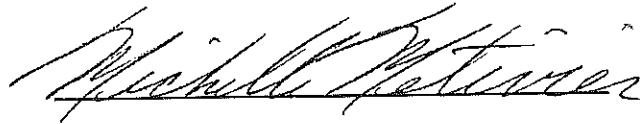
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Dated this 18th day of March, 2016.



APP 015739

ROA 011062

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Attorneys for TitleMax of Nevada, Inc.

**STATE OF NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION**

IN THE MATTER OF:

MOTION FOR CLARIFICATION

TITLEMAX OF NEVADA, INC. AND
TITLEBUCKS d/b/a TITLEMAX

TitleMax of Nevada, Inc. dba TitleMax and/or TitleBucks ("TitleMax"), by and through its attorneys of record, the law firm of Holland & Hart LLP, hereby requests clarification on the Order Denying Motion for Declaratory Ruling and to Stay Deadlines ("Order").

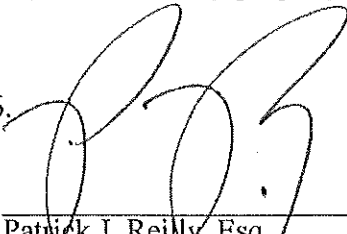
TitleMax seeks clarification from this tribunal as to the Administrative Law Judge's ability and willingness to interpret NRS 604A.210, NRS 604A.445, and NAC 604A.230. While the Order acknowledges that the "central issue in this administrative action is whether TitleMax has violated NAC 604A.230, [NRS] 604A.210, and [NRS] 604A.445...", the Order has made it unclear whether the competing interpretations of said law and regulation will be addressed by the Administrative Law Judge in this proceeding.

/ / /

/ / /

1 The issue that TitleMax seeks clarified by the instant Motion is whether the
2 Administrative Law Judge is confined to the legal interpretation set forth by the FID or is able to
3 make its own determination as to the interpretation of said law. TitleMax understands that the
4 Administrative Law Judge will review the factual evidence presented at the hearing and will
5 determine if TitleMax violated NRS 604A.210, NRS 604A.445, and NAC 604A.230, but it is
6 currently unclear if the Administrative Law Judge considers herself bound by the FID's
7 interpretation of NRS 604A.210, NRS 604A.445, and NAC 604A.230. TitleMax seeks this
8 clarification prior to the administrative hearing so that it may properly prepare for said hearing
9 and seek additional relief, if necessary.

10 DATED this 29th day of March 2016.

11 
12 Patrick J. Reilly, Esq.
13 Joseph G. Went, Esq.
14 HOLLAND & HART LLP
15 9555 Hillwood Drive, Second Floor
16 Las Vegas, Nevada 89134

17 *Attorneys for TitleMax of Nevada, Inc.*
18
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CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of March, 2016, a true and correct copy of the foregoing **MOTION FOR CLARIFICATION** was served by the following method(s):

☒ U.S. Mail: by depositing same in the United States mail, first class postage fully prepaid to the persons and addresses listed below:

Denise S. McKay, Esq.
Administrative Law Judge
Nevada Division of Business & Industry
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Hearing Officer

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Business and Industry Financial Institutions
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☒ Email: by electronically delivering a copy via email to the following e-mail address:

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An Employee of Holland & Hart LLP

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BEFORE THE
DEPARTMENT OF BUSINESS AND INDUSTRY

IN THE MATTER OF:

TITLEMAX OF NEVADA, INC. AND
TITLEBUCKS d/b/a TITLEMAX

JOINT EVIDENTIARY PACKET

I. Statement of the Nature of the Action and Contentions of the Parties.

A. Financial Institutions Division's Position

As a result of the 2015 examinations, the Financial Institutions Division ("FID") filed an administrative complaint asserting that TitleMax of Nevada, Inc. and Title Bucks d/b/a TitleMax (collectively "TitleMax") has violated Chapter 604A of the Nevada Revised Statutes and Nevada Administrative Code. This is a Chapter 233B contested case.

TitleMax violates NRS 604A.445 and NRS 604A.210 when it converts the original title loans to its Grace Period Payment Deferment Agreements. NRS 604A.445 provides that the original term of a title loan may be up to 210 days only if the payments are calculated to ratably and fully amortize the entire amount of the principal and interest payable on the loan, without any balloon payment of any kind. NRS 604A.445(3). In addition, the payments must be installment payments and the loan cannot be extended. *Id.* Because the Grace Period Payment Deferment Agreements extend the repayment period from seven months to fourteen months, TitleMax is extending the loan. Because the first seven payments are interest only payments and the last seven payments are principle only payments, the payments are not calculated to ratably and fully amortize the principle and interest. TitleMax is collecting interest on the full principle for the first seven payments and, as a result, TitleMax is collecting additional interest or fees in violation of NRS 604A.210. Moreover, TitleMax does not offer a gratuitous deferment as required by NRS 604A.070 and therefore there is no grace period – additional interest, or fees, are charged for additional time. This additional interest is not

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IN THE SUPREME COURT OF THE STATE OF NEVADA

TITLEMAX OF NEVADA, INC. and
TITLEBUCKS d/b/a
TITLEMAX, a Nevada corporation,

Respondent(s),
v.

STATE OF NEVADA,
DEPARTMENT OF BUSINESS
AND INDUSTRY FINANCIAL
INSTITUTIONS DIVISION,

Appellant(s).

Electronically Filed
Apr 19 2018 01:04 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No. 74335

District Court No. A-16-743134-J

APPELLANT'S APPENDIX

VOLUME 66 of 75

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DOCUMENT	VOL.	BATES NO.
Petition for Judicial Review, September 8, 2016	1	000001 - 000023
Notice of Intent to Participate, September 19, 2016	1	000024 - 000026
Summons, September 20, 2016	1	000027 - 000030
Appendix to Exhibits to Motion for Partial Stay, September 29, 2016	1	000031 - 000183
Declaration of Patrick Reilly In Support of Motion, September 29, 2016	1	000184 - 000187
Motion for Partial Stay of Administrative Order, September 29, 2016	1	000188 - 000218
Declaration of Rickisha Hightower-Singletary, October 3, 2016	1	000219 - 000222
Motion to Vacate Order Shortening Time, October 3, 2016	2	000223 - 000295
Opposition to Motion for Partial Stay, October 5, 2016	2 - 4	000296 - 000704
Reply Memorandum in Support of Motion for Partial Stay, October 10, 2016	4	000705 - 000790
Errata to TitleMax's Memorandum in Support of Motion for Partial Stay, October 18, 2016	4	000791 - 000793
Petitioner's Notice of Transmittal of Record of Proceedings, October 18, 2016	4 - 8	000794 - 001588

DOCUMENT	VOL.	BATES NO.
Transmittal of Record on Appeal, October 26, 2016	8 - 72	001589 - 017090
Notice of Filing Administrative Record, October 31, 2016	73	017090 - 017098
Errata to Opposition to Motion for Partial Stay, November 3, 2016	73	017099 - 017104
Order Granting Motion for Partial Stay of Administrative Order, November 22, 2016	73	017105 - 017108
Notice of Entry of Order Granting Motion for Partial Stay of Administrative Order, November 23, 2016	73	017109 - 017115
Memorandum of Points and Authorities in Support of Petition for Judicial Review, December 15, 2016	73	017116 - 017175
Notice of Entry of Stipulation and Order to Extend Time for Filing Answering Brief, December 20, 2016	73	017176 - 017183
Errata to Transmittal of Record on Appeal, January 27, 2017	73	017184 - 017187
Respondent's Answering Brief, February 6, 2017	73	017188 - 017214
Reply in Support of Memorandum of Points and Authorities in Support of Petition for Judicial Review, March 6, 2017	73	017215 - 017243
Request for Hearing, March 17, 2017	73	017244 - 017246
Supplemental Authorities, March 24, 2017	73	017247 - 017260
Errata to Opposition to Motion to Extend Partial Stay, April 4, 2017	73	017261 - 017264

DOCUMENT	VOL.	BATES NO.
Reply in Support of Motion to Extend Partial Stay, April 5, 2017	73	017265 - 017276
Opposition to Supplemental Authorities, April 5, 2017	73	017277 - 017287
Renewed Motion to Extend Partial Stay, April 21, 2017	73	017288 - 017300
Opposition to Renewed Motion to Extend Partial Stay, May 5, 2017	73	017301 - 017321
Reply in Support of Renewed Motion to Extend Partial Stay, May 11, 2017	73	017322 - 017332
Reply to Opposition to Supplemental Authorities, May 11, 2017	73, 74	017333 - 017354
Order Regarding Hearing and Briefing Schedule, May 30, 2017	74	017355 - 017357
Order Granting Motion to Extend Partial Stay and Allowing Supplemental Authorities, May 31, 2017	74	017358 - 017361
Declaration of Stephen Michael Paris Regarding Information Fields, May 31, 2017	74	017362 - 017365
Declaration of Stephen Michael Paris Regarding Procedures to Safeguard Accounting and Loan Docs, May 31, 2017	74	017366 - 017369
Notice of Entry of Order Regarding Hearing and Briefing Schedule, June 1, 2017	74	017370 - 017375

DOCUMENT	VOL.	BATES NO.
Notice of Entry of Order Granting Motion to Extend Partial Stay, June 1, 2017	74	017373 - 017382
Supplement to Supplemental Authorities, June 16, 2017	74	017383 - 017398
Response to Petitioner's Supplement to its Supplemental Authorities, July 20, 2017	74	017399 - 017403
Notice of Entry of Order Reversing ALJ, September 22, 2017	74	017404 - 017428
Motion for Supplemental Relief, October 2, 2017	74	017429 - 017436
Opposition to Motion for Supplemental Relief, October 2, 2017	74	017437 - 017457
Notice of Appeal, October 19, 2017	74	017458 - 017486
Case Appeal Statement, October 19, 2017	74	017487 - 017491
Stipulation and Order to Change Hearing Date for Motion for Supplemental Relief, October 31, 2017	74	017492 - 017494
Notice of Entry of Stipulation and Order to Change Hearing Date for Motion for Supplemental Relief, October 31, 2017	74	017495 - 017501
Reply in Support of Motion for Supplemental Relief, November 7, 2017	74	017507 - 017522
Recorder's Transcript of August 3, 2017 Proceedings, December 11, 2017	74, 75	017523 – 017587

DOCUMENT	VOL.	BATES NO.
Order Granting in Part and Denying in Part Motion for Supplemental Relief, January 10, 2018	75	017588 - 017591
Notice of Entry of Order Granting in Part and Denying in Part Motion for Supplemental Relief, January 11, 2018	75	017582 - 07599

EXAMINATION COMMENTS AND CONCLUSIONS

The text of the Amended Agreement provides:

“Because this is only an amendment and modification of the loan agreement in which we are only modifying and deferring your payments under the Title Loan Agreement, you acknowledge and agree that all of the terms and conditions of the Title Loan Agreement, including the charging of simple interest and waiver of jury trial and arbitration provision remain in full force and effect.”

This statement shows an intent to avoid compliance with NRS 604A.445 (3). Under the original loan agreement the customer makes seven fully amortized payments (210 days) to pay the loan off without a balloon payment at the end, thereby complying with all provisions of NRS 604A.445(3). But, under the Amended Agreement, the customer makes 14 payments (390 days), the first seven payments are interest payments only and last seven payments are principal payments. Thus, the Amended Agreement separates interest and principal from the original amortized schedule of payments, and thereby prolongs the payment of principal until the full interest is paid.

For an example of how customers owe more under the Amended Agreement compared to the original agreement, please see below:

OPEN ACCOUNTS

Loan Number	Customer Name	Total Amount to be Paid Under the Original Loan Agreement	Total Amount to be Paid under the “Amended Loan Agreement”	Overage
14569-0155085	M. Scanlan	\$1,819.80	\$2,233.10	\$413.30
14569-0155120	J. Cronin	\$5,079.66	\$6,188.83	\$1,109.17
14569-0160496	Q. Jackson	\$1,819.80	\$2,233.10	\$413.30
14569-0164135	O. Morris	\$3,465.55	\$4,238.60	\$773.05
14569-0149622	L. Lopez-Verdin	\$3,500.21	\$4,281.00	\$780.79
14569-0153006	N. Richmond	\$2,176.60	\$2,670.96	\$494.36

Management Response: Victoria Newman, Compliance and Corporate Counsel stated that the licensee would respond in writing upon receipt of the written report of examination for all locations.



STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

REPORT OF EXAMINATION

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EXAMINATION COMMENTS AND CONCLUSIONS

FEDERAL

No violations of Federal laws were noted during the examination. However, this examination should not be considered a full compliance examination relative to Federal statutes.

SUMMARY

Each licensee, upon completion of an examination, is rated "Satisfactory," "Needs Improvement," or "Unsatisfactory," based primarily on compliance with applicable statutes and regulations and the perceived capability of management to achieve and maintain such compliance. The rating of the licensee at this examination is "Unsatisfactory."

A rating of "Unsatisfactory" indicates that the licensee and the management of the licensee have demonstrated substantial lack of compliance with applicable laws and regulations and that immediate remedial action is required for the correction of the violations and deficiencies noted in the report made by the examiner pursuant to NRS and NAC. A rating of "Unsatisfactory" may be given if there were minor violations or deficiencies from a previous examination that were not corrected. Be advised that you may be subject to disciplinary action due to the nature of the violations. You may request an administrative hearing regarding the Division's findings of deficiencies and violations. If you do wish to request an administrative hearing, please state so in your response letter. A written response to the examination is required within 30 days outlining the actions that will be taken to correct all deficiencies and violations noted in the report. The Financial Institutions Division may conduct a follow up examination within three (3) months to ensure corrective actions have been implemented.



STATE OF NEVADA
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FINANCIAL INSTITUTIONS DIVISION

REPORT OF EXAMINATION

APP 015500

ROA 010823

CONFIDENTIAL – SUPERVISORY SECTION

EXAMINER(S):	OFFSITE	ONSITE		
Ma. Theresa Dihiansan	2.0		DATE OF LAST EXAM	December 18, 2014
Edwin Castillo	.50	3.25	RATING OF LAST EXAM	Needs Improvement
Dean Ventura		3.25	MANAGER(S)	Nikki Brandon
CLERICAL TIME	1.0		OFFICE HOURS	9:00am-7:00pm M-F; Sat. 10:00am-4:00pm
SUPERVISORY REVIEW	2.0		NUMBER OF EMPLOYEES	2
TOTAL BILLABLE HOURS	5.50	6.50	EXAMINATION RATING	Unsatisfactory

SEND REPORT TO (List only if address is different than what is listed on the cover page. If the only difference is the Attn: then list below who the Attn: should be):

TitleMax of Nevada, Inc.
DBA: TitleMax
Attn: Victoria Newman, Compliance and Corporate Counsel
15 Bull St., Suite 200
Savannah, GA 31401

At the exit meeting, the licensee stated that the report of examination could be transmitted electronically to Victoria Newman, Compliance and Corporate Counsel at Victoria.Newman@titlemax.com.

MANAGEMENT:

Young, Tracy, CEO
Wall, Kelly, Vice President
Lawson, Justin, Chief Pilot
Reed, Lindsey, VP of Talent Acquisition
Nelson, Elizabeth, Chief Accounting Officer
Bielss III, Otto, Chief Operating Officer
Lee, Carrie, Corporate Office Manager
Thomas, Lauren, SVP of HR and Administration
Wall, Christopher, SVP of Finance
Bellerby III, Thomas, CIO Dallas Corp
Hargrove, Matthew, Chief Operating Officer-Online
Carbone, Carrie, SVP Compliance & Product GC

REPORT OF EXAMINATION



STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

APP 015501

ROA 010824

CONFIDENTIAL – SUPERVISORY SECTION

Houck, Harold, SVP of Legal & General Counsel

COMMENTS:

The licensee's Surety Bond was verified on June 17, 2015 through Capitol Indemnity Corporation at 925-262-2711. Miguel Palma handed the examiner's verification and told the examiner that the surety bond is effective until February 15, 2016.

The primary contact during the examination process was Jasmine Henry, General Manager at 4077 W. Charleston Blvd., Las Vegas, NV 89102. Ms. Henry can be reached telephonically at 702-878-6800 or via email at TM-LasVegas-NV19@titlemax.com.

The contact person at the Corporate Office location in Savannah, GA was Victoria Newman, Compliance and Corporate Counsel. Her contact information is as follows:

Email: Victoria.Newman@titlemax.com
Phone: 912-503-2824

The alternate contact at the Corporate Office location in Savannah, GA was Melissa Woodard, Store Compliance Auditor. Her contact information is as follows:

Email: Melissa.Woodard@titlemax.com
Phone: 912-503-2820

Five examiners helped in this follow-up examination, namely:

- Ma. Theresa Dihiansan, Examiner-In-Charge
- Edwin Castillo, Secondary Examiner
- Dean Ventura, Secondary Examiner
- Kelvin Lam, Secondary Examiner
- Armando Berumen, Secondary Examiner

Three complaints were filed against the licensee during the examination period. Complaint number 68670 made by Esther Vasquez was still open as of the close date of the examination. This complaint was still under the investigation process.

Complaint Number 68615 was filed by Mark Peltier on May 11, 2015 and was responded to by the licensee on June 10, 2014. The response due date was June 4, 2015 which was six days late from response due date.



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CONFIDENTIAL – SUPERVISORY SECTION

Complaint Number 68634 was filed by Cloviel Smith Jr. on May 12, 2015 and was responded to by the licensee on June 8, 2015. The response due date was on June 4, 2015 which was four days late from response due date.

Suggestions for future examination

The next EIC should start at the main store location at 4077 W. Charleston Blvd., Las Vegas, NV 89102. The loan inventory is printed from the main store location and the manager's questionnaires will be dropped off at said location as well. Ms. Henry assisted in the printing of the loan inventory for all locations. The loan reviews for the Northern Nevada location was also completed at the main store location.

During the current examination, the Compliance Team of the licensee from Savannah, GA was in Las Vegas, Nevada and Ms. Victoria Newman was onsite during the start date of the examination. Ms. Victoria Newman collected all the Manager's Questionnaire for completion and was provided back to the EIC by mail.

It is recommended to the next EIC should increase the sampling for paid off loans.

Reviewed By: Harveen Sekhon
Harveen Sekhon
Supervisory Examiner



STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

REPORT OF EXAMINATION

APP 015503

ROA 010826

EXHIBIT “E”

EXHIBIT “E”

APP 015504

ROA 010827

STATE OF NEVADA



BRIAN SANDOVAL
Governor

DEPARTMENT OF BUSINESS AND INDUSTRY

FINANCIAL INSTITUTIONS DIVISION

BRUCE BRESLOW
Director

GEORGE E. BURNS
Commissioner

July 30, 2015

TitleMax of Nevada, Inc.
DBA: TitleMax
Attn: Victoria Newman, Compliance and Corporate Counsel
15 Bull St., Suite 200
Savannah, GA 31401
Victoria.Newman@titlemax.com

Dear Ms. Newman,

Enclosed for your review are the recent reports of examination for the 42 TitleMax of Nevada Inc licensed locations in Nevada, and one TitleMax of Nevada, Inc licensed location in Savannah, Georgia.

Please refer to the attached list for the locations details. You are reminded that all information contained in the reports and this cover letter is subject to the confidentiality restrictions described on the blue cover of the reports. Please ensure that all appropriate parties review the reports of examination in their entirety.

The examination resulted in two locations with "Satisfactory" ratings and forty-one locations with "Unsatisfactory" ratings. The satisfactory rating indicates that management has demonstrated sufficient compliance with applicable statutes and regulations, and any deficiencies noted in the reports can be corrected with minimum regulatory supervision.

The "Unsatisfactory" rating means that the licensee and its management have demonstrated substantial lack of compliance with applicable statutes and regulations. Immediate remedial action to correct the noted deficiencies is required. Be advised that you may be subject to disciplinary action due to the nature of the violations. You may request an administrative hearing regarding the Division's findings of deficiencies and violations. If you do wish to request an administrative hearing, please state so in your response letter.

A written response to the examination is required within 30 days outlining the actions that will be taken to correct all deficiencies and violations noted in the report. Please send your response to the Las Vegas location at the address listed below. The Financial Institutions Division may conduct a follow up examination within three (3) months to ensure corrective actions have been implemented. Should you have any questions or concerns, please do not hesitate to call me at 702-486-4120.

LAS VEGAS
Office of the Commissioner
2785 E. Desert Inn Road, Suite 180
Las Vegas, NV 89121
(702) 486-4120 Fax (702) 486-4563

NORTHERN NEVADA
Examination & CPA Office
1755 East Plumb Lane, Ste 243
Reno, NV 89502
(775) 688-1730 Fax (775) 688-1735
Web Address: <http://fid.state.nv.us>

CARSON CITY
Licensing Office
1830 College Parkway, Suite 100
Carson City, NV 89706
(775) 684-2970 Fax (775) 684-2977

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Should you have any questions or concerns, please do not hesitate to call me at 702-486-4120. Thank you for your cooperation during the examination process.

Sincerely,

Harveen Sekhon

Harveen Sekhon
Supervisory Examiner

Enclosure(s) – 43 Reports of Examination

The following forty-three licensed locations were examined:

Store	Address	City	State	Zip
TitleBucks	7150 S. DURANGO DRIVE, #190	LAS VEGAS	NV	89113
TitleMax	6820 W. FLAMINGO RD, SUITE F & G	LAS VEGAS	NV	89103
TitleMax	6525 S. FORT APACHE ROAD, STE 110	LAS VEGAS	NV	89148
TitleMax	3525 S. FORT APACHE ROAD, SUITE 160	LAS VEGAS	NV	89147
TitleMax	4700 SPRING MOUNTAIN ROAD	LAS VEGAS	NV	89102
TitleMax	3575 W. TROPICANA AVENUE	LAS VEGAS	NV	89103
TitleMax	5060 S. FORT APACHE ROAD, SUITE 140	LAS VEGAS	NV	89148
TitleMax	6795 W. TROPICANA AVENUE, SUITE 140	LAS VEGAS	NV	89103
TitleMax	7615 S. RAINBOW BLVD, STE 100	LAS VEGAS	NV	89139
TitleMax	7380 S. EASTERN AVENUE, SUITE 126	LAS VEGAS	NV	89123
TitleMax	3810 BLUE DIAMOND ROAD #150	LAS VEGAS	NV	89139
TitleMax	6530 S. DECATUR BLVD, #100	LAS VEGAS	NV	89118
TitleMax	9555 S. EASTERN AVE, SUITE 105	LAS VEGAS	NV	89123
TitleMax	3391 E. TROPICANA AVENUE, STE 1	LAS VEGAS	NV	89121
TitleMax	3547 S. MARYLAND PKWY	LAS VEGAS	NV	89169
TitleMax	3365 E. FLAMINGO ROAD, SUITE 1	LAS VEGAS	NV	89121
TitleMax	4749 S. MARYLAND PKWY	LAS VEGAS	NV	89119
TitleMax	4650 E. SUNSET ROAD, SUITE C	HENDERSON	NV	89014
TitleMax	16 W. HORIZON RIDGE PKWY #160	HENDERSON	NV	89012
TitleMax	4944 BOULDER HIGHWAY	LAS VEGAS	NV	89121
TitleMax	4000 BOULDER HWY, SUITE 5	LAS VEGAS	NV	89121
TitleMax	1210 N. BOULDER HWY, SUITE C	HENDERSON	NV	89011
TitleBucks	4150 BOULDER HIGHWAY, SUITE 105	LAS VEGAS	NV	89121
TitleMax	2400 N. BUFFALO DRIVE #140	LAS VEGAS	NV	89128
TitleMax	2550 S. EASTERN AVENUE	LAS VEGAS	NV	89169
TitleMax	6450 W. LAKE MEAD BLVD, STE 150	LAS VEGAS	NV	89108
TitleMax	3900 W. SAHARA AVENUE	LAS VEGAS	NV	89102
TitleMax	4811 WEST CRAIG ROAD	LAS VEGAS	NV	89130
TitleMax	6436 N. DECATUR BLVD., #115	LAS VEGAS	NV	89131
TitleMax	4077 W. CHARLESTON BLVD.	LAS VEGAS	NV	89102
TitleBucks	4750 W. LAKE MEAD, #102	LAS VEGAS	NV	89108
TitleMax	8414 W. FARM ROAD, SUITE 130	LAS VEGAS	NV	89131

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TitleMax	4001 N. LAS VEGAS BLVD.	LAS VEGAS	NV	89115
TitleMax	3220 S. VIRGINIA STREET	RENO	NV	89502
TitleMax	2020 E. WILLIAMS STREET	CARSON CITY	NV	89701
TitleMax	1995 W. WILLIAMS AVENUE	FALLON	NV	89406
TitleMax	900 W. FIFTH STREET	RENO	NV	89503
TitleMax	1600 N. NELLIS BLVD, SUITE 102	LAS VEGAS	NV	89115
TitleMax	1225 E. CHARLESTON BLVD.	LAS VEGAS	NV	89104
TitleMax	4741 E. CHARLESTON BLVD.	LAS VEGAS	NV	89104
TitleMax	15 BULL ST., SUITE 200	SAVANNAH	GA	31401
TitleBucks	6060 BOULDER HWY, SUITE 5 & 6	LAS VEGAS	NV	89122
TitleMax	5871 E LAKE MEAD BLVD	LAS VEGAS	NV	89156

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EXHIBIT “F”

EXHIBIT “F”

APP 015508

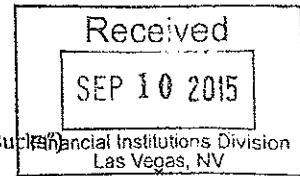
ROA 010831



September 9, 2015

VIA FEDERAL EXPRESS

Ma. Theresa Dihiansan, CAMLS, Examiner III
Department of Business and Industry
Financial Institutions Division
2785 E. Desert Inn Road, Suite 180
Las Vegas, NV 89121



RE: TitleMax of Nevada, Inc., d/b/a/ TitleMax ("TitleMax") and d/b/a TitleBucks ("TitleBucks") (TitleMax and TitleBucks may be collectively referred to herein as the "Companies")

Dear Ms. Dihiansan,

Thank you for this opportunity to respond to the recent examinations conducted by the Department of Business and Industry of thirty-eight (38) TitleMax licensed store locations, three (3) TitleBucks licensed store locations, and one (1) corporate location. We always seek to work closely with our regulators in an effort to attain the highest levels of compliance with applicable federal and state laws and regulations. To that end, we greatly appreciate the State of Nevada Department of Business and Industry Financial Institutions Division (the "Division") communicating with us regarding our policies and procedures.

NAC 604A.160 - Translation of documents written in language other than English. (NRS 604A.300)

Y. A licensee who uses a form or standard loan agreement written in Spanish as required by NRS. 604A.410, notice of opportunity to enter into a repayment plan written in Spanish as required by NRS. 604A.475, or other form or standard document written in a language other than English shall cause the documents to be translated into English and maintain together a copy of the documents and its English translation.

NRS. 604A.410 - Written loan agreement required; contents.

Y. Before making any loan to a customer, a licensee shall provide to the customer a written loan agreement which may be kept by the customer and which must be written in:

- Y. English, if the transaction is conducted in English; or**
(b) Spanish, if the transaction is conducted in Spanish.

These exceptions were cited in six (6) examinations (namely Examination Number 67885, 67853, 67854, 67864, 67883, and 67862). The Companies agree with the Division that offering a Spanish Loan Agreement and Notice of Opportunity to Enter into a Repayment Plan is a good business practice. The Companies have implemented an approved Spanish version of the Title Loan Agreement, Opportunity to Enter into a Repayment Plan, Repayment Plan Agreement, Grace Period Deferment Agreement, and Customer Receipt. All customers have the option to select either the English or Spanish version of these documents. The Companies believe they satisfy the requirements of these exceptions, as they offer both English and Spanish version of "... a written loan agreement which may be kept by the customer..." NRS. 604A.410 does not require that the Company offer a Spanish version of the Loan Application or Customer Affidavit in addition to the Title Loan Agreement; however, while the Customer Affidavit is written in English, the same verbiage is also referenced in the Title Loan Agreement, which is translated in Spanish.

Unfortunately, on three (3) of the aforementioned examinations (namely Examination Number 67862, 67854, and 67885), the store employees failed to provide the Repayment Plan Agreement/ Grace Period Deferment Agreement in the customers' initial language. We have implemented a process in our new point of sale system that automatically prints all required documents in the customer's primary language, thereby addressing the issue of the store employee errantly selecting the wrong version of these documents. We expect improved compliance with these regulations going forward.

NRS. 604A.450 - Title Loans; Prohibited acts by licensee regarding amount of loan and customer's ability to repay. A licensee who makes title loans shall not:

- 1. Make a title loan that exceeds the fair market value of the vehicle securing the title loan.**

This exception was cited in one (1) examination (namely Examination Number 67883). The examiner noted "the title loan amount of \$11,464.42 for Calton Francovich (Loan Number 12969-0113144) exceeds the fair market value of the vehicle, \$10,850.00." We believe the examiner cited this account in error. As you will see in the attached Title Loan Agreement, Mr. Francovich was loaned an amount of \$7,720.00 which is significantly lower than the fair market value of \$10,850.00. The examiner errantly noted the total of payments of \$11,464.42 as the title loan amount. Accordingly, because the Companies did not loan in excess of the fair market value of the vehicle, the Companies respectfully request that the Division revise its examination report to remove all references to this alleged violation.

• 15 Bull Street Ste 200 • Savannah, GA 31401 •

(912) 525-2675 • Fax (912) 525-2679

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NRS. 604A.475 - Repayment Plan

1. Before a licensee attempts to collect the outstanding balance on a loan in default by commencing any civil action or process of alternative dispute resolution or repossessing a vehicle, the licensee shall offer the customer an opportunity to enter into a repayment plan. The licensee:
 - (a) Is required to make the offer available to the customer for a period of at least 30 days after the date of default; and
 - (b) Is not required to make such an offer more than once for each loan.
2. If the licensee intends to commence any civil action or process of alternative dispute resolution or repossess a vehicle in an effort to collect a defaulted loan, the licensee shall deliver to the customer, not later than 15 days after the date of default, or not later than 5 days after a check is not paid upon presentment or an electronic transfer of money fails, whichever is later, written notice of the opportunity to enter into a repayment plan.

NAC 604A.170 - Delivery to customer of notice of opportunity to enter into a repayment plan. (NRS. 604A.300, 604A.475)

1. A licensee who is required to provide a customer with written notice of the opportunity to enter into a repayment plan pursuant to NRS. 604A.475 may deliver the written notice to the customer using any method of delivery that generates a record of the delivery.
2. A person who delivers a notice to a customer in person must execute an affidavit of delivery.

NAC 604A.700 - Required books and records.

1. Each licensee shall keep and use in his business such books and accounting records as are in accord with generally accepted accounting practices.
3. Each licensee shall preserve all such books and accounting records for at least 2 years after making the final entry therein.

NAC 604A.200 - Maintenance of books and records (NRS. 604A.300)

1. Except as otherwise provided in NRS. 604A.700, a licensee shall maintain for at least 3 years the original or a copy of each account, book, paper, written or electronic record or other document that concerns each loan or other transaction involving a customer in this State.
2. Except as otherwise provided in NRS. 604A.620, those records must be maintained at a place of business in this State designated by the licensee.

This exception was cited in one (1) examination (namely Examination Number 67884). The examiner noted James Galinato (Loan Number 13169-20124774) defaulted on April 6, 2015, and was not mailed an offer to enter into the repayment plan. We believe this account was cited in error. Mr. Galinato's payment was due on April 3, 2015, and subsequently he came in to make his payment on April 6, 2015, bringing him current. The offer to enter into the repayment plan, as noted by the statute listed above, is required no later than 15 days after default. As a best practice, the Companies mail these letters upon the 12th day after default. Accordingly, because the Companies were not required to send an offer to enter into a repayment plan, the Companies respectfully request that the Division revise its examination report to remove all references to this alleged violation.

NRS. 604A.700 - Required books and records.

2. Each licensee shall keep and use in his business such books and accounting records as are in accord with generally accepted accounting practices.
3. Each licensee shall preserve all such books and accounting records for at least 2 years after making the final entry therein.

NAC 604A.200 - Maintenance of books and records (NRS. 604A.300)

3. Except as otherwise provided in NRS. 604A.700, a licensee shall maintain for at least 3 years the original or a copy of each account, book, paper, written or electronic record or other document that concerns each loan or other transaction involving a customer in this State.
4. Except as otherwise provided in NRS. 604A.620, those records must be maintained at a place of business in this State designated by the licensee.

This exception was cited in one (1) examination (namely Examination Number 67850). Please find enclosed a copy of the Opportunity to Enter into a Repayment Plan and Certificate of Mailing for Kevin Gibson (Loan Number 13869-20158203). We apologize that this form was not available to the examiner while on site; however, the Companies respectfully request that the Division revise its audit report to remove all references to an alleged violation for failure to provide the Opportunity to Enter into a Repayment Plan for this account.

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NAC 604A.200 – Maintenance of books and records. (NRS. 604A.300)

1. Except as otherwise provided in NRS. 604A.700, a licensee shall maintain for at least 3 years the original or a copy of each account, book, paper, written or electronic record or other document that concerns each loan or other transaction involving a customer in this State.

NRS. 604A.470 – Partial payment on loan.

2. If a customer makes such a partial payment, the licensee shall give to the customer a receipt with the following information:
 - (a) The name and address of the licensee;
 - (b) The identification number assigned to the loan agreement or other information that identifies the loan;
 - (c) The date of the payment;
 - (d) The amount paid;
 - (e) An itemization of interest, charges, and fees;
 - (f) The balance due on the loan; and
 - (g) If more than one loan made by the licensee to the customer was outstanding at the time the payment was made, a statement indicating to which loan the payment was applied.

This exception was cited in one (1) examination (namely Examination Number 67876). Unfortunately, the store employees failed to retain a copy of the Customer Receipt provided to Reginald Johnson (Loan Number 11269-20159609) for his partial payment made on May 16, 2015. Store employees have been retrained on the importance of document retention and we expect improved compliance going forward.

NRS. 604A.475 – Repayment Plan

1. Before a licensee attempts to collect the outstanding balance on a loan in default by commencing any civil action or process of alternative dispute resolution or repossessing a vehicle, the licensee shall offer the customer an opportunity to enter into a repayment plan. The licensee:
 - (a) Is required to make the offer available to the customer for a period of at least 30 days after the date of default; and
 - (b) Is not required to make such an offer more than once for each loan.
2. If the licensee intends to commence any civil action or process of alternative dispute resolution or repossess a vehicle in an effort to collect a defaulted loan, the licensee shall deliver to the customer, not later than 15 days after the date of default, or not later than 5 days after a check is not paid upon presentment or an electronic transfer of money fails, whichever is later, written notice of the opportunity to enter into a repayment plan.

This exception was cited in one (1) examination (namely Examination Number 67876). Unfortunately, Michael Sage (Loan Number 11269-20133388) was errantly mailed an Opportunity to Enter into a Repayment Plan letter prior to the due date of his loan. Store employees have been retrained on checking all documents prior to mailing. We expect improved compliance with this regulation going forward.

NAC 604A.230 – Prohibited acts; Miscellaneous acts.

1. A licensee shall not:
 - (a) Require or accept a guarantor to a transaction entered into with a customer.

NRS 604A.105 – “Title loan” defined.

1. “Title loan” means a loan made to a customer pursuant to a loan agreement which, under its original terms
 - (b) Requires the customer to secure the loan by either:
 - (1) Giving possession of the title to a vehicle legally owned by the customer to the licensee or any agent, affiliate, or subsidiary of the licensee.

NRS 604A.115 – “Title to a vehicle” or “title” defined. “Title to a vehicle” or “title” means a certificate or title or ownership issued pursuant to the laws of the State that identifies the legal owner of a vehicle or any similar document issued pursuant to the laws of another jurisdiction.

These exceptions were cited in two examinations (namely Examination Numbers 67871 and 67862). The Companies do not require or permit a guarantor on any of their loans. If requested by the borrower, it is acceptable to have a co-borrower that is not listed on the Certificate of Title. When a co-borrower is added to an account who is not listed on the Certificate of Title, the co-borrower becomes contractually bound only after executing the loan agreement; the loan proceeds check is made payable according to the instructions of both borrowers. It is important to note; however, that the Companies' loans are non-recourse;

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accordingly, no borrower will be held liable for any deficiency balance in the event the full amount of the debt is ultimately deemed uncollectible.

Accordingly, because the Companies do not require or permit a guarantor on any of their loans, the Companies respectfully request that the Division revise its examination report to remove all references to this alleged violation.

NRS 604A.445 – Title Loans: Restrictions on duration of loan and periods of extension. Notwithstanding any other provision of this chapter to the contrary:

3. The original term of a title loan may be up to 210 days if:

- (a) The loan provides for payments in installments;**
- (b) The payments are calculated to ratably and fully amortize the entire amount of principal and interest payable on the loan;**
- (c) The loan is not subject to any extension; and**
- (d) The loan does not require a balloon payment of any kind.**

NRS 604A.210 – Chapter does not prohibit licensee from offering customer grace period. The provisions of this chapter do not prohibit a licensee from offering a customer a grace period on the repayment of a loan or an extension of a loan, except that the licensee shall not charge the customer:

- 1. Any fees for granting such a grace period; or**
- 2. Any additional fees or additional interest on the outstanding loan during such a grace period.**

These exceptions were cited in all but two (2) examinations (namely Examination Numbers 67892 and 67068). The Companies offer a 210-day installment loan product and charge interest at an annual rate in which the resulting Annual Percentage Rate exceeds 35% which the Division agrees is in compliance with NRS 604A.445 (3). The Companies require the customer to secure the loan by perfecting a security interest in the vehicle by the Company noting its lien on the title. Additionally, the Companies offer each borrower under the installment loan a grace period of deferment gratuitously (without additional charge) in compliance with NRS 604A.210 pursuant to the terms of a Grace Period Payments Deferment Agreement ("Deferment Agreement").

The Division has raised the issue of whether the Deferment Agreement violates NRS 604A.445 and NRS 604A.210. The Companies have a policy of working with customers and giving customers every opportunity to fulfill their contractual obligations. The Companies believe it is in the best interest of the consumer and the Companies to limit defaults in part because NRS 604A.455 in general prohibits title lenders from pursuing the customer personally for payment of the loan. Therefore, the Companies use repossession of the vehicle, generally as a last resort, as the remedy if the customer defaults. The Company's goal for each customer is to pay, not for the Company to repossess any motor vehicle.

As such, the Companies have adopted customer friendly policies to allow customers the grace period contemplated by the statute without additional charges in full compliance with NRS 604A.210. Please note the following provision of the Deferment Agreement (emphasis added):

Consideration. You acknowledge and agree that you and we entered into a Title Loan Agreement on _____ ("Loan Agreement.") Under the Title Loan Agreement, we agreed with you that we may subsequently offer you a "Grace Period" which is a gratuitous period of payments deferment. You agree that we are offering you a "Grace Period" and you are voluntarily accepting such offer after entering into a Loan Agreement pursuant to the provisions of NRS 604A.70 and NRS 604A.210. Please note that since this is a "Grace Period" it is not an "extension" as defined in NRS. 604A.065. **Under the Title Loan Agreement, your obligation to pay simple interest under the Loan Agreement remains unchanged. Other than the interest and fees originally provided for in the Title Loan Agreement, we do not charge you any additional fees or interest for entering into this Grace Period Payments Deferment Agreement.**

Each customer that selects the Deferment Agreement has the "right to rescind" and "prepay" under the Deferment Agreement. The Companies not only remind each customer of the simple interest charge, but also obtains each customer's written acknowledgement and agreement that simple interest continues to accrue as set forth in the Loan Agreement.

Acknowledgment of Simple Interest Accrual. You acknowledge that we use the simple interest method to calculate and accrue the interest owing under the Loan Agreement. Interest is not compounded under the Loan Agreement. You acknowledge that simple interest is charged on the outstanding principal balance. Payments will be applied first to accrued interest, second to outstanding charges, if any, and third to principal. We calculated and estimated the simple interest under the Loan Agreement and disclosed in the "Finance Charge" disclosure assuming you would pay each scheduled payment in the amount scheduled and on the scheduled Payment Dates. The original Payment Schedule in the Loan Agreement provided for payments which would ratably and fully amortize the entire Principal Amount and interest payable. The interest rate under the Loan Agreement remains unchanged. You acknowledge that simple interest is charged on the unpaid principal balance of this Loan Agreement at the daily rate of

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_____ % from the date of this Loan Agreement until the earlier of: (i) the due date of your last payment as set forth in the original Payment Schedule; or (ii) payment in full. Now that the Payment Schedule has changed, you acknowledge that the new Payment Schedule provided for in this Grace Period Payments Deferment Agreement, if followed, will ratably and fully amortize the entire Principal Amount and interest payable over a longer period of time than the original Payment Schedule in the Loan Agreement. As such you acknowledge and agree you will continue to incur interest as provided in the Loan Agreement. You further agree that in setting the amount of the payments and dates of the payments, we have estimated the accrued interest owing to us assuming you make the payments in the amounts scheduled and on the exact dates set forth in the Grace Periods Payments Deferment Schedule above. Early payments may decrease the amount of interest you owe. Making a payment in an amount greater than scheduled above may decrease the amount of interest you owe. Late payments may increase the amount of interest you owe. The amount of this increase or decrease will be reflected in the final payment. If an early payment is less than the scheduled installment, then you must pay the difference on or before the upcoming installment due date. You may request a payoff at any time.

Even though the law does not require a grace period, the Companies have adopted a customer friendly grace period. The Companies' "grace period" policy allows customers the opportunity to voluntarily extend their payment obligations, while at the same time reducing their monthly obligations. Our customers make informed decisions about their cash flow throughout the loan process. One of the benefits a customer may receive in entering into a Deferment Agreement is that the monthly payment for the customer is lower than originally scheduled under the loan agreement. While paying down debt has its benefits, equally important for many of our customers is reducing monthly payment obligations. Thus, many of our customers view the reduction in the monthly payment and resulting "cash flow cushion or margin" created thereby, as not only a valuable option, but also a benefit not afforded by others in the market. The Companies have realized that good business practices recognize that even though the Nevada Legislature did not mandate "grace periods," offering "grace periods" to customers makes good business sense and provides customers a much needed benefit—the ability to create monthly cash flow margin or cushion. The Companies make available its "grace period" program for those customers who want such option. The Companies operate its "grace period" program in full compliance with Nevada law.

Customers certainly may also make their payments as originally scheduled, even though they have entered into a Grace Period Payments Deferment Agreement. The Companies charge no type of penalty for customers desiring to pay off early and save interest. Likewise, customers always maintain a right to make payments under a Repayment Plan under NRS 604A.475. The Companies fully comply with NRS 604A.475 for those customers requesting a repayment plan after default.

The Companies do not charge "any fees for granting such a grace period" nor do the Companies charge "any additional fees or additional interest on the outstanding loan during such a grace period." It appears that the Division may be ignoring the word "additional" and construing NRS 604A.210 to prohibit "any interest on the outstanding loan during such a grace period." If the legislature had intended to ban the contract rate of interest during the grace period, it would not have inserted the word "additional" before "interest" in NRS 604A.210. Alternatively, the Division may be taking the position that the prohibition of "additional fees" or additional interest" means that the total interest on the loan for the entire period the loan is unpaid cannot exceed the total interest that would have been paid had the loan been fully repaid within 210 days. This view would again render the word "additional" meaningless. If there is a grace period, by definition, the borrower has not repaid the interest during the original term of a loan. As a result, the total interest for the original term plus the grace period would always be higher than interest only for the original term assuming the loan had been repaid pursuant to its original terms. Therefore, under the Division's possible interpretation, the word "additional" is again rendered meaningless since the legislature could have just omitted that word and prohibited all interest during the grace period and reached the same conclusion.

In fact, the legislative history involving NRS 604A.210 supports the Companies' position. In April 2005, AB 384, Sections 13 and 23 were re-written and added what would ultimately become NRS 604A.210. Section 23 originally prohibited a licensee from charging the following during a grace period:

1. Any fees for granting such a grace period; or
2. Any fees or interest on the outstanding loan during such a grace period.

The word "additional" was not yet part of the proposed legislation. In a PowerPoint presentation, Barbara Buckley described the original Section 23 as stating that "no fee or interest may be charged during a grace period". However, Ms. Buckley, in her presentation commented how changes had to be made to the wording to reach a consensus. She stated:

"We have worked on words and meanings; we have drafted, we have redrafted and I have tried to accommodate every good-faith business concern with this bill. Some provisions and changes that I have made I did not like, but we were trying to get you a consensus product with the limited amount of time by working with those who are just as appalled by these abuses as I am. I have submitted a summary (Exhibit G) of the sections amended in the mock-up of AB 384."

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In Exhibit G, the word "additional" was inserted into Section 23 such that a licensee *"cannot charge additional fees or interest on the outstanding loan during the grace period."* (Emphasis added.) This shows that the word "additional" was specifically added after the original bill was drafted and that the later addition of this one word must be given meaning. As a result, the legislature intended that interest at the contract rate could continue during the grace period.

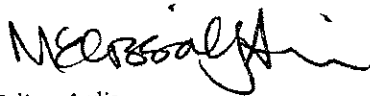
As an alternative to the 210-day single-pay loan, the Companies are willing to revert back to their prior approach with 30-day single pay loans, which the Companies believe are in full compliance with applicable law. Prior to rolling out the 210-day loan, the Companies offered a 30-day single - pay loan and allowed for six extensions as permitted by Nevada law. The issue raised by the Division was its interpretation that NRS 604A.450 obligates a lender to ensure that a borrower has the ability to fully repay a 30-day loan within 30-days without considering any extensions, the statutory repayment plan or any grace periods. As stated above, the Companies have long disagreed with the Division's interpretation since NRS 604A.450 only prohibits a lender from making a title loan *"without regard to the ability of the customer...to repay the title loan, including the customer's current and expected income, obligations and employment."*

In conclusion, the Companies believe it is in full compliance with Nevada law with respect to its 210-day loan plus Deferment Agreement, as evidenced by the legislative history of NRS 604A.210, but the Companies are willing to revert back to the 30-day loan product provided the Division does not take action regarding the Companies approach with the borrower's ability to repay.

The Companies appreciate the Division taking the opportunity to review this letter. Since our initial licensure, we have strived to comply with all federal and State of Nevada laws and regulations, and we assert that our policies and procedures comply with both federal and Nevada law.

We take pride in our diligent compliance efforts and strive for a "Satisfactory" rating. We respectfully request that the Division change its "Unsatisfactory" rating to "Satisfactory" for each of the 2015 examinations. If the Division believes that our analysis is incorrect or that our procedures will result in further negative regulatory findings, please respond to us in writing. Finally, we reserve the right to raise additional arguments, facts, and issues in future correspondence as necessary.

Sincerely,



Melissa Ardis
Director of Compliance
Phone: (912) 629-1541
Email: Melissa.ardis@titlemax.com

Cc: Victoria Newman, Compliance and Corporate Counsel

APP 015514

ROA 010837

Title Loan Agreement

Number: 12969-0113144

Date: 6/30/2014

Customer & Co-Customer Information		ACCOUNT NUMBER: 12969-0113144	
FIRST NAME Calton	LAST NAME Francovich	CO-CUSTOMER FIRST NAME	CO-CUSTOMER LAST NAME
SSN (SSN) XXX-XX-6908	DRIVERS LIC./STATE ID. NO NO.2002516743	CO-CUSTOMER SSN	CO-CUSTOMER'S DRIVERS LIC./STATE ID. NO.
STREET ADDRESS 2750 W. Wigwam Ave #1144		CO-CUSTOMER STREET ADDRESS	
City Las Vegas	STATE NV	ZIP CODE 89123	CO-CUSTOMER CITY CO-CUSTOMER STATE CO-CUSTOMER ZIP CODE
HOME PHONE (702)824-5118	DATE OF BIRTH 5/21/1951	CO-CUSTOMER HOME PHONE	CO-CUSTOMER DATE OF BIRTH
Motor Vehicle & Licensee Information		LICENSEE'S HOURS OF OPERATION: Monday to Friday 9:00 A.M. to 7:00 P.M., Saturday 10:00 A.M. to 4:00 P.M., Closed Sunday	
LICENSEE NAME TitleMax of Nevada, Inc. d/b/a TitleMax		LICENSEE PHONE NUMBER (702)474-0235	
LICENSEE STREET ADDRESS 4749 S. Maryland Pkwy		LICENSEE CITY Las Vegas	LICENSEE STATE NV
VEHICLE IDENTIFICATION NUMBER (VIN) KNDJC733365530775		LICENSE PLATE NW0282	
VEHICLE YEAR 2006	VEHICLE MAKE KIA	VEHICLE MODEL SORENTO	COLOR SILVER

Terms. In this Title Loan Agreement ("Loan Agreement"), "customer," "you," and "your" mean the customer who signed it. "Licensee," "we," "us" and "our" mean TitleMax of Nevada, Inc. d/b/a TitleMax, a title loan services provider licensed and regulated by the Nevada Financial Institutions Division, 2785 E Desert Inn Road, Suite 180, Las Vegas, Nevada 89121, Phone: (702) 486-4120, Fax: (702) 486-4563, <http://www.fid.state.nv.us/>. The word "Motor Vehicle" means the vehicle identified above. The word "Title" means a certificate of title or ownership to the Motor Vehicle.

Term, Principal, Interest, Charges and Payment. The original term of this loan is 210 days. You promise to timely pay us in cash or as otherwise agreed in writing \$7,720.00 ("Principal Amount"), which includes any filing fee listed below plus interest on the unpaid principal balance of this Loan Agreement at the daily rate of 0.3663% from the date of this Loan Agreement until 01/26/2015 the earlier of: (i) the due date of your last payment as set forth in the Payment Schedule below; or (ii) payment in full. You also promise to pay any other charges provided for under this Loan Agreement. You agree to make your payment in the amounts and on the dates set forth in the Payment Schedule below ("Due Date") at the address indicated above, or at such other address as we direct you in writing. If any Due Date falls on a date we are not open for business, then you agree to pay us on the next business day, and we will credit such payment, as if we received it on the appropriate Due Date. The Loan Agreement will be consummated upon the date you sign this Loan Agreement. Time is of the essence in this Loan Agreement. In consideration of your delivering the Title to us and granting us a security interest in the Motor Vehicle as set forth below, your promise to timely pay and agreeing to this Loan Agreement, we agree to provide you a loan in the Principal Amount provided above.

Any comments or questions may be directed to Customer Service at the following toll-free number: (800) 804-5368.

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FEDERAL TRUTH-IN-LENDING DISCLOSURES

ANNUAL PERCENTAGE RATE	FINANCE CHARGE	Amount Financed	Total of Payments
The cost of your credit as a yearly rate.	The dollar amount the credit will cost you.	The amount of credit provided to you or on your behalf.	The amount you will have paid after you have made all payments as scheduled.
133.7129 %	\$3,744.42	\$7,720.00	\$11,464.42

Your payment schedule will be:

Number of Payments	Amount of Payments	When Payments are Due
6	\$1,637.77	7/30/2014 and each 30 days thereafter
1	\$1,637.80	1/26/2015

Security: You are giving a security interest in the Title to the Motor Vehicle.

Filing Fee: \$20.00

Prepayment: If you pay off early, you will not have to pay a penalty, and you may be entitled to a refund of part of the finance charge.

See the terms below and on the other pages of this Loan Agreement for any additional information about nonpayment, default, any required repayment in full before the scheduled date and any prepayment refunds and penalties.

Itemization of Amount Financed of	\$7,720.00
1. Amount given to you directly:	\$7,700.00
2. Amount paid on your account:	\$0.00
3. Amount paid to public officials:	\$20.00
4. Amount paid to _____ on your behalf:	\$0.00

Calculation of Interest, Application of Payments and Security Interest.

We use the simple interest method to calculate the interest. We calculated the simple interest assuming you will pay on the scheduled Payment Dates. If you make your payments on the dates set forth in the Payment Schedule, the Finance Charge box above discloses the total amount of interest you will owe us under this Loan Agreement. Payments are calculated to ratably and fully amortize the entire Principal Amount and interest payable. Interest is not compounded. Early payments may decrease the amount of interest you owe. Late payments may increase the amount of interest you owe. The amount of this increase or decrease will be reflected in the final payment. If an early payment is less than the scheduled installment, then you must pay the difference on or before the upcoming installment due date. Payments will be applied first to accrued interest, second to outstanding charges, if any, and third to principal. We require you to give us possession of the Title, and you hereby give us possession of the Title. You grant us a security interest in the Motor Vehicle listed above. We will maintain possession of the Title during this Loan Agreement.

Right to Rescind and Prepayment.

You may rescind this loan pursuant to Nevada law. You may rescind before we close on our next business day, at the location listed above. We will not charge you any amount for rescinding. To rescind, you must deliver funds equal to the face value of the loan, less any fees charged. If you rescind, then we will return the Title to you, and refund any amount paid. You have the right to make payments in any amount in advance at any time without incurring any charge, fee or penalty. If you prepay any amount at any time, then the final payment amounts will be adjusted as appropriate to reflect any prepayments we receive. If you prepay pursuant to this Loan Agreement, then we will return the Title to you.

Grace Period. For purposes of this Loan Agreement, the term "grace period" means the gratuitous period of payments deferment (i) which we offer to you after entering into this Agreement pursuant to the provisions of NRS 604A.70 and NRS 604A.210, (ii) you voluntarily accept such terms of the payments deferment after entering into the Loan Agreement, and (iii) you and we agree to such terms of payments deferment in a written and signed "Grace Period Payments Deferment Agreement." We allow customers that are in good standing during the term of this Loan Agreement to request and enter into a Grace Period Payments Deferment Agreement. You may request and enter into a Grace Period Payments Deferment Agreement by returning to our store not earlier than one business day following the date of this Loan Agreement. If you enter into a Grace Period Payments Deferment Agreement, your obligation to pay simple interest under this Loan Agreement remains unchanged. Other than the interest and fees originally provided for in this Loan Agreement, we do not charge you any additional fees or interest for entering into a Grace Period Payments Deferment Agreement.

Any comments or questions may be directed to Customer Service at the following toll-free number: (800) 804-5368.

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Repayment Plan Disclosure: If you default on the loan, we must offer a Repayment Plan to you before we commence any civil action or process of alternative dispute resolution, or before we repossesses the Motor Vehicle.

Repayment Plan. If you default and are entitled to enter into a Repayment Plan, we will offer you a "Repayment Plan." We will give you the opportunity to enter into a Repayment Plan for 30 days after such default. The minimum term of the "Repayment Plan" is 90 days. We may require you to make an initial payment of not more than 20 percent of the total amount due under the terms of the Repayment Plan. We shall not except as otherwise provided by this NRS 604A, charge any other amount to you, including, without limitation, any amount or charge payable directly or indirectly by you and imposed directly or indirectly by us as an incident to or as a condition of entering into a repayment plan. Such an amount includes, without limitation: (i) any interest, regardless of the name given to the interest, other than the interest charged pursuant to the original loan agreement at a rate which does not exceed the annual percentage rate charged during the term of the original loan agreement; or (ii) any origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fee. We will not take additional security for entering into a Repayment Plan or attempt to collect an amount that is greater than the amount owed under the terms of the Repayment Plan. We will not sell you any insurance or require you to purchase insurance or any other goods or services to enter into the Repayment Plan. We will not make any other loan to you while you are in a Repayment Plan. **Upon default of your obligations under the Repayment Plan, we may repossess the Motor Vehicle.**

Default, Acceleration, Repossession, and Post-Default Interest.

You will be in default and entitled to enter into a Repayment Plan on the day immediately following the date you fail to (i) make a scheduled payment on this loan; (ii) make a scheduled payment on or before the due date for the payment under the terms Grace Period Payments Deferment Agreement; (iii) pay this loan in full on or before the expiration of the initial loan period as set forth herein unless you have entered into a Grace Period Payments Deferment Agreement; (iv) pay this loan in full on or before the expiration of the period as set forth Grace Period Payments Deferment Agreement; or (v) pay any payment under any Grace Period we have extended under NRS 604A.210. We may waive a default and reinstate your account to good status if you bring your account current or make satisfactory payment arrangements with us. However, we are not required to make an offer for you to enter into a Repayment Plan more than once for each loan. Provided that the due date of the repayment plan does not violate the provisions of Nevada Law, you will be in default and not entitled to enter into a Repayment Plan, if you fail (ii) to make a scheduled payment on this loan on or before the due date for the payment under the terms of any repayment plan relating to this loan or (ii) to pay a loan in full on or before the due date any repayment plan relating to the loan. If you are in default and entitled to enter into a Repayment Plan, we may accelerate the balance, but we cannot repossess the Motor Vehicle before offering you a Repayment Plan. If you are in default under the Loan Agreement and Grace Period Payments Deferment Agreement and not entitled to enter into a Repayment Plan or if you are in default under the Repayment Plan, we may seek repossession and sale of the Motor Vehicle as well as any other remedy allowed by Nevada law. If you use fraud to secure a title loan, or if you wrongfully transfer any interest in the Motor Vehicle to a third party, then we may bring a civil action against you for any or all of the following relief: (i) the amount of the loan obligation, including, without limitation, the aggregate amount of the interest, charges and fees negotiated and agreed to by us and you as permitted, less any prior payments made by you; (ii) reasonable attorney's fees and costs; and (iii) any other legal or equitable relief that the court or arbitrator deems appropriate. If we do not use one or more remedies following your default, we do not waive our right to the same or another remedy or remedies. Our rights herein are cumulative, not exclusive.

Governing Law and Assignment.

Nevada law governs this Loan Agreement, except the Federal Arbitration Act ("FAA") governs the Waiver of Jury Trial and Arbitration Provision. We may assign or transfer this Loan Agreement or any of our rights.

Affidavit. You acknowledge and agree that you provided us with an affidavit stating: (a) The customer provided licensee with true and correct information concerning the customer's income, obligations, employment and ownership of the Motor Vehicle; and (b) The customer has the ability to repay the title loan.

WAIVER OF JURY TRIAL AND ARBITRATION PROVISION. Arbitration is a process in which persons with a dispute: (a) waive their rights to file a lawsuit and proceed in court and to have a jury trial to resolve their disputes; and (b) agree, instead, to submit their disputes to a neutral third person (an "arbitrator") for a decision. Each party to the dispute has an opportunity to present some evidence to the arbitrator. Pre-arbitration discovery may be limited. Arbitration proceedings are private and less formal than court trials. The arbitrator will issue a final and binding decision resolving the dispute, which may be enforced as a court judgment. A court rarely overrules an arbitrator's decision. **THEREFORE, YOU ACKNOWLEDGE AND AGREE AS FOLLOWS:**

1. For purposes of this Waiver of Jury Trial and Arbitration Provision (hereinafter the "Arbitration Provision"), the words "dispute" and "disputes" are given the broadest possible meaning and include, without limitation (a) all claims, disputes, or controversies arising from or relating directly or indirectly to the signing of this Arbitration Provision, the validity and scope of this Arbitration Provision and any claim or attempt to set aside this Arbitration Provision; (b) all federal or state law claims, disputes or controversies, arising from or relating directly or indirectly to this Loan Agreement (including the Arbitration Provision), the information you gave us before entering into this Loan Agreement, and/or any past agreement or agreements between you and us; (c) all counterclaims, cross-claims and third-party claims; (d) all common law claims, based upon contract, tort, fraud, or other intentional torts; (e) all claims based upon a violation of any state or federal constitution, statute or regulation; (f) all claims asserted by us against you, including claims for money damages to collect any sum we claim you owe us; (g) all claims asserted by you individually against us and/or any of our employees, agents, directors, officers, shareholders, governors, managers, members, parent company or affiliated entities (hereinafter collectively referred to as "related third parties"), including claims for money damages and/or equitable or injunctive relief; (h) all claims asserted on your behalf by another person; (i) all claims asserted by you as a private attorney general, as representative and member of a class of persons, or in any other representative capacity, against us and/or related third parties (hereinafter referred to as "Representative Claims"); and/or (j) all claims arising from or relating directly or indirectly to the disclosure by us or related third parties of any non-public personal information about you.

Any comments or questions may be directed to Customer Service at the following toll-free number: (800) 804-5368.

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2. You acknowledge and agree that by entering into this Arbitration Provision:

- (a) YOU ARE WAIVING YOUR RIGHT TO HAVE A TRIAL BY JURY TO RESOLVE ANY DISPUTE ALLEGED AGAINST US OR RELATED THIRD PARTIES;
- (b) YOU ARE WAIVING YOUR RIGHT TO HAVE A COURT, OTHER THAN A SMALL CLAIMS TRIBUNAL, RESOLVE ANY DISPUTE ALLEGED AGAINST US OR RELATED THIRD PARTIES; and
- (c) YOU ARE WAIVING YOUR RIGHT TO SERVE AS A REPRESENTATIVE, AS A PRIVATE ATTORNEY GENERAL, OR IN ANY OTHER REPRESENTATIVE CAPACITY, AND/OR TO PARTICIPATE AS A MEMBER OF A CLASS OF CLAIMANTS, IN ANY LAWSUIT FILED AGAINST US AND/OR RELATED THIRD PARTIES.

3. Except as provided in Paragraph 8 below, all disputes including any Representative Claims against us and/or related third parties shall be resolved by binding arbitration only on an individual basis with you. **THEREFORE, THE ARBITRATOR SHALL NOT CONDUCT CLASS ARBITRATION; THAT IS, THE ARBITRATOR SHALL NOT ALLOW YOU TO SERVE AS A REPRESENTATIVE, AS A PRIVATE ATTORNEY GENERAL, OR IN ANY OTHER REPRESENTATIVE CAPACITY FOR OTHERS IN THE ARBITRATION.**

4. Any party to a dispute, including related third parties, may send the other party written notice by certified mail return receipt requested of their intent to arbitrate and setting forth the subject of the dispute along with the relief requested, even if a lawsuit has been filed. Regardless of who demands arbitration, you shall have the right to select either of the following arbitration organizations to administer the arbitration: the American Arbitration Association (1-800-778-7879) <http://www.adr.org>, or JAMS (1-800-352-6267) <http://www.jamsadr.com>. However, the parties may agree to select a local arbitrator who is an attorney, retired judge, or arbitrator registered and in good standing with an arbitration association and arbitrate pursuant to such arbitrator's rules. If the arbitration associations listed above are not available and the parties cannot otherwise agree on a substitute, then any party may petition a court pursuant to section 5 of the Federal Arbitration Act, 9 U.S.C. sections 1-16 to select an arbitration organization, provided such arbitration organization shall enforce the terms of this Loan Agreement and the Arbitration Provision, including the prohibition on class arbitration. The party receiving notice of arbitration will respond in writing by certified mail return receipt requested within twenty (20) days. If you demand arbitration, you must inform us in your demand of the arbitration organization you have selected or whether you desire to select a local arbitrator. If related third parties or we demand arbitration, you must notify us within twenty (20) days in writing by certified mail return receipt requested of your decision to select an arbitration organization or your desire to select a local arbitrator. If you fail to notify us, then we have the right to select an arbitration organization. The parties to such dispute will be governed by the rules and procedures of such arbitration organization applicable to consumer disputes, to the extent those rules and procedures do not contradict the express terms of this Loan Agreement or the Arbitration Provision, including the limitations on the arbitrator below. You may obtain a copy of the rules and procedures by contacting the arbitration organization listed above.

5. Regardless of who demands arbitration, we will advance your portion of the expenses associated with the arbitration, including the filing, administrative, hearing and arbitrator's fees ("Arbitration Fees"). Throughout the arbitration, each party shall bear his or her own attorneys' fees and expenses, such as witness and expert witness fees. The arbitrator shall apply applicable substantive law consistent with the FAA, and applicable statutes of limitation, and shall honor claims of privilege recognized at law. The arbitration hearing will be conducted in the county of your residence, or within 30 miles from such county, or in the county in which the transaction under this Loan Agreement occurred, or in such other place as shall be ordered by the arbitrator. The arbitrator may decide, with or without a hearing, any motion that is substantially similar to a motion to dismiss for failure to state a claim or a motion for summary judgment. In conducting the arbitration proceeding, the arbitrator shall not apply any federal or state rules of civil procedure or evidence. If allowed by statute or applicable law, the arbitrator may award statutory damages and/or reasonable attorneys' fees and expenses. If the arbitrator renders a decision or an award in your favor resolving the dispute, then you will not be responsible for reimbursing us for your portion of the Arbitration Fees, and we will reimburse you for any Arbitration Fees you have previously paid. If the arbitrator does not render a decision or an award in your favor resolving the dispute, then the arbitrator shall require you to reimburse us for the Arbitration Fees we have advanced, not to exceed the amount which would have been assessed as court costs if the dispute had been resolved by a state court with jurisdiction, less any Arbitration Fees you have previously paid. At the timely request of any party, the arbitrator shall provide a written explanation for the award. The arbitrator's award may be filed with any court having jurisdiction.

6. All parties, including related third parties, shall retain the right to seek adjudication in a small claims tribunal for disputes within the scope of such tribunal's jurisdiction. Any dispute, which cannot be adjudicated within the jurisdiction of a small claims tribunal, shall be resolved by binding arbitration. Any appeal of a judgment from a small claims tribunal shall be resolved by binding arbitration. Furthermore, nothing in this Arbitration Provision shall limit the right of you or us (a) to foreclose against the Motor Vehicle by the exercise of any power under the Loan Agreement or under applicable law, (b) to exercise self-help remedies such as set off or repossession, or (c) to obtain provisional or ancillary remedies such as pre-judgment seizure of property, detinue, replevin, or injunctive relief, or to seek or obtain any other traditional equitable relief which does not claim money damages from a court having jurisdiction. The institution and maintenance by you or us of any action set forth in this Paragraph 6 shall not constitute a waiver of the right to submit any dispute to arbitration, including any counterclaim asserted.

7. This Arbitration Provision is made pursuant to a transaction involving interstate commerce and shall be governed by the FAA. If a final non-appealable judgment of a court having jurisdiction over this transaction finds, for any reason, that the FAA does not apply to this transaction, then our agreement to arbitrate shall be governed by the arbitration law of the State of Nevada.

Any comments or questions may be directed to Customer Service at the following toll-free number: (800) 804-5368.

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8. This Arbitration Provision is binding upon and benefits you, your respective heirs, successors and assigns. The Arbitration Provision is binding upon and benefits us, our successors and assigns, and related third parties. The Arbitration Provision continues in full force and effect, even if your obligations have been prepaid, paid or discharged through bankruptcy. The Arbitration Provision survives any termination, amendment, expiration or performance of any transaction between you and us and continues in full force and effect unless you and we otherwise agree in writing.

9. **OPT-OUT PROCESS.** You may choose to opt-out of this Arbitration Provision but only by following the process set-forth below. If you do not wish to be subject to this Arbitration Provision, then you must notify us in writing within sixty (60) calendar days of the loan date at the following address: TitleMax of Nevada, Inc. d/b/a TitleMax, Attn: Legal Dept, P.O. Box 8323, Savannah, GA 31412. Your written notice must include your name, address, Account number, the loan date, and a statement that you wish to opt out of the Arbitration Provision. If you choose to opt out, then your choice will apply only to this Loan Agreement.

Acknowledgments. This Loan Agreement contains a binding **Waiver of Jury Trial and Arbitration Provision.** By signing this Loan Agreement you acknowledge that it was filled in before you did so and that you received a completed copy of it. You agree that the information you provided before entering into this Loan Agreement is accurate. You warrant that you are not a debtor under any proceeding in bankruptcy and have no intention to file a petition for relief under any chapter of the United States Bankruptcy Code. You agree that the amount of the loan does not exceed the fair market value of the Motor Vehicle. **You agree that you have the ability to repay this Loan Agreement, based upon your current and expected income, obligations, and employment.** You acknowledge that the loan does not require a balloon payment of any kind. You further acknowledge that you have read, understand, and agree to all of the terms of this Loan Agreement, including the **Waiver of Jury Trial and Arbitration Provision.**

THIS DOCUMENT IS SUBJECT TO A SECURITY INTEREST IN FAVOR OF, AND PLEDGED AS COLLATERAL TO, WELLS FARGO BANK, NATIONAL ASSOCIATION, AS COLLATERAL AGENT.

TitleMax of Nevada, Inc. d/b/a TitleMax

Customer's Signature

Date

Its Authorized Agent

Date

Co-Customer's Signature

Date

Any comments or questions may be directed to Customer Service at the following toll-free number: (800) 804-5368.

Page 5 of 5

TM TB.NV.installment-loan-agreement.2.04.2014

APP 015519

ROA 010842

TitleMax of Nevada, Inc. d/b/a TitleMax

5060 S. Fort Apache Road
Las Vegas, NV 89148
(702)220-4939
05/11/2015

KEVIN GIBSON
6114 Forever Dawn St
Las Vegas, NV 89148

Re: Opportunity to Enter into a Repayment Plan

Dear Customer:

On 03/28/2015 you entered a Title Loan Agreement ("Loan Agreement") with TitleMax of Nevada, Inc. d/b/a TitleMax, and, if applicable, on N/A you entered a Grace Period Payments Deferment Agreement with TitleMax of Nevada, Inc. d/b/a TitleMax. On 04/28/2015 ("Date of Default") you defaulted on your payment obligations under the Loan Agreement and, if applicable, the Grace Period Payments Deferment Agreement. Before we attempt to collect the outstanding balance by repossessing the Vehicle, we are offering you an opportunity to enter into a written AMENDMENT OF THE TITLE LOAN AGREEMENT TO ESTABLISH A REPAYMENT PLAN ("Repayment Plan").

You have the opportunity to enter into a Repayment Plan with a term of at least 90 days after

UNITED STATES
POSTAL SERVICE
Certificate of Mailing

The Certificate of Mailing provides evidence that mail has been presented to the post office for mailing. This form may be used for domestic and international mail.

to: TitleMax of Nevada
5060 S Fort Apache ste #1
Las Vegas, NV 89147
702-220-4939

KEVIN GIBSON
6114 FOREVER DAWN ST
LAS VEGAS NV 89148

PS Form 3817, April 2007 PSN 7530-02-000-9065

Date: 5/11/2015 Amount \$
Date: Amount \$

es by 05/27/2015 : (1) return to the
ble, the Grace Period Payments
re prepare; and (3) make an initial
ig balance on the original transaction
n:

Amount \$
Amount \$
Amount \$
Amount \$
Amount \$
Amount \$
Amount \$
Amount \$
Amount \$
Amount \$

The total amount due if you enter into a Repayment Plan on or before 05/27/2015 will be
\$2322.37

Under the terms of any Repayment Plan and pursuant to Nevada law: (1) you must enter into the Repayment Plan not later than 30 days after the date of default, unless we allow a longer period; (2) we will allow the period for repayment to extend at least 90 days after the date of default, unless you agree to a shorter term; and (3) we may require you to make an initial payment of not more than 20 percent of the total amount due under the Repayment Plan.

Page 1 of 2

TM.TB.NV.Opportunity to enter into repayment plan.4/29/2014

APP 015520

ROA 010843

EXHIBIT “G”

EXHIBIT “G”

APP 015521

ROA 010844

From: Ma Theresa Dihiansan
Sent: Friday, December 18, 2015 4:22 PM
To: Victoria Newman; 'Melissa Woodard'
Cc: Anthony Valdivia; Harveen Sekhon; Kelvin Lam; Christian Yanez
Subject: FW: TITLEMAX-LOAN INVENTORY REPORTS AND OTHER REQUESTS

Ms. Woodard/Ms. Newman,

Please be notified that we still need the totals per my email request below. Maybe someone from your IT can work in this request. During the prior years, your loan inventory report always has a total at the last page of the report for active loans and delinquent loans.

Mr. Valdivia printed the loan inventory which contained the active and delinquent loans in one report and there is no total amount. Just for the purpose of selecting our samples so we used one report. However, the loan inventory report did not contain the following information as originally requested on November 17, 2015.

1. List of all delinquent loans as of November 17, 2015
2. List of all delinquent accounts in repossession as of November 17, 2015
3. List of all delinquent accounts in repayment plan as of November 17, 2015
4. Total number of delinquent title loans since prior examination date-06-17-2015 with grand total broken down per store location
5. Total number of repossessions since prior examination date-06-17-2015 with grand total broken down per store location
6. Total number of Grace Period Deferment Agreements entered into since TitleMax's started offering this product with grand total broken down per store location
7. Total number of Grace Period Deferment Agreements in closed status, i.e., where the customer has paid off the loan, as of the date of the re-examination with grand total broken down per store location
8. Total number of Grace Period Deferment Agreements in open status, i.e., where the customer is still making payments, as of the date of the re-examination with grand total broken down per store location.
9. Total amount of money collected pursuant to all Grace Period Deferment Agreements as of the date of the re-examination with grand total broken down per store location
10. Total amount of money due pursuant to open Grace Period Deferment Agreements as of the date of the re-examination with grand total broken down per store location
11. Total number of accounts in Grace Period Deferment Agreement in default status with grand total broken down per store location
12. Total number of Grace Period Deferment Agreements in repossession with grand total broken down per store location

The CD which you provided which contained the exam files did not contain the information requested above. Among the files provided in the CD, there were only two items which pertain to loan inventory:

- a. List of Total Loans Outstanding – No Totals/No Amounts and the columns provided: Division; District Number; Store Number; Account Number and Customer Name.
- b. List of Delinquent Loans Outstanding-No Totals-Customer Summary Nevada Late Only- which the columns provided: Division #; District #; Store # and Acct Number; Customer Name.

APP 015522

From: Ma Theresa Dihiansan
Sent: Friday, December 18, 2015 4:22 PM
To: Victoria Newman; 'Melissa Woodard'
Cc: Anthony Valdivia; Harveen Sekhon; Kelvin Lam; Christian Yanez
Subject: FW: TITLEMAX-LOAN INVENTORY REPORTS AND OTHER REQUESTS

Ms. Woodard/Ms. Newman,

Please be notified that we still need the totals per my email request below. Maybe someone from work in this request. During the prior years, your loan inventory report always has a total at the la report for active loans and delinquent loans.

Mr. Valdivia printed the loan inventory which contained the active and delinquent loans in one report. There is no total amount. Just for the purpose of selecting our samples so we used one report. However, the loan inventory report did not contain the following information as originally requested on November 17

1. List of all delinquent loans as of November 17, 2015
2. List of all delinquent accounts in repossession as of November 17, 2015
3. List of all delinquent accounts in repayment plan as of November 17, 2015
4. Total number of delinquent title loans since prior examination date-06-17-2015 with grand total broken down per store location
5. Total number of repossessions since prior examination date-06-17-2015 with grand total broken down per store location
6. Total number of Grace Period Deferment Agreements entered into since TitleMax's introduction of this product with grand total broken down per store location
7. Total number of Grace Period Deferment Agreements in closed status, i.e., where the borrower has paid off the loan, as of the date of the re-examination with grand total broken down per store location
8. Total number of Grace Period Deferment Agreements in open status, i.e., where the borrower is currently making payments, as of the date of the re-examination with grand total broken down per store location
9. Total amount of money collected pursuant to all Grace Period Deferment Agreements as of the re-examination with grand total broken down per store location
10. Total amount of money due pursuant to open Grace Period Deferment Agreements as of the re-examination with grand total broken down per store location
11. Total number of accounts in Grace Period Deferment Agreement in default status with grand total broken down per store location
12. Total number of Grace Period Deferment Agreements in repossession with grand total broken down per store location

The CD which you provided which contained the exam files did not contain the information requested above. Among the files provided in the CD, there were only two items which pertain to loan inventory:

- a. List of Total Loans Outstanding – No Totals/No Amounts and the columns provided: Division #; Store Number; Account Number and Customer Name.
- b. List of Delinquent Loans Outstanding-No Totals-Customer Summary Nevada Late On. The columns provided: Division #; District #; Store # and Acct Number; Customer Name.

Since we have requested this information since November 17, 2015 and has not been provided until now, please send the requested information NO LATER than January 5, 2016.

Thank you for your cooperation.

Ma. Theresa Dihiansan, CAMLS
Senior Examiner
Financial Institutions Division
Department of Business & Industry
2785 E. Desert Inn Rd., Ste 180
Las Vegas, Nevada 89121
Phone: 702-486-4120
Fax: 702-486-4563
mtdihiansan@fid.state.nv.us

From: Ma Theresa Dihiansan
Sent: Tuesday, November 17, 2015 11:11 AM
To: 'Victoria Newman'
Cc: Kelvin Lam; Christian Yanez; 'Melissa.Woodard@titlemax.com'
Subject: TITLEMAX-ANNUAL EXAMINATION

Victoria,

In connection with the ongoing examination of your company, please fill out all the attached Manager's Questionnaires and please provide the following:

- a. List of all active loans as of November 17, 2015
- b. List of all delinquent loans as of November 17, 2015
- c. List of all delinquent accounts in repossession as of November 17, 2015
- d. List of all declined loans as of November 17, 2015
- e. For PAID OFF LOANS- we will be choosing the folders.
- f. List of all delinquent accounts in repayment plan as of November 17, 2015
- g. Total number of delinquent title loans since prior examination date-06-17-2015 with grand total broken down per store location
- h. Total number of repossessions since prior examination date-06-17-2015 with grand total broken down per store location
- i. Total number of Grace Period Deferment Agreements entered into since TitleMax's started offering this product with grand total broken down per store location
- j. Total number of Grace Period Deferment Agreements in closed status, i.e., where the customer has paid off the loan, as of the date of the re-examination with grand total broken down per store location
- k. Total number of Grace Period Deferment Agreements in open status, i.e., where the customer is still making payments, as of the date of the re-examination with grand total broken down per store location.
- l. Total amount of money collected pursuant to all Grace Period Deferment Agreements as of the date of the re-examination with grand total broken down per store location
- m. Total amount of money due pursuant to open Grace Period Deferment Agreements as of the date of the re-examination with grand total broken down per store location
- n. Total number of accounts in Grace Period Deferment Agreement in default status with grand total broken down per store location
- o. Total number of Grace Period Deferment Agreements in repossession with grand total broken down per store location

APP 015524

In providing the list from letter A through F, aside from the all the information you include i.e. borrower's name, loan number, loan amount, finance charge, total amount, etc...please include the date when the loan was underwritten and the last payment date.

Please provide the requested inventory on or before Friday, November 20, 2015. We will be going back to 4077 W Charleston to choose our samples once the inventory is available. Please have the print outs ready for review at 4077 W. Charleston location.

We need the inventories from items A through F on or before November 20, 2015 and the rest can be provided on or before November 25, 2015.

Ma. Theresa Dihiansan, CAMLS
Senior Examiner
Financial Institutions Division
Department of Business & Industry
2785 E. Desert Inn Rd., Ste 180
Las Vegas, Nevada 89121
Phone: 702-486-4120
Fax: 702-486-4563
mt dihiansan@fid.state.nv.us

This message and attachments are intended only for the addressee(s) and may contain information that is privileged and confidential. If the reader of the message is not the intended recipient or an authorized representative of the intended recipient, I did not intend to waive and do not waive any privileges or the confidentiality of the messages and attachments, and you are hereby notified that any dissemination of this communication is strictly prohibited. If you receive this communication in error, please notify me immediately by e-mail at mt dihiansan@fid.state.nv.us and delete the message and attachments from your computer and network. Thank you.

APP 015525

EXHIBIT "H"

EXHIBIT "H"
APP 015526

ROA 010849

AFFIDAVIT OF HARVEEN SEKHON

STATE OF NEVADA

COUNTY OF CLARK

:ss.

I, HARVEEN SEKHON, being first duly sworn, depose and say:

1. That I am employed by the State of Nevada Department of Business and Industry, Financial Institutions Division ("FID") as an Examiner IV (Supervisory Examiner), that, pursuant to said employment, I have personal knowledge of the facts set forth hereunder, and that I am competent to testify to the same;

2. I have been employed with the FID for approximately 5 years;

3. That my responsibilities as an Examiner IV include reviewing examination reports before they are finalized and determining whether there will be a "satisfactory", "needs improvement" or "unsatisfactory" rating;

4. That, in the event a licensee receives an unsatisfactory rating, the licensee will be given 30 days to submit a plan of compliance or indicate that they do not plan to comply and request a hearing;

5. That, the FID may also conduct a follow-up exam within 3 months of the issuance of the exam for the purpose of determining whether the licensee has come into compliance;

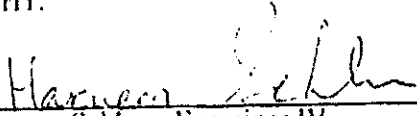
6. That the FID can wait until after the follow-up exam before issuing a cease and desist order resulting in an opportunity for a hearing;

7. That the FID has begun offering the opportunity for a hearing earlier in the process and the licensees are afforded the opportunity to request a hearing within the 30 day period following the issuance of the "unsatisfactory" exam results and, should a hearing be requested, a notice of hearing will be issued;


8. That, with regard to "unsatisfactory" ratings, the administrative procedure has included (during the time that I have been employed with the FID), the issuance of "unsatisfactory" exam results followed by a period in which to come into compliance, which is followed by a cease and desist order and opportunity for a hearing provided the licensee does not come into compliance;

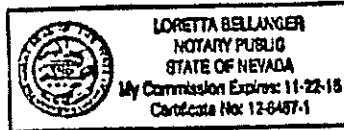
1 9. The difference now is that the licensee receives an additional opportunity for a hearing
2 before a cease and desist order is issued;

3 10. Therefore, contrary to TitleMax's assertions, they do have an administrative remedy;
4 FURTHER AFFIANT SAYETH NAUGHT.

5 
6 Harveen Sekhon, Examiner IV

7 SIGNED AND SWORN to before me by on
8 this 17 day of September, 2015.

9 
10 NOTARY PUBLIC



BEFORE THE
DEPARTMENT OF BUSINESS AND INDUSTRY

In Re:

TITLEMAX OF NEVADA, INC., a Nevada
corporation,

Respondent.

Case No. A-15-719176-C
Dept No. XXI

**NEVADA FINANCIAL
INSTITUTIONS DIVISION'S
PREHEARING BRIEF**

Date of Hearing _____, 2016

Time of Hearing _____

COMES NOW, State of Nevada, ex rel. it's Department of Business and Industry,
Financial Institutions Division, by and through its attorneys, Adam Paul Laxalt, Attorney
General, and David J. Pope, Senior Deputy Attorney General and Vivienne Rakowsky,
Deputy Attorney General, and hereby files its PreHearing Brief.

Respectfully submitted this 11th day of February, 2016.

ADAM PAUL LAXALT
Attorney General

By: /s/ David J. Pope
David J. Pope
Sr. Deputy Attorney General
Nevada State Bar #8617
Vivienne Rakowsky
Deputy Attorney General
Nevada State Bar #9160
555 E. Washington Ave., #3900
Las Vegas, NV 89101
Attorneys for Defendant

APP 015529

CERTIFICATE OF SERVICE

I, hereby certify that on the 12th day of February, 2016, I served the **NEVADA FINANCIAL INSTITUTIONS DIVISION'S PREHEARING BRIEF**, by causing it to be delivered to the Department of General Services for mailing at Las Vegas, Nevada, a true copy thereof, addressed to:

Pat Reilly, Esq.
Holland & Hart
9555 Hillwood Dr.
Las Vegas, Nevada 89134
Attorneys for Plaintiff

And via Legal Wings to:

Denise McKay, Esq.
Administrative Law Judge
Nevada Division of Real Estate
2501 E. Sahara Ave., 2nd Floor
Las Vegas, NV 89104

/s/ Debra Turman
An employee of Office of Attorney General

APP 015530

ROA 010853

POINTS AND AUTHORITIES

I. FACTS AND PROCEDURAL HISTORY

TitleMax of Nevada, Inc. and TitleBucks dba TitleMax (hereinafter "TitleMax") hold a Chapter 604A license issued by the Financial Institutions Division (hereinafter "FID"). Pursuant to NRS 604A.730, FID examines each Chapter 604A licensee at least once a year.

Following its 2014 examination of TitleMax, FID noted two main violations. *Exh. B (8565-8581)*. The first type of violation involved title loan files including "co-borrowers" who were individuals not listed on the vehicle titles. *Id. (8574-8575)*. In some such instances, the "co-borrower" had a different address and different last name than the legal owner. These situations were cited as violations of NAC 604A.230.

The second type of violation involves the Grace Period Payments Deferment Agreements. *Exh. B (8575-8576)*. With these agreements, TitleMax extends the duration beyond the 210 day limit. *Id. (8576)*. In addition, the first seven payments are interest only and the last seven payments are principal only payments. *Id. (8576)*. The customers end up paying more with the Grace Period Payments Deferment Agreements. *Id. (8576)*. Each use of a Grace Period Payments Deferment Agreement discovered in the sample population was cited as a violation of NRS 604A.445(3) and NRS 604A.210. *Id. (8577)*.

FID began one of the 2015 examinations of a TitleMax location on or about May 22, 2015. *Exh. C (8582)*. In the 2015 examination report, FID noted the same violations as discussed above. *Exh. C (8594)*.

The first issue, again, relates to TitleMax including an additional person on the lending agreement. FID requested an explanation from TitleMax. TitleMax's conclusory response was that the additional person is a "co-borrower." *Exh. B (8574-8575)*. Yet, Chapter 604A does not expressly define or allow co-borrowers. In fact, given the definitions set forth in NRS 604A.105 and NRS 604A.115, only the legal owner of a vehicle can use the vehicle to

APP 015531

1 obtain a title loan. Given the lack of information provided by TitleMax, FID concluded that
2 the additional persons were guarantors and that the agreements violated NAC 604A.230.¹
3 *Exh. E (8626-8627)*. FID's examiner applied NAC 604A.230 to the facts as they were seen
4 by the examiner and determined that TitleMax either "required" or "accepted" a guarantor.
5 Regardless of whether TitleMax has violated NAC 604A.230, pursuant to NRS 604A.105 and
6 NRS 604A.115 only the legal owner of a vehicle can borrow money against the vehicle via a
7 title loan. TitleMax has provided no proof that the additional persons are legal owners.

8 The second issue has to do with the Grace Period Payments Deferment Agreements.
9 The examiner noted that TitleMax was still utilizing the Grace Period Payments Deferment
10 Agreements. *Exh. C (8588-8590)*. "Grace Period Payment Deferment Agreement," as used
11 by TitleMax, is not a statutory term. *Exh. A (0091)*. Again, it was noted that the total amount
12 paid under a Grace Period Payments Deferment Agreement is more than the total amount
13 paid pursuant to the terms of the original 210 day loan. *Exh. C. (8590)*. According to the
14 exam report, the Grace Period Payments Deferment Agreements violate NRS 604A.445 and
15 NRS 604A.210 and therefore are not statutorily authorized lending products. *Exh. C (8589)*.
16 TitleMax disagrees and asserts that the Grace Period Payments Deferment Agreements are
17 in full compliance with Chapter 604A of the NRS and Chapter 604A of the NAC.

18 Looking at an example agreement in Exhibit A, the amount financed in the 210 day
19 loan is \$5,800.00, the finance charge is \$2,813.16, the total of payments is \$8,613.16 and
20 the original payment amount is \$1,230.45. *Id. (0084)*. When the original 210 day loan is
21 converted to the Grace Period Payments Deferment Agreement, the total amount paid
22 increases to \$10,261.94 and the monthly payments decrease. *Id. (0091)*. There are
23 fourteen monthly payments, whereas there were originally seven payments that included

24 ¹ The term "guarantor" is defined as "[o]ne who promises to answer for a debt, default or miscarriage of
25 another." Black's Law Dictionary, 705 (6th Ed. 1990). NRS 604A.455(5) defines "fraud" to include "without
26 limitation, giving to a licensee as security for a title loan the title to a vehicle which does not belong to the
27 customer." In addition, NRS 604A.455(4) states that when a customer fraudulently secures a title loan the
28 licensee can bring a civil action against the customer for the remaining debt related to the unpaid loan.
Considering these statutes, the logical conclusion made by the examiner was that the additional person was
needed for purposes of meeting the ability to repay requirements set forth in NRS 604A.450 and was acting as
a guarantor.

APP 015532

1 principal and interest. *Id.* (0091). The first seven payments are interest only payments in the
2 amount of \$637.42 and the last seven payments are principal only payments in the amount
3 of \$828.57. *Id.* (0091). The amount of the loan is no longer ratably and fully amortized.
4 Because the amount financed remains \$5,800.00, the finance charge increases to
5 \$4,461.94.

6 Pursuant to TitleMax's documents, it collects more interest via a Grace Period
7 Payments Deferment Agreement than it would collect via the 210 day original loan. *Exhibit A*
8 (0084, 0091) (the total amount paid increases from \$8,613.16 to \$10,261.94 though the
9 principle remains the same amount of \$5,800.00). Yet, TitleMax asserts that no additional
10 interest or fees are collected.

11 The FID examiner looked at the facts and determined that TitleMax had not complied
12 with NRS 604A.210 and NRS 604A.445. NRS 604A.210 and NRS 604A.445 prohibit the
13 collection of interest or fees during a grace period, require installment payments that ratably
14 and fully amortize the amount of the loan and prohibit extensions. Contrary to the statutes,
15 the Grace Period Payments Deferment Agreements nearly double the length of the
16 statutorily allowed 210 day loan, they do not ratably and fully amortize the amount of the loan
17 and charge additional fees or interest for additional periods and therefore there is no grace
18 period. *Exhibit A* (0084, 0091). In addition, though it has been represented that the first
19 seven payments are interest only and the last seven payments are principle only, the Grace
20 Period Payment Deferment Agreement states: "You acknowledge that simple interest is
21 charged on the unpaid principal balance of this Loan Agreement at the daily rate of 0.3663%
22 from the date of this Loan Agreement until the earlier of: (i) the date of your last payment as
23 set forth in the original Payment Schedule; or (ii) payment in full." *Exh. A* (0092). The
24 agreement also says, "Now that the Payment Schedule has changed . . ." *Id.* The Payment
25 Schedule changes but the Federal Truth-In-Lending Disclosures doesn't change to inform
26 the customer of the increased finance charge. *Exh. A.* (0084). This increase in the finance
27
28

charge is either a fee, additional interest or additional fees, any of which are prohibited by NRS 604A.210.

II. ARGUMENT

TitleMax is asserting that its business practices of allowing additional persons, who are not legal owners, on title loans and its use of the Grace Period Payments Deferment Agreements are in compliance with Chapter 604A of the NRS and Chapter 604A of the NAC. The findings of the FID examiners, related to the violations, are supported by substantial evidence and therefore are afforded deference. NRS 233B.135; *United Exposition Services, Co. v. State Industrial Insurance System*, 109 Nev. 421, 423, 851 P.2d 423, 424 (1993) ("It is well recognized that this court, in reviewing an administrative agency decision, will not substitute its judgment of the evidence for that of the administrative agency." (citation omitted)). Because the statutes are plain and unambiguous, the FIDs interpretation of its statutes must be upheld. *City of North Las Vegas v. Warburton*, 262 P.3d 715, 718, 127 Nev. Adv. Op. 62 (2011) ("When the text of a statute is plain and unambiguous, [we] should ... not go beyond that meaning.").

A. THE EXAM FINDINGS ARE SUPPORTED BY SUBSTANTIAL EVIDENCE AND THE FID IS PROPERLY INTERPRETTING THE STATUTES.

TitleMax is misinterpreting the relevant statutes and making conclusory factual statements.

1. Title Loans Are Only Made To Legal Owners Of Vehicles.

Pursuant to the relevant statutes, only legal owners of vehicles can be customers, or borrowers, on title loans. NRS 604A.105 restricts title loan borrowers to those who legally own the vehicle. The statute states that the customer² must secure the loan by either:

(1) Giving possession of the title to a vehicle legally owned by the customer to the licensee or any agent, affiliate or subsidiary of the licensee; or

² "Customer" is defined as "any person who receives or attempts to receive . . . title loan services from another person." NRS 604A.040.

(2) Perfecting a security interest in the vehicle by having the name of the licensee or any agent, affiliate or subsidiary of the licensee noted on the title as a lienholder.

NRS 604A.105 (emphasis added). Subsection 1 requires the customer to secure the loan by giving possession of the title to TitleMax. *Id.* It also requires the customer to be the legal owner of the vehicle. *Id.* The legal owner of the vehicle is listed on the title. NRS 604A.115 (defining "title" to mean "a certificate of title or ownership issued pursuant to the laws of this State that identifies the legal owner of a vehicle or any similar document issued pursuant to the laws of another jurisdiction."). The language of these statutes is plain and unambiguous and therefore we cannot look beyond the language for another meaning. *City of North Las Vegas v. Warburton*, 262 P.3d 715, 718, 127 Nev. Adv. Op. 62 (2011) ("When the text of a statute is plain and unambiguous, [we] should ... not go beyond that meaning."); *Beazer Homes Nevada, Inc. v. Eighth Judicial Dist. Ct., et al.*, 120 Nev. 575, 579-580, 97 P.3d 1132, 1135 (2004) ("If the plain meaning of a statute is clear on its face, then [this court] will not go beyond the language of the statute to determine its meaning." (citation omitted)); *Cleghorn v. Hess*, 109 Nev. 544, 548, 853 P.2d 1260, 1262 (1993) ("When the language of a statute is clear on its face, its intention must be deduced from such language." (citation omitted)). Consequently, the customer/borrower is limited to the person who is the legal owner as evidenced by the title. *Id.*

If the additional person on the loan, *i.e.* TitleMax's alleged co-borrower, is not listed on the title, the person cannot be a borrower and therefore cannot be a co-borrower. TitleMax asserts that the additional persons are co-borrowers, but such a finding has yet to be determined.

TitleMax has not explained why they require and/or allow an additional person to be a party to the title loan.³ The explanation has been nothing more than a conclusory

³ TitleMax has provided no explanation other than asserting the additional persons are co-borrowers. No evidence has been provided to show that the additional persons are also legal owners. "Guarantor" is defined as a "[p]erson who becomes secondarily liable for another's debt or performance in contrast to a strict surety who is primarily liable with the principal debtor. One who promises to answer for the debt, default or miscarriage of another. . . . A guarantor is usually also an accommodation party." Black's Law Dictionary, 705

1 assertion that the additional party is a co-borrower. As stated, title loans can only be made
2 to the person, or persons, named on the title. NRS 604A.105; NRS 604A.115. FID has not
3 been provided with information showing that the additional persons are legal owners and
4 therefore asserts that they are not legal owners. To avoid losing on this argument, TitleMax
5 cannot admit that the additional persons are not legal owners. Yet, TitleMax cannot avoid
6 this issue, and essentially remain silent, by giving a conclusory statement that the additional
7 persons are "co-borrowers." If the additional party is not a legal owner as shown by the title,
8 then they are not a statutorily approved borrower.

9 Consequently, with regard to each such loan, TitleMax is violating NRS 604A.105
10 and NRS 604A.115 by loaning money to a non-legal owner of the vehicle and violating NAC
11 604A.230 by allowing or requiring a guarantor.

12 2. The Grace Period Payments Deferment Agreement Is Not A Statutorily Compliant
13 Product

14 The Grace Period Payments Deferment Agreements do not comply with Chapter
15 604A and are not an authorized lending product. See *Exhibit A*. NRS 604A.445 provides:

16 Notwithstanding any other provision of this chapter to the
17 contrary:

18 1. The original term of a title loan must not exceed 30
19 days.

20 2. The title loan may be extended for not more than six
21 additional periods of extension, with each such period not to
22 exceed 30 days, if:

23 (a) Any interest or charges accrued during the original
24 term of the title loan or any period of extension of the title loan
25 are not capitalized or added to the principal amount of the title
26 loan during any subsequent period of extension;

(b) The annual percentage rate charged on the title
loan during any period of extension is not more than the annual
percentage rate charged on the title loan during the original term;
and

(c) No additional origination fees, set-up fees,
collection fees, transaction fees, negotiation fees, handling fees,
processing fees, late fees, default fees or any other fees,

27 (6th Ed. 1990) (citation omitted). If the facts end up showing that the additional persons meet the definition of a
28 guarantor, then they are guarantors in violation of NAC 604A.230.

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1 regardless of the name given to the fees, are charged in
2 connection with any extension of the title loan.

3 3. The original term of a title loan may be up to 210
4 days if:

5 (a) The loan provides for payments in installments;

6 (b) The payments are calculated to ratably and fully
7 amortize the entire amount of principal and interest payable on
8 the loan;

9 (c) The loan is not subject to any extension; and

10 (d) The loan does not require a balloon payment of
11 any kind.

12 (emphasis added).

13 Pursuant to NRS 604A.445(3), a loan can be for a term of 210 days if it provides for
14 payments in installments, the payments are calculated to ratably and fully amortize the
15 entire amount of principle and interest payable on the loan, and the loan is not subject to
16 any extension. This language is plain and unambiguous and therefore we cannot go
17 beyond it to look for a different meaning. *Beazer Homes Nevada, Inc. v. Eighth Judicial*
18 *Dist. Ct., et al.*, 120 Nev. 575, 579-580, 97 P.3d 1132, 1135 (2004).

19 TitleMax represents that it first enters into the original loan agreements with its
20 customers.⁴ Assuming that the original loan agreements comply with NRS 604A.445(3),
21 they are no more than 210 days in duration, provide for installment payments, the payments
22 are calculated to ratably and fully amortize the entire amount of principle and interest
23 payable at the end of the 210 days and are not subject to any extension. NRS 604A.445(3).
24 When TitleMax converts the original loan to a Grace Period Payments Deferment
25 Agreement, TitleMax goes beyond the limits of NRS 604A.445(3).

26 First, the maximum 210 days is extended to a term approximately twice as long. See
27 *Exhibit A (0091)* (showing 14 periods, or approximately 420 days, instead of 7 periods or
28 210 days); NRS 604A.445(3). The term "extension" is defined as "any extension or rollover

⁴ *Exhibit A (0017)* (stating, "BECAUSE THIS IS ONLY AN AMENDMENT AND MODIFICATION OF THE
LOAN AGREEMENT IN WHICH WE ARE ONLY MODIFYING AND DEFERRING YOUR PAYMENTS UNDER
THE TITLE LOAN AGREEMENT, YOU ACKNOWLEDGE AND AGREE THAT ALL OF THE TERMS AND
CONDITIONS OF THE TITLE LOAN AGREEMENT, INCLUDING THE CHARGING OF SIMPLE INTEREST
AND WAIVER OF JURY TRIAL AND ARBITRATION PROVISION REMAIN IN FULL FORCE AND EFFECT.
(underlining contained in original).

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1 of a loan beyond the date on which the loan is required to be paid in full under the original
2 terms of the loan agreement, regardless of the name given to the extension or rollover.”⁵
3 NRS 604A.065(1). The facts show that the date on which the loan was required to be paid
4 is extended.

5 Second, the payments do not “ratably and fully” amortize the entire amount of the
6 original loan because the interest is applied to the entire principle for the first seven periods
7 and no principle is paid until the eighth period.⁶ See *Exhibit A (0091)* (The last seven
8 payments are in the amount of \$828.57. Multiplying $\$828.57 \times 7 = \$5,799.99$ or $\$5,800.00$,
9 which is the amount financed. The first seven payments are in the amount of \$637.42,
10 which is approximately the product of $\$5,800.00 \times .1099$ (which is the product of $.003663$
11 (daily rate) $\times 30.00224$ days)); Black’s Law Dictionary, 83 (7th Ed. 1999) (defining
12 “amortization” as “the act or result of gradually extinguishing a debt, such as a mortgage,
13 usu. by contributing payments of principal each time a periodic interest payment is due.”);
14 NRS 604A.445(3).

15 Third, the payments do not constitute installment payments because they are not
16 equal.⁷ Black’s Law Dictionary, 799 (6th Ed. 1990) (defining “installment loan” as “[a] loan
17 made to be repaid in specified, usually equal, amounts over a certain number of
18 months.”(emphasis added)); NRS 604A.445(3).

19
20
21 ⁵ The term “extension” is defined as “[a]n agreement between a debtor and his creditors, by which they allow
22 him further time for the payment of his liabilities.” Black’s Law Dictionary, 583 (6th Ed. 1990). An extension
23 “[t]akes place when parties agree upon valuable consideration for maturity of debt on day subsequent to that
24 provided in original contract.” Black’s Law Dictionary, 583 (6th Ed. 1990) (citation omitted). “Rolling over” is
25 defined as, “Banking term for extension or renewal of short term loan from one loan period (e.g. 90 day) to
26 another.” Black’s Law Dictionary, 1330 (6th Ed. 1990).

27 ⁶ In the Grace Period Payments Deferment Agreements, TitleMax admits that the loans are not fully amortized
28 because the first seven payments are interest only and are less than the last seven payments. *Exhibit A*
(0037-0043). In addition, the first seven payments are the product of the daily rate of interest multiplied by the
entire principle. *Id.* In a typical loan, the portion of the payment that goes towards principle increases each
month as the portion that goes towards interest decreases each month. Therefore, unlike the typical loan, the
first seven payments of the Grace Period Payments Deferment Agreement include additional interest because
the interest is consistently calculated on the entire outstanding principle. Black’s Law Dictionary, 83 (7th Ed.
1999) (defining “amortization” as “the act or result of gradually extinguishing a debt, such as a mortgage, usu.
by contributing payments of principal each time a periodic interest payment is due.”).

⁷ As previously explained, the first seven payments are less than the last seven payments.

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1 Therefore, the Grace Period Payments Deferment Agreements do not comply with
2 NRS 604A.445 and are not a statutorily authorized loan.

3 In addition, the Grace Period Payments Deferment Agreements do not comply with
4 NRS 604A.210 or NRS 604A.070. NRS 604A.070 defines "grace period" as "any period of
5 deferment offered gratuitously by a licensee to a customer if the licensee complies with the
6 provisions of NRS 604A.210." (emphasis added). "Deferment" is defined as "A
7 postponement or extension to a later time . . ." Black's Law Dictionary, 421 (6th Ed. 1990).
8 "Defer" is defined as "[d]elay; put off; . . . postpone to a future time." *Id.* "Deferred payment"
9 is defined as "[p]ayments of principal or interest postponed to a future time . . ." *Id.* NRS
10 604A.210 provides:

11 The provisions of this chapter do not prohibit a licensee from
12 offering a customer a grace period on the repayment of a loan or
13 an extension of a loan, except that the licensee shall not charge
14 the customer:

- 15 1. Any fees for granting such a grace period; or
- 16 2. Any additional fees or additional interest on the
17 outstanding loan during such a grace period.

18 (emphasis added). TitleMax cannot charge any fees for granting a grace period or any
19 additional fees or additional interest on the outstanding loan during a grace period. *Id.* In
20 this case, the outstanding loan would be the original loan, a closed ended loan limited in
21 duration to 210 days, and any interest above and beyond that which could have been
22 charged and collected during the 210 days of the original loan would constitute the
23 prohibited additional interest or any fees or any additional fees. *Id.* This language is plain
24 and unambiguous and therefore we cannot go beyond the plain language to search for
25 another meaning. See *City of North Las Vegas v. Warburton*, 262 P.3d 715, 718, 127 Nev.
26 Adv. Op. 62 (2011) ("When the text of a statute is plain and unambiguous, [we] should ...
27 not go beyond that meaning."); *Beazer Homes Nevada, Inc. v. Eighth Judicial Dist. Ct., et*
28 *al.*, 120 Nev. 575, 579-580, 97 P.3d 1132, 1135 (2004); *Cleghorn v. Hess*, 109 Nev. 544,
548, 853 P.2d 1260, 1262 (1993). Because TitleMax is charging more interest than that

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1 which could have been collected during the 210 day loan, it is charging additional interest or
2 additional fees in violation of 604A.210(1-2). See *Exhibit A (0084, 0091)*.

3 The plain meaning of the statutes is that no fee can be charged for granting a grace
4 period and no interest in addition to that which can be charged during the 210 day loan can
5 be charged. Legislative history should not be used to create an ambiguity, it should be used
6 to resolve an ambiguity.

7 Legislative history has never been permitted to override the plain
8 meaning of a statute. As the Supreme Court has made clear,
9 "Congress' 'authoritative statement is the statutory text, not the
10 legislative history.'" *Chamber of Commerce v. Whiting*, — U.S.
11 —, 131 S.Ct. 1968, 1980, 179 L.Ed.2d 1031 (2011) (quoting
12 *Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, 568,
13 125 S.Ct. 2611, 162 L.Ed.2d 502 (2005)). Legislative history may
14 not be used to alter the plain meaning of a statute. "The law is
15 what Congress enacts, not what its members say on the floor."
16 *Szehinskyj v. Att'y Gen.*, 432 F.3d 253, 256 (3d Cir.2005).

17 Moreover, "legislative history may be referenced only if the
18 statutory language is written without a plain meaning, i.e., if the
19 statutory language is ambiguous." *Byrd v. Shannon*, 715 F.3d
20 117, 123 (3d Cir.2013). "Legislative history ... is meant to clear
21 up ambiguity, not create it." *Milner v. Dep't of Navy*, — U.S. —
22 —, 131 S.Ct. 1259, 1267, 179 L.Ed.2d 268 (2011); see also *Velis*
23 *v. Kardanis*, 949 F.2d 78, 81 (3d Cir.1991) ("There is no need to
24 resort to legislative history unless the statutory language is
25 ambiguous."). We must "not take the opposite tack of allowing
26 ambiguous legislative history to muddy clear statutory language."
27 *Milner*, 131 S.Ct. at 1266; see also *Nat'l Coal. for Students with*
28 *Disabilities Educ. & Legal Def. Fund v. Allen*, 152 F.3d 283 (4th
Cir.1998) ("This plain meaning cannot be circumvented unless
we have the rare instance when there is a clearly expressed
congressional intent to the contrary or when a literal application
of the plain language would frustrate the statute's purpose or
lead to an absurd result.").

S.H. ex rel. Durrell v. Lower Merion School Dist., 729 F.3d 248, 259 (3rd Cir. 2013); See
Hearn v. Western Conference of Teamsters Pension Trust Fund, 68 F.3d 301, 304 (9th Cir.
1995) ("But legislative history—no matter how clear—can't override statutory text. Where
the statute's language "can be construed in a consistent and workable fashion," . . . we must
put aside contrary legislative history." (citation omitted); See *Clark County v. Southern*

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1 Nevada Health Dist., 289 P.3d 212, 219, 128 Nev. Adv. Op. 58 (2013) (dissenting and citing
2 Hearn, 68 F.3d. 248, 259 (9th Cir. 1995)). "In construing a statute, the Court has ruled that
3 legislative materials, if 'without probative value, or contradictory, or ambiguous,' should not
4 be permitted to control the customary meaning of words. *United States v. Dickerson*, 310
5 U.S. 554, 562, (60 S.Ct. 1034, 1038, 84 L.Ed. 1356) (1940)." *NLRB v. Plasterers' Union*,
6 404 U.S. 116, 129 n. 24, 92 S.Ct. 360, 368 n. 24, 30 L.Ed.2d 312 (1971). Therefore,
7 TitleMax's arguments regarding the legislative history (that it asserts is contrary to FIDs
8 interpretation) are without merit.⁸

9 TitleMax represents in a conclusory fashion that it offers each borrower under the
10 installment loan a grace period of deferment gratuitously. "Gratuitously" is defined as,
11 "Given or received without cost or obligation: FREE." Webster's II New College Dictionary,
12 487 (1999). Contrary to NRS 604A.210's prohibition against charging additional interest or
13 fees, TitleMax's own documents show that it charges additional interest or fees during the
14 first seven months as explained above. In addition, the Grace Period Payments Deferment
15 Agreements state that interest is charged on any outstanding portion of the principle until
16 the principal is paid. *Exhibit A (0044)*. Therefore, according to the agreement, interest can
17 also be charged during the last seven months as the principle is being paid down, as well as
18 the first seven months. *Id.* Either way, this is not a gratuitous deferment and does not
19 comply with NRS 604A.070.

20 In addition, according to NRS 604A.045⁹ a grace period should not occur unless a
21 borrower is having difficulty repaying the loan. See Black's Law Dictionary, 697 (6th Ed.
22 1990) (defining "grace period" as a "period of time provided for in a loan agreement during

23 ⁸ Charging interest during a grace period is contrary to the plain language of NRS 604A.070 and NRS
24 604A.210 and the intent of allowing a borrower additional time to make a payment without incurring any
25 additional interest or fees. Thus, TitleMax's interpretation leads to an unreasonable or absurd result that is
26 contrary to legislative intent. *Hunt v. Warden, Nevada State Prison*, 111 Nev. 1284, 1285 (1995) ("When
interpreting a statute, this court resolves any doubt as to the legislative intent in favor of what is reasonable,
and against what is unreasonable. (citation omitted). A statute should be construed in light of the policy and
the spirit of the law, and the interpretation should avoid absurd results.").

27 ⁹ "Default" means the failure of a customer to . . . (a) Make a scheduled payment on a loan on or before the
28 due date for the payment under the terms of a lawful loan agreement and any grace period that complies with
the provisions of NRS 604A.210 . . ." NRS 604A.045.

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1 which default will not occur even though payment is overdue."). Yet, TitleMax cannot make
2 a loan unless TitleMax determines that the borrower has the ability to repay it. NRS
3 604A.450. Therefore, granting a grace period before a borrower begins repaying the loan is
4 contrary to legislative intent and contrary to the normal course of such affairs. See Black's
5 Law Dictionary, 705 (7th Ed. 1999) (defining a "grace period" as "[a] period of extra time
6 allowed for taking some required action (such as making payment) without incurring the
7 usual penalty for being late."). In this case, "Grace Period Payments Deferment Agreement"
8 contains a misnomer, *i.e.* there really is no grace period because money is due in every
9 period and these agreements do not comply with NRS 604A.210 or NRS 604A.070.¹⁰

10 The Grace Period Payments Deferment Agreements are longer than 210 days and
11 extend the term of the loan beyond the statutory limitation and do not provide for installment
12 payments and do not ratably and fully amortize¹¹ the amount of the original loan. The
13 amount of the loan increases and the amount of interest charged increases. *Exhibit A*
14 *(0084, 0091)*. In addition, money is owed in every period and therefore there is no grace
15 period. *Id.* Though TitleMax agrees that more interest is charged via the Grace Period
16 Payments Deferment Agreement than would be charged via the 210 day loan, TitleMax
17 does not agree that the amount of the loan is not ratably and fully amortized, does not agree
18 that the loan is extended and does not agree that there is no grace period or that there is no
19 gratuitous deferment. Applying the facts to the statutes, FID's interpretations are correct and
20 the violations noted in the exam reports should be upheld. NRS 604A.445; NRS 604A.210;
21 NRS 604A.070.

22 Because the loan is intended to be closed ended with a maximum term of 210 days
23 (seven months), TitleMax can only offer a 210 day (seven month) loan that is ratably and
24

25 ¹⁰ "Grace period" is "[t]he amount of time after a payment due date when no interest is charged."
26 <https://www.lendingtree.com/glossary/what-is-grace-period>. Also defined as "[t]he number of days between a
consumer's credit card statement date and payment due date when interest does not accrue."
<http://www.investopedia.com/terms/g/grace-period-credit.asp>.

27 ¹¹ "An 'amortization plan' for the payment of an indebtedness is one where there are partial payments of the
28 principal, and accrued interest, at stated periods for a definite time, at the expiration of which the entire
indebtedness will be extinguished." Black's Law Dictionary, 83 (6th Ed. 1999)

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1 fully amortized. By collecting 210 days (seven months) of interest on the entire principle
2 before any principle payments are made, and then collecting principle (and, according to the
3 agreement, possibly more interest) for seven more months, TitleMax is collecting fees or
4 additional interest in violation of NRS 604A.210, has nearly doubled the duration of the loan
5 and extended the loan in violation of NRS 604A.445(3), is not ratably and fully amortizing
6 the amount of the loan in violation of NRS 604A.445(3) and is not offering a grace period,
7 i.e. gratuitous deferment, in violation of NRS 604A.210 and NRS 604A.070.

8
9 **B. PURSUANT TO NRS 604A.900, TITLEMAX'S WILLFUL VIOLATIONS**
10 **RESULT IN LOANS BEING VOID.**

11 Due to its willful violations, TitleMax is not entitled to collect, receive or retain any
12 principal, interest or other charges. NRS 604A.900 states:

13 1. Except as otherwise provided in this section, if a
14 licensee willfully:

15 (a) Enters into a loan agreement for an amount of
16 interest or any other charge or fee that violates the provisions of
17 this chapter or any regulation adopted pursuant thereto;

18 (b) Demands, collects or receives an amount of
19 interest or any other charge or fee that violates the provisions of
20 this chapter or any regulation adopted pursuant thereto; or

21 (c) Commits any other act or omission that violates
22 the provisions of this chapter or any regulation adopted pursuant
23 thereto,

24 the loan is void and the licensee is not entitled to collect,
25 receive or retain any principal, interest or other charges or fees
26 with respect to the loan.

27 2. The provisions of this section do not apply if:

28 (a) A licensee shows by a preponderance of the
evidence that the violation was not intentional and resulted from
a bona fide error of computation, notwithstanding the
maintenance of procedures reasonably adapted to avoid that
error; and

(b) Within 60 days after discovering the error, the
licensee notifies the customer of the error and makes whatever
adjustments in the account are necessary to correct the error.

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1 TitleMax willfully entered into the Grace Period Payments Deferment Agreements for an
2 amount of interest or fees that violates Chapter 604A and willfully demanded, collected or
3 received an amount of interest or fees that violates the provisions of Chapter 604A. "Willful"
4 is defined as "[i]ntending the result which actually comes to pass; designed; intentional;
5 purposeful; not accidental or involuntary." Black's Law Dictionary, 1599 (6th Ed. 1990); See
6 generally, *Reingold v. Wet "N Wild Nevada, Inc.*, 113 Nev. 967, 973, 944 P.2d 800
7 (1997)(dissent)(Overruled on other grounds) (willfully means purposefully, deliberately;
8 knowingly and intentionally); see *Van Cleave v. Kientz-Mill Minit Mart*, 97 Nev. 414, , 633
9 P.2d 1220, (1981) (Willful is described as an act "that the actor knows, or should know, will
10 very probably cause harm."). TitleMax has at least 307 violations, which is enough to show
11 that this is a common and sustained practice and not something that "resulted from a bona
12 fide error of computation" NRS 604A.900(2)(a). The number of violations show that
13 TitleMax willfully entered into the Grace Period Payments Deferment Agreements and that
14 the actions were not accidental but rather purposeful and deliberate especially after the
15 2014 examination.

16 The 2014 examination was commenced in August 2014 and advised TitleMax that
17 the Grace Period Payments Deferment Agreements violate NRS 604A.445 and NRS
18 604A.210. Therefore, at least as of 2014, TitleMax had knowledge of the FID's position that
19 the Grace Period Payments Deferment Agreements did not comply with NRS Chapter 604A.
20 Nevertheless, although TitleMax had been told that the agreements violated the relevant
21 statutes, they willfully continued to offer the Grace Period Payments Deferment Agreements
22 to customers.

23 During the next examination, which began on May 4, 2015 and was completed on
24 June 17, 2015, the examiner found that TitleMax was still offering the improper loans. Thus;
25 TitleMax willfully continued to offer the Grace Period Payments Deferment Agreements after
26 being made aware that the loans were improper and did not comply with Chapter 604A.
27 The results of the second examination show that, although TitleMax knew or should have
28

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1 known that that the Grace Period Payments Deferment Agreements did not comply with
2 Chapter 604A, TitleMax willfully kept selling that product anyway.

3 Additionally, to date, TitleMax has not notified its customers of any qualifying errors of
4 computation. NRS 604A.900(2)(b). According to the statute, TitleMax only had 60 days to
5 notify customers of any such errors. *Id.*

6 Consequently, pursuant to NRS 604A.900(1), TitleMax must return any principle and
7 interest that it is prohibited from keeping.

8 **III. CONCLUSION**

9
10 Based on the foregoing, the FID respectfully requests an order:

- 11 1. Imposing a \$10,000 fine for each of the 307 violations for a total of \$3.07 million in
12 fines;
- 13 2. Requiring the return, to the customers, of any principle and interest paid to TitleMax
14 relative to the Grace Period Payments Deferment Agreements;
- 15 3. Requiring TitleMax to cease and desist from the practice of entering into the Grace
16 Period Payments Deferment Agreements;
- 17 4. Prohibiting the making of title loans to anyone, in any capacity, other than the legal
18 owner(s) of the vehicle;
- 19 5. Requiring TitleMax to provide a full accounting of each Grace Period Payment
20 Deferment Agreement and the amount of principal and interest returned to each
21 borrower relative to each such agreement; and,

22 ...

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6. Any other relief this court deems just.

Respectfully submitted this 11th day of February, 2016.

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**STATE OF NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION**

IN THE MATTER OF:

TITLEMAX OF NEVADA, INC. AND
TITLEBUCKS dba TITLEMAX

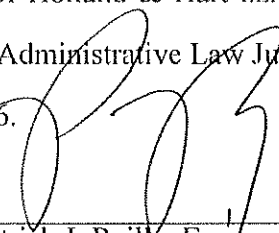
**TITLEMAX OF NEVADA, INC.'S
ADMINISTRATIVE HEARING BRIEF**

AND

**MOTION FOR DECLARATION
REGARDING INTERPRETATION OF
NEVADA LAW**

Plaintiff TitleMax of Nevada, Inc. dba TitleMax and/or TitleBucks ("TitleMax"), by and through its attorneys of record, the law firm of Holland & Hart LLP, hereby submits this brief pursuant to the Procedural Order issued by the Administrative Law Judge.

DATED this 12th day of February, 2016.



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TITLEMAX OF NEVADA, INC.'S ADMINISTRATIVE HEARING BRIEF
AND MOTION FOR DECLARATION REGARDING
INTERPRETATION OF NEVADA LAW

I.

INTRODUCTION

At the heart of this matter, this is a good faith disagreement over the interpretation of two statutes and a regulation that govern automobile title lenders in the State of Nevada. Though TitleMax has repeatedly sought to work with the State of Nevada, Department of Business and Industry, Financial Institutions Division (the "FID") to seek a definitive ruling interpreting these laws from a higher authority, the FID has repeatedly resisted doing so. Rather, the FID has brought this administrative proceeding solely to punish TitleMax on a *post hoc* basis for daring to disagree with it over the meaning of these rules.

There is no case law whatsoever interpreting NRS 604A.210, NRS 604A.445, or NAC 604A.230. In fact, the FID vigorously resisted efforts to obtain an interpretation of these rules from District Court Judge Valerie Adair. The FID has not attempted to obtain clarification from the Nevada Legislature, even though last year's session was a prime opportunity to do so. And, the FID has resisted (despite TitleMax's repeated urging) to engage in further formal rulemaking so that these issues can be clarified and, importantly, so that the entire industry would be required to abide by the same rules.

In short, this proceeding is about informal *post hoc* rulemaking—the FID is seeking to punish TitleMax for daring to disagree with it over the meaning of Nevada law. TitleMax is more than willing to conform to a judicial interpretation of the law and, out of abundance of caution, has temporarily complied with the FID's incorrect interpretation of the law pending the resolution of this proceeding. Given that District Court Judge Adair declined to provide such an interpretation, TitleMax now seeks an interpretation in this proceeding, which it believes will obviate the need for a formal evidentiary hearing.

TitleMax and the FID disagree about the interpretation of NRS 604A.210, NRS 604A.445, and NAC 604A.230. These laws govern automobile title loans. The FID posits that NRS 604A.210 prohibits TitleMax from charging any interest during a grace period, contrary to

1 the statute and its legislative history, as opposed to additional interest, and that TitleMax's grace
2 period renders the term of its title loans impermissibly long. The FID further maintains that
3 TitleMax NAC 604A.230 bars TitleMax from having a co-borrower on a title loan, even though
4 the rule says nothing of co-borrowers. In all three cases, for the FID to prevail in this matter, this
5 administrative law judge must literally rewrite the words of these rules. This is plainly improper
6 from a perspective of statutory construction. It is even more improper that the FID now seeks
7 millions of dollars in penalties after the fact, though at the same time it has fought TitleMax
8 tooth and nail to arrive at the simple and reasonable solution of obtaining a judicial interpretation
9 of the law.

10 Accordingly, this brief sets forth the issues with regard to the FID's attempted rewrite of
11 the alleged violated rules, NRS 604A.210, NRS 604A.445, and NAC 604A.230.

12 II.

13 FACTUAL OVERVIEW

14 Critically, this dispute does not involve the breaking of well-worn black and white rules.
15 Yet, the FID has gone from giving TitleMax a "Needs Improvement" rating in 2014 to an
16 "Unsatisfactory" rating in 2015 based solely upon its own interpretation of the law. Notably, the
17 "Unsatisfactory" rating was issued and this disciplinary proceeding commenced after TitleMax
18 commenced an action in state court seeking declaratory relief and an interpretation of these rules.

19 Specifically, in 2014, the FID conducted an examination of TitleMax and issued reports
20 of examination (collectively the "2014 ROEs") covering statutory and regulatory compliance at
21 TitleMax's various retail stores located in the State of Nevada. In the 2014 ROEs, the FID stated
22 that TitleMax was in violation of NRS 604A.210, NRS 604A.445, and NAC 604A.230. Based
23 upon the examiner's incorrect application of NRS 604A.210, NRS 604A.445, and NAC
24 604A.230, the FID issued a "Needs Improvement" rating, thereby indicating that TitleMax had
25 demonstrated less than satisfactory compliance in the examination. TitleMax disagreed with the
26 FID's legal conclusions and sought declaratory relief in the District Court of Clark County with
27 the case entitled *TitleMax of Nevada, Inc. v. State of Nevada, Department of Business and*
28 *Industry and Financial Institutions Division*, with case number A719176 ("State Case") seeking

1 purely declaratory relief in the form of an interpretation of NRS 604.210, NRS 604.445, and
2 NAC 604A.230, which resulted in the alleged violations. A copy of the Complaint is attached
3 hereto as **Exhibit "A"**. Significantly, TitleMax sought no damages, no attorney's fees, and no
4 costs—merely an interpretation of the law.

5 In the weeks that followed, the FID proposed converting the matter into a special
6 proceeding under NRS Chapter 29, in which the parties would jointly seek an interpretation of
7 the law. On July 23, 2015, counsel for the FID advised that, if TitleMax were to agree to convert
8 the matter under Chapter 29, the FID would refrain from proceeding to an administrative
9 hearing. See Email correspondence attached hereto as **Exhibit "B"**. At the time, the FID had
10 not threatened that an administrative proceeding would involve a request for substantial
11 monetary relief. When TitleMax declined to stipulate to a Chapter 29 action in district court, the
12 FID issued reports of examination for 2015 and again found that TitleMax was in violation of
13 NRS 604.210, NRS 604.445, and NAC 604A.230. The FID provided that TitleMax's rating was
14 deemed "Unsatisfactory" and that TitleMax "may be subject to disciplinary action due to the
15 nature of the violations." The FID then almost immediately commenced this proceeding, not
16 merely seeking a legal interpretation from this tribunal, but also seeking (for the first time and
17 without warning) millions of dollars in penalties.

18 Meanwhile, in the State Case, the FID vigorously and inexplicably opposed any attempt
19 to have the District Court Judge provide an interpretation of the law. The District Court Judge
20 recently dismissed the action, ignoring the overriding and basic request for an interpretation of
21 Nevada law, declining to interpret any of these rules. TitleMax is presently in the process of
22 filing a Notice of Appeal of that decision.

23 ***1. The Alleged Violations of NAC 604A.230.***

24 TitleMax allows co-borrowers to be on a title loan. The FID alleges that
25 TitleMax violated NAC 604A.230(1)(a) in any instance in which it allows a co-borrower on a
26 loan. Yet, NAC 604A.230 says nothing about co-borrowers. And, TitleMax has repeatedly
27 encouraged the FID without success to amend its own regulation to conform with its
28 interpretation (so that other licensees would be bound by the same rules as TitleMax). As set

1 forth below, to be successful in this matter, the FID would have to persuade this Administrative
2 Law Judge to literally rewrite this regulation and, simultaneously, ignore basic surety law by
3 deeming that a co-borrower and a guarantor are one and the same in the eyes of the law.

4 **2. The Alleged Violations of NRS 604A.210 and NRS 604A.445.**

5 TitleMax offers a 210-day installment loan product, which the FID agrees
6 complies with the applicable statutes and regulations.¹ At the time of making the title loan,
7 TitleMax unilaterally offers each borrower under the installment loan a grace period of
8 deferment gratuitously (without additional charge) pursuant to the terms of the Grace Period
9 Agreement”.²

10 TitleMax has a policy of working with borrowers and giving them every
11 opportunity to fulfill their contractual obligations and thus avoid defaults. Indeed, it is the goal
12 for TitleMax for each customer to repay the loan, not for TitleMax to repossess any motor
13 vehicle. As such, TitleMax has adopted customer friendly policies to allow borrowers grace
14 periods without additional charge. *There are no additional charges or increased interest. The*
15 *customer merely has to pay the original interest that was agreed to in the loan agreement*
16 *during the grace period.*³ The Grace Period Agreement provides:

17 Consideration. You acknowledge and agree that you and
18 we entered into a Title Loan Agreement on (“Loan
19 Agreement.”). Under the Title Loan Agreement, we agreed
20 with you that we may subsequently offer you a “Grace
21 Period” which is a **gratuitous period of payments**
22 **deferment**. You agree that we are offering you a “Grace
23 Period” and you are voluntarily accepting such offer after
24 entering into a Loan Agreement pursuant to the provisions
25 of NRS 604A.70 and NRS 604A.210. Please note that
26 since this is a “Grace Period” it is not an “extension” as
27 defined in NRS. 604A.065. Under the Title Loan
28 Agreement, your obligation to pay simple interest under the
Loan Agreement remains unchanged. Other than the
interest and fees originally provided for in the Title Loan
Agreement, **we do not charge you any additional fees or**
interest for entering into this Grace Period Payments
Deferment Agreement.⁴

¹ Comp. ¶17.

² A copy of the Grace Period Agreement is attached hereto as Exhibit “C”.

³ Exh. C.

⁴ *Id.* (emphasis added).

1 Under the Grace Period Agreement (as well as the Loan Agreement), the borrower always has
2 the right to prepay without penalty.

3 In addition, the Grace Period Agreement obtains each borrower's written
4 acknowledgement and agreement that simple interest continues to accrue as set forth in the loan
5 agreement. Specifically, it provides:

6 Acknowledgment of Simple Interest Accrual. You
7 acknowledge that we use the simple interest method to
8 calculate and accrue the interest owing under the Loan
9 Agreement. Interest is not compounded under the Loan
10 Agreement. You acknowledge that simple interest is
11 charged on the outstanding principal balance. Payments
12 will be applied first to accrued interest, second to
13 outstanding charges, if any, and third to principal. We
14 calculated and estimated the simple interest under the Loan
15 Agreement and disclosed in the "Finance Charge"
16 disclosure assuming you would pay each scheduled
17 payment in the amount scheduled and on the scheduled
18 Payment Dates. **The original Payment Schedule in the**
19 **Loan Agreement provided for payments which would**
20 **ratably and fully amortize the entire Principal Amount**
21 **and interest payable.** The interest rate under the Loan
22 Agreement remains unchanged. You acknowledge that
23 simple interest is charged on the unpaid principal balance
24 of this Loan Agreement at the daily rate of
25 _____% from the date of this Loan Agreement
26 until the earlier of: (i) the due date of your last payment as
27 set forth in the original Payment Schedule; or (ii) payment
28 in full. **Now that the Payment Schedule has changed,**
you acknowledge that the new Payment Schedule
provided for in this Grace Period Payments Deferment
Agreement, if followed, will ratably and fully amortize
the entire Principal Amount and interest payable over a
longer period of time than the original Payment
Schedule in the Loan Agreement. As such you
acknowledge and agree you will continue to incur
interest as provided in the Loan Agreement. You
further agree that in setting the amount of the payments
and dates of the payments, we have estimated the
accrued interest owing to us assuming you make the
payments in the amounts scheduled and on the exact
dates set forth in the Grace Periods Payments
Deferment Schedule above. Early payments may
decrease the amount of interest you owe. Making a
payment in an amount greater than scheduled above may
decrease the amount of interest you owe. **Late payments**
may increase the amount of interest you owe. The
amount of this increase or decrease will be reflected in the
final payment. If an early payment is less than the
scheduled installment, then you must pay the difference on
or before the upcoming installment due date. You may

request a payoff at any time (emphasis added).⁵

Even though the law does not require a grace period, TitleMax offers a grace period at the outset of the loan for a variety of reasons. The “grace period” policy allows borrowers the opportunity to elect to reduce their monthly obligations and allows borrowers to make informed decisions about their cash flow throughout the loan process. One of the benefits a borrower may receive in entering into a Grace Period Agreement is that the monthly payment for the borrower is lower than originally scheduled under the Loan Agreement. While paying down debt has its obvious benefits, it is equally important for many borrowers to reduce monthly payment obligations. Thus, many of TitleMax’s borrowers view the reduction in the monthly payment and resulting “cash flow cushion or margin” created thereby, as not only valuable option, but also a benefit not afforded by others in the market.

TitleMax only makes available its “grace period” program for those borrowers not currently in default and who want such option. TitleMax does not seek to change the terms of the loan, does not impose charges for offering the grace period, does not impose “additional” interest, and does not exact other concessions, as a traditional lender might when it offers or refinances a loan. Borrowers may also make their payments as originally scheduled, even though they have entered into a Grace Period Agreement. TitleMax charges no type of prepayment penalty for borrowers desiring to pay off early and save interest. Likewise, borrowers always maintain a right to make payments under a repayment plan under NRS 604A.475. TitleMax fully complies with NRS 604A.475 for those customers requesting a repayment plan after default. Notably, since TitleMax has refrained from offering a grace period, it has received complaints from customers who have expressed dissatisfaction that the product is not currently available.

Despite the foregoing, the FID found that TitleMax’s offering of the grace period violated NRS 604A.210 and 604.A445. The FID seemingly ignores that TitleMax offers the grace period gratuitously, without additional charge, and without additional interest.

///

⁵ *Id.*

III.

LEGAL ISSUES

A. **The Grace Period Agreement Does Not Violate NRS 604A.210 or NRS 604A.445**

As set forth above, TitleMax does not charge any fees to grant a grace period, and does not charge any additional fees or additional interest on an outstanding loan during such a grace period, which is what the state requires. In fact, the grace period is offered unilaterally at the outset of the loan, and is contained in the original loan agreement language—the customer merely elects to take advantage of it—there is nothing “additional” about the grace period. Yet, despite these undisputed facts, the FID contends that TitleMax violated NRS 604A.210 and 604A.445 by allowing its customers to enter into the Grace Period Agreement. The FID’s interpretation of these statutes is incorrect.

1. **The FID’s Interpretation of NRS 604A.210 Is Wrong**

The FID has taken the position that a licensee is prohibited from charging any interest whatsoever during a grace period. The FID’s position is not supported by law. The alleged statute violated, NRS 604A.210, provides:

The provisions of this chapter do not prohibit a licensee from offering a customer a grace period on the repayment of a loan or an extension of a loan, except that the licensee shall not charge the customer:

1. Any fees for granting such a grace period; or
2. Any *additional fees or additional interest* on the outstanding loan during such a grace period.⁶

To support its interpretation that NRS 604A.210(2) prohibits the accrual of any interest on the outstanding loan during a grace period, the FID must completely strike the word “additional” from the statute. Yet, the FID does not have the power to unilaterally rewrite a statute.

If the Legislature had intended to ban the accrual of “any” interest during the grace period, it would not have inserted the word “additional” before “interest” in NRS 604A.210. Yet, the statute clearly reads “additional interest.” Nevada law requires that a statute’s provisions must be construed “in a way that would not render words or phrases

⁶ NRS 604A.210 (emphasis added).

1 superfluous or make provisions nugatory.”⁷ If it is the FID’s position that the prohibition of
2 “additional fees” or “additional interest” means that the total interest on the loan, for the entire
3 period the loan is unpaid, cannot exceed the total interest contracted to be paid within 210 days,
4 it is also misguided. This view would again render the word “additional” meaningless and
5 superfluous, which is contrary to well-settled maxims of statutory construction.⁸ Without
6 question, the plain reading of the statute allows the original contractual interest on a title loan to
7 accrue during a grace period and only prevents interest that is “additional” to the contractual
8 simple interest.

9 In addition, Nevada law compels the use of common sense when interpreting
10 statutes.⁹ Here, if there is a grace period, by definition, the borrower has not repaid the full
11 contractual interest of a loan. As a result, the total interest for the original term *plus* the grace
12 period would always be higher than the interest accrued only for the original term assuming the
13 loan was repaid pursuant to its original terms. Therefore, under the FID’s apparent
14 interpretation, the word “additional” is again rendered meaningless and superfluous, as the
15 Legislature could have just omitted that word and prohibited all interest during the grace period
16 and reached the same conclusion.

17 Significantly, the legislative history involving NRS 604A.210 supports
18 TitleMax’s position. In April 2005, Sections 13 and 23 of Assembly Bill (“AB”) 384, were re-
19 written and added to what would ultimately become NRS 604A.210. Section 23 originally
20 prohibited a licensee from charging the following during a grace period:

- 21 1. Any fees for granting such a grace period; or
- 22 2. Any fees or interest on the outstanding loan during such a grace period.¹⁰

23 The word “additional” was not yet part of the proposed legislation. **Yet, the word “additional”**
24 **was specifically added to a later draft of AB 384 and ultimately enacted into law.** This

25
26 ⁷ *Southern Nev. Homebuilders Ass’n v. Clark County*, 121 Nev. 446, 449, 117 P.3d 171, 173 (2005) (quotation
omitted).

27 ⁸ *In re Steven Daniel P.*, 129 Nev. —, 309 P.3d 1041, 1043-44 (2013).

28 ⁹ *Southern Nev. Homebuilders*, 121 Nev. at 449, 117 P.3d at 173; *Matter of Petition of Phillip A.C.*, 122 Nev. 1284,
1293 (2006).

¹⁰ A copy of the original Section 23 is attached hereto as Exhibit “D”.

1 legislative change is not only significant, it alone is dispositive of this matter, because it
2 evidences that the Legislature specifically rejected the notion that no interest could be charged
3 whatsoever during a grace period. Rather, the statute, as enacted, merely prohibited the charging
4 of **additional** interest.¹¹ According to the United States Supreme Court, “[f]ew principles of
5 statutory construction are more compelling than the proposition that Congress does not intend
6 *sub silentio* to enact statutory language that it has earlier discarded in favor of other language.”¹²
7 Thus, “[w]here Congress includes [certain] language in an earlier version of a bill but deletes it
8 prior to enactment, it may be presumed that the [omitted text] was not intended.”¹³ Here, by
9 adding the word “additional”, the Nevada Legislature specifically intended that interest at the
10 original contract rate could continue during the grace period.

11 **2. The FID’s Interpretation of NRS 604A.445 Is Wrong**

12 The FID claims that the Grace Period Amendment violates 604A.445(3)(b),(c),
13 and (d). Again, the FID’s interpretation and application is incorrect. The relevant portion of the
14 claimed violated statute, NRS 604A.445, provides:

15 **Notwithstanding any other provision of this chapter to the contrary:**

16 3. The **original term of a title loan** may be up to 210 days if:

- 17 (a) The loan provides for payments in installments;
18 (b) The payments are calculated to ratably and fully amortize the
19 entire amount of principal and interest payable on the loan;
20 (c) The loan is not subject to any extension; and
21 (d) The loan does not require a balloon payment of any kind.¹⁴

22 By its very terms, NRS 604A.445(3) only governs the “original term” of a title loan. It says
23 nothing about grace periods. As it states very clearly, these loan durations are
24

25 ¹¹ See *Coast Hotels & Casinos, Inc. v. Nev. State Labor Comm’n*, 117 Nev. 835, 841, 34 P.3d 546, 550 (2001).

26 ¹² *INS v. Cardoza-Fonseca*, 480 U.S. 421, 442 (1987).

27 ¹³ *Russello v. United States*, 464 U.S. 16, 23–24 (1983); see also *United States v. NEC Corp.*, 931 F.2d 1493, 1502
(11th Cir. 1991) (changes in statutory language “generally indicate [] an intent to change the meaning of the
28 statute”); *Southern Pac. Transp. Co. v. Usery*, 539 F.2d 386, 390–91 (5th Cir. 1976); *Bonner v. City of Prichard*,
661 F.2d 1206, 1207 (11th Cir. 1981) (*en banc*).

¹⁴ NRS 604A.445 (emphasis added).

1 “[*n]otwithstanding* any other provision of this chapter to the *contrary*.”¹⁵ NRS 604A.210 very
2 clearly allows for additional time for grace periods. Thus, NRS 604A.210 controls the duration
3 of the loan, not NRS 604A.455—and there is no need to analyze the subsections of NRS
4 604A.455(3)(a)-(d).¹⁶

5 The FID’s position is closely related to its argument regarding NRS 604A.210. It
6 contends that, because interest is charged during the grace period, it effectively converts the 210
7 day loan to a 390 day loan. Yet, the FID ignores the fact that the Nevada Legislature: (1)
8 expressly allowed for grace periods by statute; (2) put no temporal limitation on a grace period;
9 and (3) specifically rejected the proposition that no interest of any kind could be charged during
10 a grace period. Respectfully, it is not the place of the FID to unilaterally rewrite a statute. Nor is
11 this the proper forum to rewrite these statutes. Given that TitleMax is following these rules to
12 the letter, the FID’s appropriate remedy is to seek an amendment of these statutes before the
13 Nevada Legislature. Yet, despite TitleMax’s urging that it do so, the FID has instead elected to
14 engage in rulemaking by enforcement in this proceeding. As such, this matter undermines and
15 displaces the careful separation of powers between the executive, legislative, and judiciary
16 branches of government.

17 **B. A Co-Borrower Cannot Be A Guarantor.**

18 In the 2014 ROE and 2015 ROE, the FID cited TitleMax for violations of NAC
19 604A.230.¹⁷ As set forth in the Complaint, the FID claims that a co-borrower on a title loan
20 violates NAC 604A.230(1)(a) when said co-borrower is not listed on title of the vehicle
21 associated with said loan. The FID’s position is wrong. The FID’s interpretation not only
22 ignores basic tenets of statutory interpretation, but is *ad hoc* rulemaking that violates the notice
23 and hearing requirements of Nevada’s Administrative Procedure Act, codified in NRS Chapter
24 233B.

25 ¹⁵ *Id.* (emphasis added).

26 ¹⁶ Moreover, the FID attempts to use this statute as a sword to claim that no loan could ever extend past 210 days,
27 but this provision is not a sword that limits. Rather, it sets forth the time duration “allowed” if certain requirements
28 are met. Indeed, NRS 604A.445 provides that a loan “may be up to 210 days” if four requirements are met. Yet, of
course, NRS 604A.445 has no application because NRS 604A.210 controls the duration of a loan that involves a
grace period.

¹⁷ Comp. ¶11.

1 **1. The Plain Language of the Regulation Contradicts the FID's Interpretation**

2 This regulation at issue is unambiguous and must be interpreted according to its
3 plain language. The regulation states simply that:

4 1. A licensee shall not:

5 **(a) Require or accept a guarantor to a transaction entered into**
6 **with a customer.**¹⁸

7 Thus, by its plain terms, NAC 604A.230(1)(a) has no application whatsoever to co-borrowers.

8 It is a basic tenet of statutory interpretation that an unambiguous provision must
9 be interpreted according to its plain meaning.¹⁹ It is clear that NAC 604A.230 *only* prohibits “a
10 guarantor” from guaranteeing a title loan. The FID cannot add a separate or additional meaning
11 to this plain and clear regulation. Indeed, when interpreting the plain language of a statute,
12 Nevada courts “presume that the Legislature intended to use words in their usual and natural
13 meaning.”²⁰ Thus, the existence of a co-borrower cannot trigger a violation of NAC
14 604A.230(1)(a).

15 Because of this regulation's silence as to co-borrowers, for the FID to claim that
16 there is a violation of NAC 604A.230(1)(a) whenever a co-borrower on a title loan is not on the
17 vehicle's title, the FID must ignore basic legal principles of sureties and treat co-borrowers and
18 guarantors as one and the same. This is an absurd reading of the regulation and must be
19 rejected—a co-borrower is not a guarantor under the law. Indeed, the most poignant difference
20 between a co-borrower and a guarantor is a co-borrower is a principal obligor while a guarantor
21 is a secondary obligor.²¹ A co-borrower is primarily liable on the loan and whether his or her
22 fellow debtor defaults or has defenses is not pertinent to his or her obligation to repay. A
23 guarantor, on the other hand, is not liable at all, unless the principal obligor defaults. Indeed, to
24 collect on a guaranty, a lender would have to prove the default by the underlying borrower,
25

26 ¹⁸ NAC 604A.230(1)(a)(emphasis added).

27 ¹⁹ See, e.g., *We The People Nev. ex rel. Angle v. Miller*, 124 Nev. 874, 881, 192 P.3d 1166, 1170 (2008) (explaining
28 that this court interprets unambiguous language “in accordance with its plain meaning”); *State Dep't of Ins. v. Humana Health, Ins.*, 112 Nev. 356, 360 (1999).

²⁰ *McGrath v. Dep't of Public Safety*, 123 Nev. 120, 123, 159 P.3d 239, 241 (2007).

²¹ See, e.g., RESTATEMENT (THIRD) OF SURETYSHIP & GUARANTY § 15.

1 which, of course, is not the case with the co-borrower arrangement.²² These distinctions between
2 a co-obligor and a guarantor render the FID's position erroneous.

3 In the Complaint, the FID misinterprets two statutory definitions in an attempt to
4 establish a co-borrower could violate NAC 604A.230(1)(a).²³ The FID appears to claim that
5 only owners of vehicles can be borrowers on title loans. This is not accurate. To make this
6 assertion, the FID focuses on just five words of NRS 604A.105, which defined title loans, and
7 purposefully ignores the rest of the statute. NRS 604A.105 provides:

- 8 1. "Title loan" means a loan made to a customer pursuant to a loan agreement
9 which, under its original terms:
 - 10 (a) Charges an annual percentage rate of more than 35 percent; and
 - 11 (b) Requires the customer to secure the loan by either:
 - 12 (1) Giving possession of the title to a vehicle legally owned by the
13 customer to the licensee or any agent, affiliate or subsidiary of the
14 licensee; or
 - 15 (2) Perfecting a security interest in the vehicle by having the name of
16 the licensee or any agent, affiliate or subsidiary of the licensee
17 noted on the title as a lienholder.
- 18 2. The term does not include a loan which creates a purchase-money security interest
19 in a vehicle or the refinancing of any such loan.²⁴

20 The portion relied upon by the FID, NRS 604A.105(1)(b)(1), merely discusses how to secure the
21 loan. However, the FID ignores NRS 604A.105(1)(b)(2), which is an alternative to subsection
22 (b)(1) and *does not require that the customer legally own the vehicle*. Indeed, the other option to
23 secure the vehicle, NRS 604A.105(1)(b)(2), has no mention of requiring the customer or
24 borrower to be on the title. Next, the FID cites to the definition of "title to vehicle" or "title" and
25 it is completely silent as to a customer or borrower. Indeed, in the statutory definition of vehicle,
26 Nevada law does not include any requirement that the vehicle be owned by the borrower.²⁵

27 ²² SEE, E.G., RESTATEMENT (THIRD) OF SURETYSHIP & GUARANTY § 22.

28 ²³ See Comp. §§ 46, 47. It does not appear that the FID is now, suddenly claiming a violation of NRS 604A.105 and
NRS 604A.115, but merely is citing to these statutes to support their argument surrounding NAC 604A.230(1)(a).
Comp. §§ 46, 47. Indeed, these are just statutory definitions and cannot be violated. NRS 604A.010 provides "[a]
used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 604A.015 to
604A.125, inclusive, have the meanings ascribed to them in those sections."

²⁴ NRS 604A.105.

²⁵ NRS 604A.125.

Very simply, as a matter of law, there cannot be a violation of NAC 604A.230(1)(a) based upon the mere existence of a co-borrower, which is fatal to the FID's interpretation of the regulation.

2. The FID is Violating Nevada's Administrative Procedures Act

Significantly, NAC 604A.230 is a regulation promulgated by the FID. Yet it is the FID's own plain language with which it now seems to take issue. And, even more significantly, the FID has the power to change NAC 604A.230 at any time—following the procedures set forth by the Nevada Legislature.

Thus, this is an issue that could have been (and still can be) easily remedied. Because this is a regulation that was created by the FID, it is one that that can be amended by the FID. TitleMax has urged the FID to do this repeatedly, and TitleMax would support such a change to the regulation because all licensees would then bound by the same rules, rather than some licensees obtaining a competitive advantage over others based upon the enforcement limitations of the FID. Yet, the FID has shown no interest in such a proposal and has not conducted any follow up rulemaking for NAC 604A.230

Rather, without following Nevada's process, the FID just unilaterally made new rules for licensees to follow. This should not be tolerated. Indeed, this type of conduct is prohibited by Nevada law.

There can be no question that the FID's rule to prevent co-borrowers from being on a title loan is a regulation. NRS 233B.038(1) defines a "regulation" as:

- (a) An agency rule, standard, directive or statement of general applicability which effectuates or interprets law or policy, or describes the organization, procedure or practice requirements of any agency;
- (b) A proposed regulation;
- (c) The amendment or repeal of a prior regulation; and
- (d) The general application by an agency of a written policy, interpretation, process or procedure to determine whether a person is in compliance with a federal or state statute or regulation in order to assess a fine, monetary penalty or monetary interest.²⁶

²⁶ 233B.038(1)

1 The Nevada Supreme Court has stated that “[a] properly adopted substantive rule establishes a
2 standard of conduct which has the force of law.”²⁷ However, when an agency engages in
3 conduct that constitutes the making of a regulation, it must adhere to the notice and hearing
4 requirements set forth under NRS 233B.060 and 233B.061.²⁸ Here, the notice and hearing
5 requirements were ignored and the FID has engaged in *ad hoc* rulemaking.

6 **C. There Cannot Be Any Finding of Willfulness Against TitleMax**

7 The FID has accused TitleMax of willfully violating the law and regulations. Yet, there
8 cannot be a finding of willfulness when the law is unsettled as it is.²⁹ To establish willfulness,
9 the FID must establish that TitleMax violated Chapter NRS 604A in an intentional, deliberate,
10 knowing, and voluntary manner.³⁰ Indeed, because there is a bona fide dispute as to the
11 interpretation of the subject laws, the FID cannot establish any of these elements. While
12 TitleMax allowed co-borrowers on title loans and customers to execute the Grace Period
13 Agreement, TitleMax did so without knowing either act would violate any provision of NRS
14 Chapter 604A—still to this day TitleMax adamantly believes both acts are lawful. Thus, because
15 of the good faith dispute as to the law, the FID cannot establish that TitleMax intentionally,
16 deliberately, knowingly, or voluntarily violated NRS Chapter 604A. This good faith dispute is
17 evidence by TitleMax’s repeated, and costly actions, to obtain a legal ruling from the Court as to
18 the law.

19 ///

20 ²⁷ *State Bd. Equal. v. Sierra Pac. Power*, 97 Nev. 461, 464, 634 P.2d 461, 463 (1981)(quoting *Pacific Gas &*
21 *Electric Co. v. Federal Power Com’n*, 506 F.2d 33, 38 (D.C.Cir.1974)).

22 ²⁸ *Southern Nevada Operating Engineers Contract Compliance Trust v. Johnson*, 121 Nev. 523, 528, 119 P.3d 720,
23 724 (2005). TitleMax notes that these same arguments apply to the FID’s charges that TitleMax violated NRS
24 604A.210 and 604A.445, as the FID has the power to promulgate regulations implementing the statutes over which
25 it has jurisdiction.

26 ²⁹ The unsettled state of the law precludes a finding of willfulness. *See, e.g., In re Stancil*, 487 B.R. 331, 343 (Bk.
27 D.D.C. 2013) (“when the law is sufficiently unsettled, willful violation of the statutory command is absent....”);
28 *United States v. Kahriger*, 210 F.2d 565 (3d Cir. 1954) (same); *Pignataro v. Port Auth. of N.Y. and N.J.*, 2008 WL
2625356, at *3 (June 27, 2008) (“While stubborn non-compliance in the face of contrary judicial authority might
well constitute willfulness, good faith adherence to, and defense of, those policies when the law is unsettled does not
establish a willful violation.”). It is particularly frustrating that the FID seeks penalties for willful
noncompliance when, at the very same time, it has fought so hard to avoid any judicial interpretation of these
laws. The FID cannot have it both ways in this regard and, given the foregoing authority, its assertions of a
“willful” violation must be rejected.

³⁰ *See, e.g., Advanced Century Steel, Inc. v. State, Div. of Indus. Relations, Occupational Safety and Health Section*,
122 Nev. 584, 137 P.3d 1155 (2006) (providing definition of “willfulness” that was not defined by statute.)

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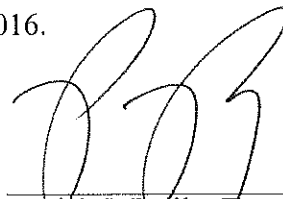
IV.

CONCLUSION

As set forth above, FID's interpretation of the alleged violated statutes, NRS 604A.210 and NRS 604A.445, and the alleged violated regulation, NAC 604A.230, are wrong. The FID has refused to seek an interpretation of these rules, and rather seeks to punish TitleMax for daring to disagree with its interpretation. Accordingly, TitleMax requests an interpretation of these rules for the purpose of this proceeding.

TitleMax thanks this Administrative Law Judge for its time and attention to this matter.

DATED this 12th day of February 2016.



Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

Attorneys for TitleMax of Nevada, Inc.

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of February, 2016, a true and correct copy of the foregoing **TITLEMAX OF NEVADA, INC.'S ADMINISTRATIVE HEARING BRIEF AND MOTION FOR DECLARATION REGARDING INTERPRETATION OF NEVADA LAW** was served by the following method(s):

☒ U.S. Mail: by depositing same in the United States mail, first class postage fully prepaid to the persons and addresses listed below:

Denise S. McKay, Esq.
Administrative Law Judge
Nevada Division of Business & Industry
555 E. Washington Avenue, Suite 4900
Las Vegas, Nevada 89101
Tel: (702) 486-7041

Hearing Officer

Adam Paul Laxalt
Attorney General
David J. Pope
Sr. Deputy Attorney General
555 E. Washington Ave., Suite 3900
Las Vegas, NV 89101
Tel: (702) 486-3420
Fax: (702) 486-3416
*Attorneys for State of Nevada Department of
Business and Industry Financial Institutions
Division*

☒ Email: by electronically delivering a copy via email to the following e-mail address:

Denise S. McKay, Esq.
Email: dsmckay@business.nv.gov

David J. Pope
Sr. Deputy Attorney General
Email: dpope@ag.nv.gov
*Attorneys for State of Nevada Department of
Business and Industry Financial Institutions
Division*

☐ Facsimile: by faxing a copy to the following numbers referenced below:

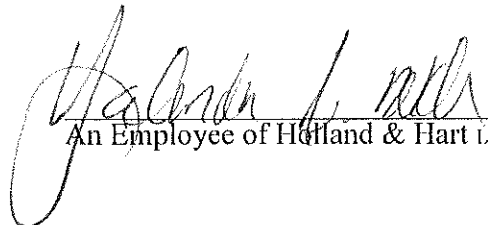
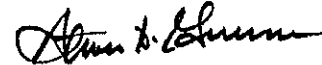

An Employee of Holland & Hart LLP

EXHIBIT A

APP 015564

ROA 010887



CLERK OF THE COURT

COMP

Patrick J. Reilly, Esq.
Nevada Bar No. 6103
Joseph G. Went, Esq.
Nevada Bar No. 9220
HOLLAND & HART LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134
Tel: (702) 669-4600
Fax: (702) 669-4650
preilly@hollandhart.com

Attorneys for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

TITLEMAX OF NEVADA, INC., a Nevada
corporation,

Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF
BUSINESS AND INDUSTRY FINANCIAL
INSTITUTIONS DIVISION,

Defendant.

Case No.: A-15-719176-C

Dept. No.: XXI

COMPLAINT

**Exempt from Arbitration—NAR 3(A)
Action Seeking Declaratory Relief**

Plaintiff TitleMax of Nevada, Inc. dba TitleMax and/or TitleBucks ("TitleMax"), by and through its attorneys of record, the law firm of Holland & Hart LLP, for its Complaint against State of Nevada, Department of Business and Industry, Financial Institutions Division (the "FID"), hereby states and alleges as follows:

PARTIES, JURISDICTION, AND VENUE

1. TitleMax is an entity created pursuant to the laws of the State of Nevada and is authorized to do business in Clark County, Nevada.

2. The FID is an agency of the State of Nevada.

3. This Court has subject matter jurisdiction pursuant to Article VI of the Nevada Constitution, and personal jurisdiction over the FID in accordance with NRS 14.065, on the grounds that such jurisdiction is not inconsistent with the Nevada Constitution or the United

1 States Constitution, and in accordance with NRS 41.031, under which the State of Nevada
2 waives its sovereign immunity.

3 4. Venue is proper in the Eighth Judicial District Court in accordance NRS 41.031.

4 **GENERAL ALLEGATIONS**

5 5. TitleMax is a lender licensed pursuant to NRS Chapter 604A and is a "licensee"
6 within the meaning of NRS 604A.075.

7 6. TitleMax offers title loans to its borrowers.

8 7. Title loans are governed by NRS Chapter 604A and are regulated by the FID and
9 its Commissioner.

10 8. In 2014, the FID conducted an examination of TitleMax.

11 9. After the completion of the examination, the FID issued reports of examination
12 (collectively "ROEs") covering statutory and regulatory compliance at TitleMax's various retail
13 stores located in the State of Nevada.

14 **INCORRECT CONCLUSIONS IN ROES RELATED TO NAC 604A.230**

15 10. The ROEs provided that TitleMax violated NAC 604A.230 whenever TitleMax
16 allowed a co-borrower to be associated with said loan when that co-borrower not on the title of
17 the vehicle.

18 11. The FID examiner concluded erroneously that the co-borrower was a "guarantor"
19 and that TitleMax was violating NAC 604A.230.

20 12. When there is a co-borrower not listed on the title of the vehicle associated with
21 said loan, the co-borrower becomes contractually bound as a principal obligor, and not as a
22 guarantor.

23 13. Based on the examiner's incorrect application of NAC 604A.230, the FID issued
24 a "Needs Improvement" rating, thereby indicating that TitleMax had demonstrated less than
25 satisfactory compliance in the examination.

26 14. TitleMax has no administrative remedy available to challenge the incorrect
27 findings of fact or conclusions of law contained in the ROE, and no other opportunity to contest
28 such findings or conclusions.

1 15. NAC 604A.230 does not prohibit the underwriting of a title loan with a co-
2 borrower as a principal obligor.

3 **INCORRECT CONCLUSIONS IN ROEs RELATED TO**

4 **NRS 604A.210 AND NRS 604A.445**

5 16. The ROEs provided that TitleMax violated NRS 604A.210 and NRS 604A.445
6 whenever a customer executed a grace period payment deferment agreement (the "Deferment
7 Agreement") on a 210-day installment loan.

8 17. The FID examiner's conclusion was incorrect in determining that the foregoing
9 constituted a violation of NRS 604A.210 and NRS 604A.445.

10 18. Based on the examiner's incorrect understanding of the Deferment Agreement,
11 the FID issued a "Needs Improvement" rating thereby indicating that TitleMax had demonstrated
12 less than satisfactory compliance in the examination.

13 19. TitleMax has no administrative remedy available to challenge the incorrect
14 findings of fact or conclusions of law contained in the ROE, and no other opportunity to contest
15 such findings or conclusions.

16 **FIRST CLAIM FOR RELIEF**

17 **(Declaratory Relief)**

18 20. TitleMax hereby repeats, realleges, and incorporates all of the allegations
19 contained in the preceding paragraphs as though fully set forth herein.

20 21. A true and ripe controversy exists between TitleMax and the FID as to the
21 interpretation and application of NRS 604A.210, NRS 604A.445, and NAC 604A.230, in
22 particular as to whether TitleMax "violated" said statutes and regulation.

23 22. TitleMax seeks a declaration that an individual may be a co-borrower on a title
24 loan without violating NAC 604A.230 when said individual is not listed on title of the vehicle
25 associated with said loan.

26 23. TitleMax seeks a declaration that the Deferment Agreement does not violate NRS
27 604A.210 or NRS 604A.445.

28

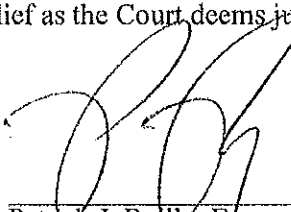
1 24. Declaratory relief is necessary to determine the foregoing rights, status, or other
2 legal relations thereunder.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, TitleMax demands judgment against Defendant as follows:

- 5 1. For declaratory relief as described herein; and
6 2. For such other and further relief as the Court deems just and proper.

7 DATED this 29th day of May, 2015.

8 
9 _____
10 Patrick J. Reilly, Esq.
11 Joseph G. Went, Esq.
12 HOLLAND & HART LLP
13 9555 Hillwood Drive, Second Floor
14 Las Vegas, Nevada 89134

15 Attorneys for Plaintiff

EXHIBIT B

APP 015569

ROA 010892

Patrick Reilly

From: Christopher A. Eccles <CEccles@ag.nv.gov>
Sent: Thursday, July 23, 2015 12:15 PM
To: Patrick Reilly
Cc: David J. Pope
Subject: RE: Joint Declaratory Relief

Harveen said the report is going out today or tomorrow. FID will not bring an administrative complaint if we agree to a Chapter 29. Please let me know and thanks.

Chris Eccles
Deputy Attorney General

This message and attachments are intended only for the addressee(s) and may contain information that is privileged and confidential. If the reader of the message is not the intended recipient or an authorized representative of the intended recipient, I did not intend to waive and do not waive any privileges or the confidentiality of the messages and attachments, and you are hereby notified that any dissemination of this communication is strictly prohibited. If you receive this communication in error, please notify me immediately by e-mail at ceccles@ag.nv.gov and delete the message and attachments from your computer and network. Thank you.

From: Patrick Reilly [mailto:PREilly@hollandhart.com]
Sent: Thursday, July 23, 2015 10:39 AM
To: Christopher A. Eccles
Cc: David J. Pope
Subject: RE: Joint Declaratory Relief

Chris,

I never heard back as to whether the Division would actually commit to refrain from commencing an administrative proceeding in the event that the parties agree to convert the matter to a Chapter 29 proceeding. Can you please let me know?

Also, has an Unsatisfactory actually been issued yet?

Thanks.

Patrick J. Reilly, Esq.
Holland & Hart LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134
www.hollandhart.com
Telephone (702) 222-2542
Cell Phone (702) 882-0112
Facsimile (702) 669-4650

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APP 015570

From: Christopher A. Eccles [<mailto:CEccles@ag.nv.gov>]
Sent: Wednesday, July 15, 2015 11:12 AM
To: Patrick Reilly
Cc: David J. Pope
Subject: RE: Joint Declaratory Relief

Yes, you heard wrong. TitleMax did receive a "Needs Improvement" rating last year. My understanding is that if the examiners found substantially the same issues this year, then TitleMax may be rated "Unsatisfactory." The latter rating is typically when the Divisions refers the matter to the AG for possible action such as an administrative complaint.

I think that if we agree to a Chapter 29, it is unlikely that the Division would proceed with an administrative complaint even if TitleMax receives an Unsatisfactory rating, until we receive a ruling from the judge. I will talk to the client today to confirm this.

Thanks,

Chris Eccles
Deputy Attorney General

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From: Patrick Reilly [<mailto:PREilly@hollandhart.com>]
Sent: Wednesday, July 15, 2015 8:52 AM
To: Christopher A. Eccles
Cc: David J. Pope
Subject: RE: Joint Declaratory Relief

Thanks Chris. Just as a follow up, I understood from our conversation that TitleMax had received an Unsatisfactory last year and was about to get another one this year. I went back to the Complaint, however, and saw that last year was merely a "Needs Improvement." Did I just hear you wrong? And what does that mean in terms of possible administrative proceedings if TitleMax does not agree to convert the action to a Chapter 29 proceeding?

Pat

From: Christopher A. Eccles [<mailto:CEccles@ag.nv.gov>]
Sent: Tuesday, July 14, 2015 6:50 PM
To: Patrick Reilly
Cc: David J. Pope
Subject: RE: Joint Declaratory Relief

Thanks, Pat. Yes, I agree that if we convert to a Chapter 29 we should set our briefing schedule by stipulation. Please let me know when you have an answer from your client.
Thanks,

Chris Eccles
Deputy Attorney General

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APP 015571

From: Patrick Reilly [<mailto:PREilly@hollandhart.com>]
Sent: Monday, July 13, 2015 11:29 AM
To: Christopher A. Eccles
Cc: David J. Pope
Subject: RE: Joint Declaratory Relief

I'm checking with the client. The initial response to your suggestion to covert the action to a Chapter 29 proceeding was favorable and I should have a formal response shortly. Assuming TitleMax is agreeable to converting the action to a Chapter 29 dispute, we could simply set a briefing schedule by stipulation.

Thanks.

From: Christopher A. Eccles [<mailto:CEccles@ag.nv.gov>]
Sent: Monday, July 13, 2015 10:10 AM
To: Patrick Reilly
Cc: David J. Pope
Subject: RE: Joint Declaratory Relief

Are you agreeable to an extension the 31st?
Thanks,

Chris Eccles
Deputy Attorney General

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From: Patrick Reilly [<mailto:PREilly@hollandhart.com>]
Sent: Monday, July 13, 2015 10:03 AM
To: Christopher A. Eccles
Cc: David J. Pope
Subject: RE: Joint Declaratory Relief

I have not had a chance to talk with the client but hope to today. If you need an extension on anything, please let me know.

Thanks.

From: Christopher A. Eccles [<mailto:CEccles@ag.nv.gov>]
Sent: Monday, July 13, 2015 9:41 AM
To: Patrick Reilly
Cc: David J. Pope
Subject: Joint Declaratory Relief

Hi Pat,

Is there any headway on the possibility of TitleMax converting to a Chapter 29? It's an awesome (and short) chapter! The whole chapter is copied below. We think that this is the quickest way to a judge's interpretation.

Please let us know and thanks.

APP 015572

CHAPTER 29 - SUBMITTING A CONTROVERSY WITHOUT ACTION

<u>NRS 29.010</u>	Submission of a controversy without action.
<u>NRS 29.020</u>	Entry of judgment; judgment roll.
<u>NRS 29.030</u>	Enforcement and appeal of judgment.

NRS 29.010 Submission of a controversy without action. Parties to a question in difference, which might be the subject of a civil action, may, without action, agree upon a case containing the facts upon which the controversy depends, and present a submission of the same to any court which should have jurisdiction if an action had been brought. But it must appear, by affidavit, that the controversy is real, and the proceedings in good faith, to determine the rights of the parties. The court shall thereupon hear and determine the case and render judgment thereon, as if an action were pending.

[1911 CPA § 310; RL § 5252; NCL § 8808]

NRS 29.020 Entry of judgment; judgment roll. Judgment shall be entered in the judgment book as in other cases, but without costs for any proceeding prior to the trial. The case, the submission and a copy of the judgment shall constitute the judgment roll.

[1911 CPA § 311; RL § 5253; NCL § 8809]

NRS 29.030 Enforcement and appeal of judgment. The judgment may be enforced in the same manner as if it had been rendered in an action, and shall be in the same manner subject to appeal.

[1911 CPA § 312; RL § 5254; NCL § 8810]

Chris Eccles
Deputy Attorney General

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APP 015573

EXHIBIT C

APP 015574

ROA 010897

GRACE PERIOD PAYMENTS DEFERMENT AGREEMENT

Date: <Print Date>

Account Number: <Loan ID>

Customer Name: <Customer First Middle Last> Address: <Customer Address, City, State Zip> Co-Borrower Name: <Joint Applicant First Middle Last> Address: <Joint Applicant Address, City, State Zip>	Licensee Name: <TitleMax of Nevada, Inc. d/b/a <brand>> Address: <Store Address, City, State Zip> Vehicle Information: <Vehicle Year Make Model, VIN>
---	---

Definitions and Terms. In this Grace Period Payments Deferment Agreement, "customer," "you," and "your" mean the customer who signed it. "Licensee," "we," "us" and "our" mean TitleMax of Nevada, Inc. d/b/a TitleMax, a title loan services provider licensed and regulated by the Nevada Financial Institutions Division, 2785 E Desert Inn Road, Suite 180, Las Vegas, Nevada 89121, Phone: (702) 486-4120, Fax: (702) 486-4563, <http://www.fid.state.nv.us/>. The word "Motor Vehicle" means the vehicle identified above. The word "Title" means a certificate of title or ownership to the Motor Vehicle.

Consideration. You acknowledge and agree that you and we entered into a Title Loan Agreement on <Loan Origination Date> ("Loan Agreement.") Under the Title Loan Agreement, we agreed with you that we may subsequently offer you a "Grace Period" which is a gratuitous period of payments deferment. You agree that we are offering you a "Grace Period" and you are voluntarily accepting such offer after entering into a Loan Agreement pursuant to the provisions of NRS 604A.70 and NRS 604A.210. **Please note that since this is a "Grace Period" it is not an "extension" as defined in NRS. 604A.065.** Under the Title Loan Agreement, your obligation to pay simple interest under the Loan Agreement remains unchanged. Other than the interest and fees originally provided for in the Title Loan Agreement, we do not charge you any additional fees or interest for entering into this Grace Period Payments Deferment Agreement.

NOW THEREFORE, in consideration of the mutual promises, herein you and we agree to the payments deferment in this written and signed Grace Period Payments Deferment Agreement.

Grace Period Payments Deferment. In the Title Loan Agreement, you agreed to make your scheduled payments in the amounts and on the dates set forth in the Payment Schedule listed in the Federal Truth In Lending Disclosures at the address indicated above, or at such other address as we direct you in writing. During this Grace Period, we have agreed to amend, modify, and defer your payments as set forth below in the Grace Period Payments Deferment Schedule. Therefore, you and we agree to the amended and deferred payments and periods set forth below in the Grace Period Payments Deferment Schedule set forth below. If any us in cash the amount owing on the dates set forth in the Grace Period Payments Deferment Schedule set forth below. If any Deferred Due Date falls on a date we are not open for business, then you agree to pay us on the next business day, and we will credit such payment, as if we received it on the appropriate Deferred Due Date. The Grace Period Payments Deferment Agreement will be consummated upon the date you sign it. Time is of the essence in this Grace Period Payments Deferment Agreement. We will not attempt to collect an amount that is greater than the amount owed. We will not attempt to collect the outstanding balance during the term of the Grace Period by process of alternative dispute resolution, by repossessing the Motor Vehicle or by exercising any other right we have under Nevada law, unless you default on the Grace Period Payments Deferment Agreement.

Grace Periods Payments Deferment Schedule

Payment Number	Amount of Payment	Deferred Periodic Due Date
1	<Interest Only Pymnt on New Principal Bal.>	<First 30 Day Due Date>
2	^same as above	^ Plus 30 Days
3	^same as above	^ Plus 30 Days
4	^same as above	^ Plus 30 Days
5	^same as above	^ Plus 30 Days
6	^same as above	^ Plus 30 Days

Any comments or questions may be directed to Customer Service at the following toll-free number: (800) 804-5368.

7	^same as above	^ Plus 30 Days
8	<New Principal bal. divided by 7>	^ Plus 30 Days
9	<New Principal bal. divided by 7>	^ Plus 30 Days
10	<New Principal bal. divided by 7>	^ Plus 30 Days
11	<New Principal bal. divided by 7>	^ Plus 30 Days
12	<New Principal bal. divided by 7>	^ Plus 30 Days
13	<New Principal bal. divided by 7>	^ Plus 30 Days
14	<New Principal bal. divided by 7> **If odd amt list odd amt here	^ Plus 30 Days
The total amount paid after making all payments under the terms of the Grace Period Payments Deferment Agreement:		Total of above columns

BECAUSE THIS IS ONLY AN AMENDMENT AND MODIFICATION OF THE LOAN AGREEMENT IN WHICH WE ARE ONLY MODIFYING AND DEFERRING YOUR PAYMENTS UNDER THE TITLE LOAN AGREEMENT, YOU ACKNOWLEDGE AND AGREE THAT ALL OF THE TERMS AND CONDITIONS OF THE TITLE LOAN AGREEMENT, INCLUDING THE CHARGING OF SIMPLE INTEREST AND WAIVER OF JURY TRIAL AND ARBITRATION PROVISION, REMAIN IN FULL FORCE AND EFFECT.

Right to Rescind. You have the right to rescind this Grace Period Payments Deferment Agreement. You may rescind on or before the close of business on the next day of business at the location where the Grace Period Payments Deferment Agreement was initiated. To rescind, you must come to the location where the Grace Period Payments Deferment Agreement was initiated and sign a Cancellation of the Grace Period Payments Deferment Agreement. If you rescind, then we will not charge you any amount for rescinding, and you will be required to make the payments as originally scheduled in the Title Loan Agreement.

Prepayment. You may also pay us in full or make prepayments at any time, without an additional charge or fee, before the final Deferred Periodic Due Date. If you pay the total amount due under the terms of the Title Loan Agreement in full, as deferred through negotiations and agreed to herein, then we shall return the Title to you. You may also make partial prepayments under this Grace Period Payments Deferment Agreement at any time without an additional charge or fee.

Repayment Plan Disclosure: If you default on the loan and this Grace Period Deferred Payments Agreement, we must offer a Repayment Plan to you before we commence any civil action or process of alternative dispute resolution, or before we repossesses the Motor Vehicle.

Default and Repayment Plan. You will be in default under Grace Period Payments Deferment Agreement if you fail to keep any promise made herein. Such default occurs on the day immediately following the date of your failure to perform as described herein. We may waive a default and reinstate your account to good status if you bring your account current or make satisfactory payment arrangements with us. You will have the opportunity to enter into a Repayment Plan with a term of at least 90 days after the Date of Default on the Grace Period Payments Deferment Agreement. Under the terms of any Repayment Plan and pursuant to Nevada law: (1) you must enter into the Repayment Plan not later than 30 days after the date of default, unless we allow a longer period; (2) we will allow the period for repayment to extend at least 90 days after the date of default, unless you agree to a shorter term; and (3) we may require you to make an initial payment of not more than 20 percent of the total amount due under the Repayment Plan. If you enter into a Repayment Plan, we will honor the terms and we will not charge any other amount as an incident to or as a condition of entering into a Repayment Plan. Such an amount includes, without limitation: (a) any interest, regardless of the name given to the interest, other than the interest charged pursuant to the original loan agreement at a rate which does not exceed the rate charged during the term of the original loan agreement; or (b) any origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fee. Additionally, if you enter into a Repayment, we will honor the terms of the Repayment Plan, and unless otherwise authorized by Nevada law we will not (i) accept any additional security or collateral from you to enter into the Repayment Plan; (ii) sell to you any insurance (iii) require you to purchase insurance or any other goods or services to enter into the Repayment Plan; (iv) make any other loan to you, unless you are seeking multiple loans that do not exceed the limit set forth under Nevada law; (v) attempt to collect the outstanding balance

Any comments or questions may be directed to Customer Service at the following toll-free number: (800) 804-5368.

during the term of the Repayment Plan by repossessing the Vehicle unless you default on the Repayment Plan or (vi) attempt to collect an amount that is greater than the amount owed under the terms of the Repayment Plan. Therefore, if you (I) default on Grace Period Payments Deferment Agreement and do not enter into a Repayment Plan and we do not waive the default, or (II) default on Grace Period Payments Deferment Agreement, enter into a Repayment Plan, and default on the terms of the Repayment Plan, then we may pursue any remedy Nevada law allows, including seeking repossession and sale of the Motor Vehicle.

Security Interest. You have given us possession of the Title to the vehicle, and granted us a security interest in the Title. We continue to maintain our security interest and possession of the Title during this Grace Period Payments Deferment Agreement.

Acknowledgment of Simple Interest Accrual. You acknowledge that we use the simple interest method to calculate and accrue the interest owing under the Loan Agreement. Interest is not compounded under the Loan Agreement. You acknowledge that simple interest is charged on the outstanding principal balance. Payments will be applied first to accrued interest, second to outstanding charges, if any, and third to principal. We calculated and estimated the simple interest under the Loan Agreement and disclosed in the "Finance Charge" disclosure assuming you would pay each scheduled payment in the amount scheduled and on the scheduled Payment Dates. The original Payment Schedule in the Loan Agreement provided for payments which would ratably and fully amortize the entire Principal Amount and interest payable. The interest rate under the Loan Agreement remains unchanged. You acknowledge that simple interest is charged on the unpaid principal balance of this Loan Agreement at the daily rate of <Original APR/365 (4 decimals)>% from the date of this Loan Agreement until the earlier of: (i) the due date of your last payment as set forth in the original Payment Schedule; or (ii) payment in full. Now that the Payment Schedule has changed, you acknowledge that the new Payment Schedule provided for in this Grace Period Payments Deferment Agreement, if followed, will ratably and fully amortize the entire Principal Amount and interest payable over a longer period of time than the original Payment Schedule in the Loan Agreement. As such you acknowledge and agree you will continue to incur interest as provided in the Loan Agreement. You further agree that in setting the amount of the payments and dates of the payments, we have estimated the accrued interest owing to us assuming you make the payments in the amounts scheduled and on the exact dates set forth in the Grace Periods Payments Deferment Schedule above. Early payments may decrease the amount of interest you owe. Making a payment in an amount greater than scheduled above may decrease the amount of interest you owe. Late payments may increase the amount of interest you owe. The amount of this increase or decrease will be reflected in the final payment. If an early payment is less than the scheduled installment, then you must pay the difference on or before the upcoming installment due date. You may request a payoff at any time.

Governing Law and Assignment. Nevada law governs the Loan Agreement and this Grace Period Payments Deferment Agreement, except the Federal Arbitration Act ("FAA") governs the Walver of Jury Trial and Arbitration Provision. We may assign or transfer the Loan Agreement and Grace Period Payments Deferment Agreement or any of our rights.

By signing this Grace Period Payments Deferment Agreement, you acknowledge that it was filled in before you did so and that you have received a completed copy of it. You agree that the Information you provided to before entering into this Grace Period Payments Deferment Agreement is accurate. You represent that you are not a debtor under any proceeding in bankruptcy and have no intention to file a petition for relief under any chapter of the United States Bankruptcy Code. **You acknowledge that you have read this Grace Period Payments Deferment Agreement, and agree to its terms.** You further acknowledge that except as amended herein, all of the terms of the Title Loan Agreement remain enforceable including but not limited to the charging of simple interest and Walver of Jury Trial and Arbitration Provision.

Acknowledgments. By signing below, you acknowledge that the payment information noted above is accurate. If the term of this loan is shorter than 210 days, you further represent that the information previously provided on the Covered Borrower Identification Statement is still accurate. You agree to inform the company and sign a new statement if your status as an active duty member of the Armed Forces (Army, Navy, Marine Corps, Air Force, or Coast Guard), or as a dependent or spouse of such member changes.

Customer's Signature

Date _____

LICENSEE: TitleMax of Nevada, Inc. d/b/a <brand>

Co-Borrower's Signature

Date _____

Its Authorized Agent

Date _____

Any comments or questions may be directed to Customer Service at the following toll-free number: (800) 804-5368.

TM.TB.NV.grace-period-deferment-agmt.1.22.2014

APP 015577

Page 3 of 8

TMX 91 - 00003

ROA 010900

EXHIBIT D

APP 015578

ROA 010901

2005 SESSION (73rd)

A AB384 R1 869

Amendment No. 869

Senate Amendment to Assembly Bill No. 384 First Reprint		(BDR 52-806)
Proposed by: Committee on Commerce and Labor		
Amendment Box:		
Resolves Conflicts with: N/A		
Amends:	Summary: No	Title: Yes Preamble: No Joint Sponsorship: No Digest: No

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____
Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____

Amend sec. 2, page 1, line 5, by deleting:

"3 to 21," and inserting:

"2.5 to 21.5,".

Amend the bill as a whole by adding a new section designated sec. 2.5, following sec. 2, to read as follows:

"Sec. 2.5. 1. *"Automated loan machine" means any machine or other device, regardless of the name given to it or the technology used, that:*

(a) Is automated;

(b) Is designed or intended to allow a customer, without any additional assistance from another person, to receive or attempt to receive a deferred deposit loan or short-term loan through the machine or other device; and

SH/KP

Date: 5/25/2005

A.B. No. 384—Makes various changes relating to certain short-term, high-interest loans.



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(c) Is set up, installed, operated or maintained by or on behalf of the person making the loan or any agent, affiliate or subsidiary of the person.

2. The term does not include any machine or other device used directly by a customer to access the Internet unless the machine or other device is made available to the customer by the person making the loan or any agent, affiliate or subsidiary of the person."

Amend sec. 8, page 2, by deleting lines 30 and 31 and inserting:

"the extension or repayment plan does not violate the provisions of this chapter."

Amend sec. 9, page 2, line 35, by deleting "written" and inserting "loan".

Amend sec. 9, page 3, line 2, by deleting "the electronic" and inserting "an electronic".

Amend the bill as a whole by adding a new section designated sec. 15.5, following sec. 15, to read as follows:

"Sec. 15.5. "Refund anticipation loan" means a loan offered or made to a taxpayer by a lender or through a facilitator based on the taxpayer's anticipated federal income tax refund."

Amend sec. 16, page 3, by deleting lines 32 and 33 and inserting:

"Sec. 16. "Regulation Z" means the federal regulations, as amended, 12 C.F.R. Part 226, adopted pursuant to the Truth in Lending Act and commonly known as Regulation Z."

Amend sec. 17, page 3, by deleting lines 37 through 43 and inserting:

"(a) Charges an annual percentage rate of more than 40 percent; and

(b) Requires the loan to be paid in full in less than 1 year.

2. The term does not include:

(a) A deferred deposit loan;

(b) A title loan; or

(c) A refund anticipation loan.”.

Amend sec. 19, page 4, by deleting lines 5 through 11 and inserting:

“pursuant to a loan agreement which, under its original terms:

(a) Charges an annual percentage rate of more than 35 percent; and

(b) Requires the customer to secure the loan by giving possession of the title to a vehicle legally owned by the customer to the person making the loan, or to any agent, affiliate or subsidiary of the person, whether or not the person making the loan or taking possession of the title perfects a security interest in the vehicle by having the person’s name noted on the title as a lienholder.

2. The term does not include:

(a) A loan which creates a purchase-money security interest in a vehicle or the refinancing of any such loan; or

(b) Any other loan for which a vehicle is used as security or collateral if the person making the loan.”.

Amend sec. 21, page 4, by deleting lines 17 through 19 and inserting:

“Sec. 21. “Title to a vehicle” or “title” means a certificate of title or ownership issued pursuant to the laws of this State that identifies the legal owner of a vehicle or any similar”.

Amend the bill as a whole by adding new sections designated sections 21.2 through 21.8, following sec. 21, to read as follows:

“Sec. 21.2. “Truth in Lending Act” means the federal Truth in Lending Act, as amended, 15 U.S.C. §§ 1601 et seq.

Sec. 21.5. 1. *"Vehicle" means any vehicle, whether or not self-propelled, that is designed or intended for land transportation if the legal owner of the vehicle is required to have a title.*

2. *The term includes, without limitation:*

- (a) Passenger vehicles;*
- (b) Recreational vehicles; and*
- (c) House trailers and travel trailers.*

3. *The term does not include:*

- (a) Farm vehicles;*
- (b) Vehicles of a common or contract carrier;*
- (c) Commercial vehicles;*
- (d) Construction vehicles;*
- (e) Military vehicles;*
- (f) Vehicles used exclusively upon stationary rails or tracks; or*
- (g) Any other vehicles which are similar in nature to the vehicles listed in paragraphs (a) to (f), inclusive, and which the Commissioner, by regulation, excludes from the definition of "vehicle."*

Sec. 21.8. 1. *As used in this chapter, unless the context otherwise requires, the following terms have the meanings ascribed to them in the Truth in Lending Act and Regulation Z:*

- (a) "Amount financed,"*
- (b) "Annual percentage rate,"*
- (c) "Finance charge,"*
- (d) "Payment schedule."*

(e) *"Total of payments."*

2. *For the purposes of this chapter, proper calculation of the amount financed, annual percentage rate and finance charge for a loan must be made in accordance with the Truth in Lending Act and Regulation Z."*

Amend sec. 23, page 4, line 28, before *"loan,"* by inserting:

"loan or an extension of a".

Amend sec. 23, page 4, line 30, by deleting:

"fees or interest" and inserting:

"additional fees or additional interest".

Amend sec. 27, page 6, between lines 6 and 7, by inserting:

"15. A person who makes a refund anticipation loan, unless the person operates a check-cashing service, deferred deposit loan service, short-term loan service or title loan service."

Amend sec. 28, page 6, by deleting lines 7 through 13 and inserting:

"Sec. 28. 1. The Commissioner may establish by regulation the fees that a licensee who provides check-cashing services may impose for cashing checks.

2. The Commissioner shall adopt any other regulations as are".

Amend sec. 29, page 6, line 24, by deleting *"means."* and inserting:

"means, except that the person shall not operate such a service through any automated loan machine in violation of the provisions of subsection 3,

3. A person shall not operate a deferred deposit loan service or short-term loan service through any automated loan machine, and the Commissioner shall not issue a license that authorizes the licensee to conduct business through any automated loan machine."

Amend sec. 30, page 6, by deleting lines 26 through 29 and inserting:

"every location at which he conducts business under his license:

(a) A notice that states the fees he charges for providing check-cashing services, deferred deposit loan services, short-term loan services or title loan services.

(b) A notice that states a toll-free telephone number to the Office of the Commissioner to handle concerns or complaints of customers.

↪ The Commissioner shall adopt regulations prescribing the form and size of the notices required by this subsection."

Amend sec. 30, page 6, line 33, after "means," by inserting:

"except for an automated loan machine prohibited by section 29 of this act,".

Amend sec. 31, page 7, by deleting lines 11 through 25 and inserting:

"(b) The nature of the security for the loan, if any;

(c) The date and amount of the loan, amount financed, annual percentage rate, finance charge, total of payments, payment schedule and a description and the amount of every fee charged, regardless of the name given to the fee and regardless of whether the fee is required to be included in the finance charge under the Truth in Lending Act and Regulation Z;

(d) A disclosure of the right of the customer to rescind a loan pursuant to the provisions of this chapter;

(e) A disclosure of the right of the customer to pay his loan in full or in part with no additional charge pursuant to the provisions of this chapter;

(f) A disclosure stating that, if the customer defaults on the loan, the customer has the opportunity within 30 days of the date of default to enter into a repayment plan with a term of at

least 90 days, and that the licensee must offer the repayment plan to the customer before the licensee commences any civil action or process of alternative dispute resolution or, if appropriate for the loan, before the licensee repossesses a vehicle; and

(g) Any other disclosures required under the Truth in Lending Act and Regulation Z or under any other applicable federal or state statute or regulation.”.

Amend sec. 32, page 7, line 30, after “Act,” by inserting “as amended,”.

Amend sec. 32, page 7, line 33, by deleting “initiates” and inserting “commences”.

Amend sec. 32, page 7, line 39, by deleting “is” and inserting “was”.

Amend sec. 32, page 7, after line 45, by inserting:

“3. Notwithstanding any provision of NRS 66.010 to the contrary, if:

(a) A licensee intends to commence a civil action in a justice’s court against a customer to collect a debt; and

(b) The customer resides in the county where the loan was made,
↪ the licensee is required to commence the civil action in the justice’s court for the township where the loan was made unless, after the date of default and before the licensee commences the civil action, the customer signs an affidavit agreeing to try the action in another justice’s court having jurisdiction over the subject matter and the parties. A licensee shall not, directly or indirectly, require, intimidate, threaten or coerce a customer to sign such an affidavit.”.

Amend sec. 33, page 8, line 12, after “Garnish” by inserting:

“or threaten to garnish”.

Amend sec. 33, page 8, line 14, after “Contact” by inserting:

“or threaten to contact”.

Amend the bill as a whole by adding a new section designated sec. 33.5, following sec. 33, to read as follows:

"Sec. 33.5. 1. A licensee shall not:

(a) Make a deferred deposit loan that exceeds 25 percent of the expected gross monthly income of the customer when the loan is made; or

(b) Make a short-term loan which, under the terms of the loan agreement, requires any monthly payment that exceeds 25 percent of the expected gross monthly income of the customer.

2. A licensee is not in violation of the provisions of this section if the customer presents evidence of his gross monthly income to the licensee and represents to the licensee in writing that:

(a) For a deferred deposit loan, the loan does not exceed 25 percent of his expected gross monthly income when the loan is made; or

(b) For a short-term loan, the monthly payment required under the terms of the loan agreement does not exceed 25 percent of his expected gross monthly income."

Amend sec. 34, page 8, by deleting lines 19 through 38 and inserting:

"Sec. 34. A licensee shall not make more than one deferred deposit loan or short-term loan to the same customer at one time or before any outstanding balance is paid in full on an existing loan made by that licensee to the customer unless:

1. The customer is seeking multiple loans that do not exceed the limits set forth in section 33.5 of this act;

2. The licensee charges the same or a lower annual percentage rate for any additional loans as he charged for the initial loan;

3. *Except for that part of the finance charge which consists of interest only, the licensee does not impose any other charge or fee to initiate any additional loans, except that a licensee who makes deferred deposit loans or short-term loans in accordance with the provisions of subsection 2 of section 43 of this act may charge a reasonable fee for preparing documents in an amount that does not exceed \$50; and*

4. *If the additional loans are deferred deposit loans and the”.*

Amend sec. 35, page 9, line 2, by deleting “motor”.

Amend sec. 35, page 9, by deleting lines 7 through 22 and inserting:

“(d) *More than one check or written authorization for an electronic transfer of money for each deferred deposit loan.*

(e) *A check or written authorization for an electronic transfer of money for any deferred deposit loan in an amount which exceeds the total of payments set forth in the disclosure statement required by the Truth in Lending Act and Regulation Z that is provided to the customer.*

2. *Take any note or promise to pay which does not disclose the date and amount of the loan, amount financed, annual percentage rate, finance charge, total of payments, payment schedule and a description and the amount of every fee charged, regardless of the name given to the fee and regardless of whether the fee is required to be included in the finance charge under the Truth in Lending Act and Regulation Z.*

3. *Take any instrument, including a check or written authorization for an electronic transfer of money, in which blanks”.*

Amend sec. 36, page 9, by deleting lines 36 through 38 and inserting:

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"2. Commence a civil action or any process of alternative dispute resolution or repossess a vehicle before the customer defaults under the original term of a loan agreement or before the customer defaults under any repayment plan, extension or grace period negotiated and agreed".

Amend sec. 36, page 10, line 2, before "payment" by inserting "the".

Amend the bill as a whole by adding a new section designated sec. 36.5, following sec. 36, to read as follows:

"Sec. 36.5. Notwithstanding any other provision of this chapter to the contrary:

1. The original term of a title loan must not exceed 30 days.

2. The title loan may be extended for not more than six additional periods of extension, with each such period not to exceed 30 days, if:

(a) Any interest or charges accrued during the original term of the title loan or any period of extension of the title loan are not capitalized or added to the principal amount of the title loan during any subsequent period of extension;

(b) The annual percentage rate charged on the title loan during any period of extension is not more than the annual percentage rate charged on the title loan during the original term; and

(c) No additional origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fees, are charged in connection with any extension of the title loan."

Amend sec. 37, page 10, line 18, by deleting "motor".

Amend sec. 37, page 10, by deleting line 27 and inserting:

"obligations, employment and ownership of the vehicle; and".

Amend sec. 38, page 10, line 30, by deleting "chapter," and inserting "section,".

Amend sec. 38, page 10, line 35, by deleting:

"to commence a legal action".

Amend sec. 38, page 10, lines 36, 40, 41 and 43, by deleting *"motor"*.

Amend sec. 38, page 11, lines 1 and 3, by deleting *"motor"*.

Amend sec. 38, page 11, by deleting lines 4 through 15 and inserting:

"before he entered into the title loan.

3. *If a vehicle is repossessed pursuant to this section:*

(a) By the licensee or his employees, the licensee shall make reasonably available to the customer any personal property in or upon the vehicle; or

(b) By a third party acting on behalf of the licensee, the licensee shall instruct the third party to make reasonably available to the customer any personal property in or upon the vehicle.

4. *If a customer uses fraud to secure a title loan or if the customer wrongfully transfers any interest in the vehicle to a third party before the title loan is repaid, the licensee may bring a civil action against the customer for any or all of the following relief:*

(a) The amount of the loan obligation, including, without limitation, the aggregate amount of the interest, charges and fees negotiated and agreed to by the licensee and customer as permitted under this chapter, less any prior payments made by the customer;"

Amend sec. 38, page 11, line 24, by deleting *"motor"*.

Amend sec. 39, page 11, line 31, by deleting *"loan:"* and inserting *"loan;"*.

Amend sec. 39, page 12, line 6, by deleting *"motor"*.

Amend sec. 40, page 12, line 14, by deleting *"customer,"* and inserting:

"customer as permitted under this chapter,"

Amend sec. 40, page 12, line 23, by deleting "motor".

Amend sec. 42, pages 13 and 14, by deleting lines 7 through 45 on page 13 and lines 1 through 22 on page 14, and inserting:

"Sec. 42. 1. Before a licensee attempts to collect the outstanding balance on a loan in default by commencing any civil action or process of alternative dispute resolution or by repossessing a vehicle, the licensee shall offer the customer an opportunity to enter into a repayment plan. The licensee:

(a) Is required to make the offer available to the customer for a period of at least 30 days after the date of default; and

(b) Is not required to make such an offer more than once for each loan.

2. Not later than 15 days after the date of default, the licensee shall provide to the customer written notice of the opportunity to enter into a repayment plan. The written notice must:

(a) Be in English, if the initial transaction was conducted in English, or in Spanish, if the initial transaction was conducted in Spanish;

(b) State the date by which the customer must act to enter into a repayment plan;

(c) Explain the procedures the customer must follow to enter into a repayment plan;

(d) If the licensee requires the customer to make an initial payment to enter into a repayment plan, explain the requirement and state the amount of the initial payment and the date the initial payment must be made;

(e) State that the customer has the opportunity to enter into a repayment plan with a term of at least 90 days after the date of default; and

(f) Include the following amounts:

- (1) The total of payments or the remaining balance on the original loan;*
 - (2) Any payments made on the loan;*
 - (3) Any charges added to the loan amount allowed pursuant to the provisions of this chapter; and*
 - (4) The total amount due if the customer enters into a repayment plan.*
- 3. Under the terms of any repayment plan pursuant to this section:*
- (a) The customer must enter into the repayment plan not later than 30 days after the date of default, unless the licensee allows a longer period;*
 - (b) The licensee must allow the period for repayment to extend at least 90 days after the date of default, unless the customer agrees to a shorter term;*
 - (c) The licensee may require the customer to make an initial payment of not more than 20 percent of the total amount due under the terms of the repayment plan;*
 - (d) For a deferred deposit loan:*
 - (1) The licensee may require a customer to provide, as security, one or more checks or written authorizations for an electronic transfer of money which equal the total amount due under the terms of the repayment plan;*
 - (2) The licensee shall, if the customer makes a payment in the amount of a check or written authorization taken as security for that payment, return to the customer the check or written authorization stamped "void" or destroy the check or written authorization; and*
 - (3) The licensee shall not charge any fee to the customer pursuant to section 45 of this act for a check which is provided as security during the repayment plan and which is not paid upon*

presentment if, in connection with that loan, the licensee has previously charged at least one such fee.

4. If the licensee and customer enter into a repayment plan pursuant to this section, the licensee shall honor the terms of the repayment plan, and the licensee shall not:

(a) Except as otherwise provided by this chapter, charge any other amount to a customer, including, without limitation, any amount or charge payable directly or indirectly by the customer and imposed directly or indirectly by the licensee as an incident to or as a condition of entering into a repayment plan. Such an amount includes, without limitation:

(1) Any interest, regardless of the name given to the interest, other than the interest charged pursuant to the original loan agreement at a rate which does not exceed the annual percentage rate charged during the term of the original loan agreement; or

(2) Any origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fee;

(b) Except as otherwise provided in this section, accept any additional security or collateral from the customer to enter into the repayment plan;

(c) Sell to the customer any insurance or require the customer to purchase insurance or any other goods or services to enter into the repayment plan;

(d) Make any other loan to the customer, unless the customer is seeking multiple loans that do not exceed the limit set forth in section 33.5 of this act;

(e) During the term of the repayment plan, attempt to collect the outstanding balance by commencing any civil action or process of alternative dispute resolution or by repossessing a vehicle, unless the customer defaults on the repayment plan; or

(f) Attempt to collect an amount that is greater than the amount owed under the terms of the repayment plan.

5. *If the licensee and customer enter into a repayment plan pursuant to this section, the licensee shall:*

(a) Prepare a written agreement establishing the repayment plan; and

(b) Give the customer a copy of the written agreement. The written agreement must:

(1) Be signed by the licensee and customer; and

(2) Contain all of the terms of the repayment plan, including, without limitation, the total amount due under the terms of the repayment plan.”.

Amend sec. 42, page 14, between lines 35 and 36, by inserting:

“7. If the customer defaults on the repayment plan, the licensee may, to collect the outstanding balance, commence any civil action or process of alternative dispute resolution or repossess a vehicle as otherwise authorized pursuant to this chapter.”.

Amend sec. 43, page 14, by deleting lines 36 through 41 and inserting:

“Sec. 43. 1. Except as otherwise provided in subsection 2, if a customer agrees to establish or extend the period for the repayment, renewal, refinancing or consolidation of an outstanding loan by using the proceeds of a new deferred deposit loan or short-term loan to pay the balance of the outstanding loan, the licensee shall not establish or extend such a period beyond 60 days after the expiration of the initial loan period.

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2. *This section does not apply to a deferred deposit loan or short-term loan if the licensee:*

(a) Makes the deferred deposit loan or short-term loan to a customer pursuant to a loan agreement which, under its original terms:

(1) Charges an annual percentage rate of less than 200 percent;

(2) Requires the customer to make a payment on the loan at least once every 30 days;

(3) Requires the loan to be paid in full in not less than 150 days; and

(4) Provides that interest does not accrue on the loan at the annual percentage rate set forth in the loan agreement after the date of maturity of the loan;

(b) Performs a credit check of the customer with a major consumer reporting agency before making the loan;

(c) Reports information relating to the loan experience of the customer to a major consumer reporting agency;

(d) Gives the customer the right to rescind the deferred deposit loan or short-term loan within 5 days after the loan is made without charging the customer any fee for rescinding the loan;

(e) Participates in good faith with a counseling agency that is:

(1) Accredited by the Council on Accreditation for Services for Families and Children, Inc., or its successor organization; and

(2) A member of the National Foundation for Credit Counseling, or its successor organization; and

(f) Does not commence any civil action or process of alternative dispute resolution on a defaulted loan or any extension or repayment plan thereof.”.

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ROA 010917

Amend sec. 44, pages 14 and 15, by deleting lines 42 through 45 on page 14 and lines 1 through 12 on page 15, and inserting:

"Sec. 44. 1. Except as otherwise provided in section 36.5 of this act, if a customer defaults on a loan or on any extension or repayment plan relating to the loan, whichever is later, the licensee may collect only the following amounts from the customer, less all payments made before and after default:

(a) The principal amount of the loan.

(b) The interest accrued before the expiration of the initial loan period at the annual percentage rate set forth in the disclosure statement required by the Truth in Lending Act and Regulation Z that is provided to the customer. If there is an extension relating to the loan, the licensee may charge and collect interest pursuant to this paragraph for a period not to exceed 60 days after the expiration of the initial loan period, unless otherwise allowed by section 43 of this act.

(c) The interest accrued after the expiration of the initial loan period or after any extension or repayment plan that is allowed pursuant to this chapter, whichever is later, at an annual percentage rate".

Amend sec. 44, page 15, lines 17 and 18, by deleting "12 weeks," and inserting "90 days."

Amend sec. 44, page 15, line 24, by deleting "I," and inserting:

"I and any other charges expressly permitted pursuant to sections 34, 36.5 and 42 of this act,".

Amend sec. 48, page 17, line 21, by deleting "business," and inserting:

"business under the license,".

Amend sec. 48, page 17, line 25, by deleting "means." and inserting:

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ROA 010918

"means, except that the applicant shall not propose to do business through any automated loan machine prohibited by section 29 of this act."

Amend sec. 48, page 17, between lines 40 and 41, by inserting:

"4. The Commissioner shall consider an application to be withdrawn if the Commissioner has not received all information and fees required to complete the application within 6 months after the date the application is first submitted to the Commissioner or within such later period as the Commissioner determines in accordance with any existing policies of joint regulatory partners. If an application is deemed to be withdrawn pursuant to this subsection or if an applicant otherwise withdraws an application, the Commissioner may not issue a license to the applicant unless the applicant submits a new application and pays any required fees."

Amend sec. 49, page 17, by deleting lines 44 and 45 and inserting:

"the State of Nevada in the amount of \$50,000 plus an additional \$5,000 for each branch location at which the applicant proposes to do business under the license. Thereafter, each licensee shall maintain the surety bond so that the amount of the surety bond is \$50,000 plus an additional \$5,000 for each branch location at which the licensee does business under the license. The surety bond required by this section is for the use and benefit of any customer receiving the services of the licensee at any location at which the licensee does business under the license."

Amend sec. 51, page 19, line 39, by deleting "means." and inserting:

"means, except that the applicant shall not conduct business in this State through any automated loan machine prohibited by section 29 of this act."

Amend sec. 52, page 19, line 43, by deleting "section" and inserting:

"sections 53.5 and"

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Amend the bill as a whole by adding a new section designated sec. 53.5, following sec. 53, to read as follows:

"Sec. 53.5. 1. In addition to any other requirements set forth in this chapter, each applicant must submit proof satisfactory to the Commissioner that the applicant:

(a) Has a good reputation for honesty, trustworthiness and integrity and is competent to transact the business for which the applicant seeks to be licensed in a manner which protects the interests of the general public.

(b) Has not made a false statement of material fact on the application for the license.

(c) Has not committed any of the acts specified in subsection 2.

(d) Has not had a license issued pursuant to this chapter suspended or revoked within the 10 years immediately preceding the date of the application.

(e) Has not been convicted of, or entered a plea of nolo contendere to, a felony or any crime involving fraud, misrepresentation or moral turpitude.

(f) If the applicant is a natural person:

(1) Is at least 21 years of age; and

(2) Is a citizen of the United States or lawfully entitled to remain and work in the United States.

2. In addition to any other lawful reasons, the Commissioner may refuse to issue a license to an applicant if the applicant:

(a) Has committed or participated in any act which, if committed or done by a holder of a license, would be grounds for the suspension or revocation of the license.

(b) Has previously been refused a license pursuant to this chapter or has had such a license suspended or revoked.

(c) Has participated in any act which was a basis for the refusal or revocation of a license pursuant to this chapter.

(d) Has falsified any of the information submitted to the Commissioner in support of the application for the license.”.

Amend sec. 54, page 20, line 21, by deleting “*that the*” and inserting:

“*that:*

(a) The”.

Amend sec. 54, page 20, by deleting line 25 and inserting:

“*efficiently; and*

(b) The applicant has satisfied the requirements set forth in section 53.5 of this act.”.

Amend sec. 54, page 20, line 41, by deleting “*means.*” and inserting:

“*means, except that the Commissioner shall not issue any license that would authorize the licensee to operate through any automated loan machine prohibited by section 29 of this act.”.*

Amend sec. 54, page 20, line 44, by deleting “*shall:*” and inserting “*must:*”.

Amend sec. 57, page 21, line 41, after “*Sec. 57.*” by inserting “*1.*”.

Amend sec. 57, page 22, between lines 2 and 3, by inserting:

“*2. A licensee must obtain the approval of the Commissioner before using or changing a business name.*

3. A licensee shall not:

(a) Use any business name which is identical or similar to a business name used by another licensee under this chapter or which may mislead or confuse the public.

(b) Use any printed forms which may mislead or confuse the public.”.

Amend sec. 59, page 23, line 8, by deleting “means.” and inserting:

“means, except that the licensee shall not operate any automated loan machine prohibited by section 29 of this act”.

Amend sec. 60, page 23, line 12, after “separate” by inserting:

“written or electronic”.

Amend sec. 64, page 25, line 1, after “Sec. 64.” by inserting “1.”.

Amend sec. 64, page 25, between lines 6 and 7, by inserting:

“2. If, after auditing one or more branch locations of the licensee, the Commissioner or his authorized representatives conclude that the loans, disclosures, loan practices, computer processes, filing systems and records are identical at each branch location, the Commissioner may make an examination of only those branch locations he deems necessary.”.

Amend the bill as a whole by adding a new section designated sec. 65.5, following sec. 65, to read as follows:

“Sec. 65.5. In addition to any other lawful reasons, the Commissioner may suspend or revoke a license if the licensee has engaged in any act that would be grounds for denying a license pursuant this chapter.”.

Amend the bill as a whole by adding a new section designated sec. 73.5, following sec. 73, to read as follows:

"Sec. 73.5. In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than \$10,000 upon a person who, without a license, conducts any business or activity for which a license is required pursuant to the provisions of this chapter."

Amend sec. 74, page 28, by deleting lines 9 through 21 and inserting:

"Sec. 74. 1. Subject to the affirmative defense set forth in subsection 3, in addition to any other remedy or penalty, if a person violates any provision of section 29, 31 to 47, inclusive, 49, 50, 57 or 58 of this act or any regulation adopted pursuant thereto, the customer may bring a civil action against the person for any or all of the following relief:

- (a) Actual and consequential damages;*
- (b) Punitive damages, which are subject to the provisions of NRS 42.005;*
- (c) Reasonable attorney's fees and costs; and*
- (d) Any other legal or equitable relief that the court deems appropriate.*

2. Subject to the affirmative defense set forth in subsection 3, in addition to any other remedy or penalty, the customer may bring a civil action against a person pursuant to subsection 1 to recover an additional amount, as statutory damages, which is equal to \$1,000 for each violation if the person knowingly:

- (a) Operates a check-cashing service, deferred deposit loan service, short-term loan service or title loan service without a license, in violation of section 29 of this act;*
- (b) Fails to include in a loan agreement a disclosure of the right of the customer to rescind the loan, in violation of section 31 of this act;*
- (c) Violates any provision of section 33 of this act;*

(d) Accepts collateral or security for a deferred deposit loan, in violation of section 35 of this act, except that a check or written authorization for an electronic transfer of money shall not be deemed to be collateral or security for a deferred deposit loan;

(e) Uses or threatens to use the criminal process in this State or any other state to collect on a loan made to the customer, in violation of section 36 of this act;

(f) Includes in any written agreement a promise by the customer to hold the person harmless, a confession of judgment by the customer or an assignment or order for the payment of wages or other compensation due the customer, in violation of section 36 of this act;

(g) Violates any provision of section 44 of this act; or

(h) Violates any provision of section 45 of this act.

3. A person may not be held liable in any civil action brought pursuant to this section if the person proves, by a preponderance of evidence, that the violation:

(a) Was not intentional;

(b) Was technical in nature; and

(c) Resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

4. For the purposes of subsection 3, a bona fide error includes, without limitation, clerical errors, calculation errors, computer malfunction and programming errors and printing errors, except that an error of legal judgment with respect to the person's obligations under this chapter is not a bona fide error."

Amend the bill as a whole by adding a new section designated sec. 75.5, following sec. 75, to read as follows:

APP 015601

ROA 010924

"Sec. 75.5. NRS 41.620 is hereby amended to read as follows:

41.620 1. [Any] *Except as otherwise provided in section 45 of this act, any person who:*

(a) Makes, utters, draws or delivers a check or draft for the payment of money drawn upon any financial institution or other person, when he has no account with the drawee of the instrument or has insufficient money, property or credit with the drawee to pay; or

(b) Uses a credit card or debit card to obtain money, goods, property, services or anything of value, when he knows or should have known the credit card or debit card is no longer valid,

and who fails to pay the amount in cash to the payee, issuer or other creditor within 30 days after a demand therefor in writing is mailed to him by certified mail, is liable to the payee, issuer or other creditor for the amount of the check, draft or extension of credit, and damages equal to three times the amount of the check, draft or extension of credit, but not less than \$100 nor more than \$500.

2. As used in this section, unless the context otherwise requires:

(a) "Credit card" has the meaning ascribed to it in NRS 205.630;

(b) "Debit card" has the meaning ascribed to it in NRS 205.635; and

(c) "Issuer" has the meaning ascribed to it in NRS 205.650."

Amend sec. 80, page 32, line 44, by deleting "*act*." and inserting:

"act with regard to those services regulated pursuant to sections 2 to 74, inclusive, of this act."

Amend sec. 83, page 33, line 39, by deleting "A" and inserting:

"Except as otherwise provided in subsections 3 and 4, a".

Amend sec. 83, page 34, between lines 6 and 7, by inserting:

"3. A person described in subsection 1 is not required to comply with the following provisions of sections 2 to 74, inclusive, of this act sooner than October 1, 2005, or the date of any extension granted by the Commissioner of Financial Institutions pursuant to subsection 4:

- (a) Any provision requiring the use of the Spanish language; and
- (b) Any provision requiring changes to or replacement of existing computer software or major modifications to existing business processes, as determined by the Commissioner.

4. If the person is unable to comply with any provision described in paragraph (a) or (b) of subsection 3 by October 1, 2005, the person may request an extension from the Commissioner. The Commissioner may grant such an extension, to a date not later than January 1, 2006, if the person establishes that compliance by October 1, 2005:

- (a) Is not economically feasible;
- (b) Is prevented by factors beyond the control of the person; or
- (c) Is prevented by any other factors that the Commissioner deems to be an appropriate justification for an extension."

Amend the title of the bill to read as follows:

"AN ACT relating to financial services; revising the standards and procedures for the licensing and regulation of check-cashing services, deferred deposit loan services, certain short-term loan services and title loan services; repealing provisions governing check-cashing services and deferred deposit loans to conform with the revised standards and procedures; revising provisions relating to certain unfair lending practices; providing remedies and administrative penalties; and providing other matters properly relating thereto."

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Attorneys for TitleMax of Nevada, Inc.

**STATE OF NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION**

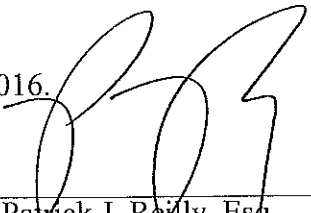
IN THE MATTER OF:

TITLEMAX OF NEVADA, INC. AND
TITLEBUCKS d/b/a TITLEMAX

**MOTION FOR DECLARATORY RULING
AND TO STAY DEADLINES**

TitleMax of Nevada, Inc. dba TitleMax and/or TitleBucks ("TitleMax"), by and through its attorneys of record, the law firm of Holland & Hart LLP, hereby submits this motion requesting a legal interpretation of NRS 604A.210, NRS 604A.445, or NAC 604A.230 and further requests that all deadlines except the briefing on said issues be suspended until a ruling is issued.

DATED this 12th day of February, 2016.



Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

Attorneys for TitleMax of Nevada, Inc.

APP 015604

1 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF**
2 **MOTION FOR DECLARATORY RULING**
3 **AND TO STAY DEADLINES**

4 This is a good faith disagreement over the interpretation of two statutes and a regulation
5 that govern automobile title lenders in the State of Nevada. Though TitleMax has *repeatedly*
6 sought to work with the State of Nevada, Department of Business and Industry, Financial
7 Institutions Division (the "FID") to seek a definitive ruling interpreting these laws from a higher
8 authority, the FID has repeatedly resisted doing so. Indeed, the FID vigorously resisted efforts to
9 obtain an interpretation of these rules from District Court Judge Valerie Adair. Given that
10 District Court Judge Adair declined to provide such an interpretation, TitleMax now seeks an
11 interpretation in this proceeding, which it believes will obviate the need for a formal evidentiary
12 hearing or severely limit the scope thereof.¹

13 Very simply, there is no case law whatsoever interpreting the law that TitleMax is being
14 accused of violating, which is NRS 604A.210, NRS 604A.445, or NAC 604A.230, and TitleMax
15 is entitled to an interpretation of the same prior to an evidentiary hearing. Despite the FID's
16 attempt to avoid a judicial interpretation by inserting purported issues of disputed fact, this is a
17 dispute about interpretation of the aforementioned laws and its application to very discreet facts.
18 Thus, after being fully briefed on the contradicting legal interpretations, this tribunal can resolve
19 the legal issues, which will either obviate the need for an evidentiary hearing and/or severely
20 limit the scope of it.

21 Prior to the evidentiary hearing and the submittal of the joint evidentiary packet,
22 TitleMax requests that the Administrative Law Judge make a legal ruling on the following issues
23 of law:

- 24 1. Does NAC 604A.230 prohibit a licensee from accepting a co-borrower on a title
25 loan where that co-borrower does not appear on the title of the vehicle associated
26 with said loan;
- 27 2. Do the terms set forth in the Grace Period Payments Deferment Agreement

28 ¹ TitleMax's legal position is set forth in its Hearing Brief, which is being submitted concurrently with this Motion.
The FID's legal position is set for in its hearing brief, which was submitted on February 11, 2015.

APP 015605

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of February, 2016, a true and correct copy of the foregoing **MOTION FOR DECLARATORY RULING AND TO STAY DEADLINES** was served by the following method(s):

☒ U.S. Mail: by depositing same in the United States mail, first class postage fully prepaid to the persons and addresses listed below:

Denise S. McKay, Esq.
Administrative Law Judge
Nevada Division of Business & Industry
555 E. Washington Avenue, Suite 4900
Las Vegas, Nevada 89101
Tel: (702) 486-7041

Hearing Officer

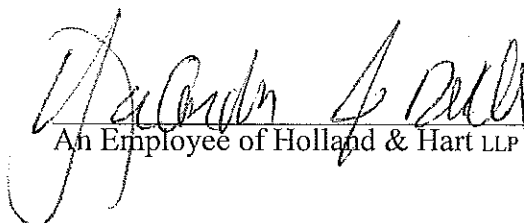
Adam Paul Laxalt
Attorney General
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Sr. Deputy Attorney General
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*Attorneys for State of Nevada Department of
Business and Industry Financial Institutions
Division*

☒ Email: by electronically delivering a copy via email to the following e-mail address:

Denise S. McKay, Esq.
Email: dsmckay@business.nv.gov

David J. Pope
Sr. Deputy Attorney General
Email: dpope@ag.nv.gov
*Attorneys for State of Nevada Department of
Business and Industry Financial Institutions
Division*

☐ Facsimile: by faxing a copy to the following numbers referenced below:


An Employee of Holland & Hart LLP

APP 015606

1 **BEFORE THE DEPARTMENT OF BUSINESS & INDUSTRY**
2 **LAS VEGAS, NEVADA**

3
4 IN THE MATTER OF:
5 FINANCIAL INSTITUTIONS DIVISION,
6 Claimants,
7 v.
8 TITLEMAX OF NEVADA, INC. AND
9 TITLEBUCKS D/B/A TITLEMAX,
10 Respondents.

ORDER GRANTING CONTINUANCE

11
12 Pursuant to the parties' request for a continuance, the parties shall submit a joint
13 evidentiary packet as set forth in my Procedural Order dated October 29, 2015, by
14 **February 24, 2016.**

15 Dated this 16th day of February, 2016.

16
17 /s/ Denise S. McKay
18 Denise S. McKay
19 Administrative Law Judge
20 State of Nevada
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CERTIFICATE OF MAILING

I, Michelle Metivier, do hereby certify that I deposited in the U.S. mail, postage prepaid, via First Class Mail and Certified Return Receipt Requested, a true and correct copy of the foregoing Procedural Order to the following:

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Joseph G. Went, Esq.
Holland & Hart LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134

certified# 7012 1010 0000 1166 2134
email: preilly@hollandhart.com
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Corporation Trust Company of Nevada
701 S. Carson St. Ste. 200
Carson City, NV 89701

certified# 7012 1010 0000 1166 2141

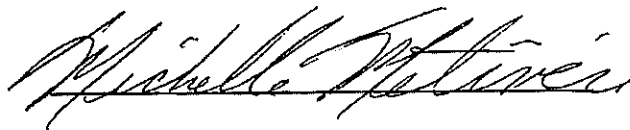
Victoria Newman, Esq.
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Savannah, GA 31401

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David Pope, Esq.
Vivienne Rakowsky, Esq.
555 E. Washington Ave., Ste. 3900
Las Vegas, NV 89101

certified# 7012 1010 0000 1166 2165
email: DPope@ag.nv.gov
email: VRakowsky@ag.nv.gov

Dated this 16th day of February, 2016.



1 **BEFORE THE DEPARTMENT OF BUSINESS & INDUSTRY**
2 **LAS VEGAS, NEVADA**

3
4 IN THE MATTER OF:
5 FINANCIAL INSTITUTIONS DIVISION,
6 Claimants,
7 v.
8 TITLEMAX OF NEVADA, INC. AND
9 TITLEBUCKS D/B/A TITLEMAX,
10 Respondents.

ORDER SETTING OPPOSITION AND
REPLY BRIEF DEADLINES

11
12 On February 12, 2016, Respondent TitleMax filed a Motion for Declaratory
13 Ruling and to Stay Deadlines. Claimant FID shall have until February 24, 2016, to file
14 its opposition. TitleMax shall have until March 10, 2016, to file its reply.

15 Dated this 22nd day of February, 2016.

16
17 /s/ Denise S. McKay
18 Denise S. McKay
19 Administrative Law Judge
20 State of Nevada
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CERTIFICATE OF MAILING

I, Michelle Metivier, do hereby certify that I deposited in the U.S. mail, postage prepaid, via First Class Mail and Certified Return Receipt Requested, a true and correct copy of the foregoing Order Setting Opposition and Reply Brief Deadlines to the following:

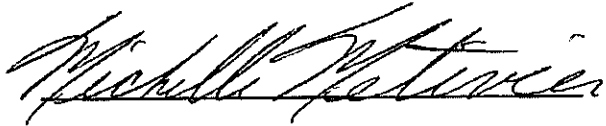
Patrick J. Reilly, Esq.
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David Pope, Esq.
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certified# 7012 1010 0000 1166 2196
email: DPope@ag.nv.gov
email: VRakowsky@ag.nv.gov

Dated this 23rd day of February, 2016.



ADAM PAUL LAXALT
Attorney General
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Senior Deputy Attorney General
VIVIENNE RAKOWSKY #9160
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Attorneys for the Respondents

BEFORE THE DEPARTMENT OF BUSINESS AND INDUSTRY
LAS VEGAS, NEVADA

* * *

IN THE MATTER OF:
FINANCIAL INSTITUTIONS DIVISION,

Claimants,

vs.

TITLEMAX OF NEVADA, INC. and
TITLEBUCKS d/b/a TITLEMAX,

Respondents.

OPPOSITION TO TITLEMAX'S
MOTION FOR A DECLARATORY
RULING AND TO STAY DEADLINES

COMES NOW, the Financial Institutions Division, Department of Business and Industry, State of Nevada ("Division"), through legal counsel Adam Paul Laxalt, Attorney General of Nevada, David Pope, Senior Deputy Attorney General, and Vivienne Rakowsky, Deputy Attorney General, and hereby submit this
OPPOSITION TO TITLEMAX'S MOTION FOR A DECLARATORY RULING AND TO STAY DEADLINES.

...

...

APP 015611

POINTS AND AUTHORITIES

TitleMax's Motion for a Declaratory Order interpreting NRS 604A.210, NRS 604A.445 and NAC 604A.230 is improper and should be denied because this Motion should not be before an Administrative Law Judge or presented during proceedings involving a contested case. TitleMax is requesting a procedure that is beyond the scope of an administrative proceeding. Moreover, the statutes are plain and unambiguous, there is no room for construction, and therefore no need for a declaration of what they mean. This proceeding is about applying the actual facts to the plain and unambiguous statutes.

Briefly, in an attempt to side track the fines resulting from continuing violations of Chapter 604A, TitleMax filed a Complaint with the District Court. The two issues in this matter concern the use of co-borrowers¹ and Grace Period Payment Deferment Agreements, both of which violate the plain language of Chapter 604A. The Honorable Judge Valerie Adair dismissed the case and remanded the matter to the Administrative Body with specific instructions.

The Minute Order states, with respect to co-borrowers, that there are questions of fact as to the differences between a co-borrower and a guarantor such that TitleMax must exhaust its administrative remedies and later seek judicial review of the Court. With respect to the violations of NAC 604A.210, charging interest during the grace period, the Court also found that there is a "question of fact as to the implementation of the grace periods and whether the total interest charged during the grace period plus the interest charged during the term of the loan (with extensions) exceeds the amount of allowable interest under NRS 604A.445." See Minutes of Hearing December 9, 2015 and Minute Order dated December 14, 2015, collectively attached hereto as **Exhibit "A"** (emphasis added). Thus, pursuant to the Order, the Court granted FID's Motion to dismiss

¹ TitleMax uses this term. FID does not know why TitleMax either allows or requires these additional persons to be parties to the lending agreements.

1 and denied TitleMax's Motion for Summary Judgment. See Order dated February
2 3, 2016, attached hereto as **Exhibit "B"**.

3 TitleMax is not entitled to bifurcate this proceeding to initially receive a
4 declaratory order interpreting statutes based only on the limited facts provided by
5 TitleMax in its Administrative Hearing Brief and Motion for Declaration Regarding
6 Interpretation of Nevada Law. A "final decision" in a "contested case" must
7 include findings of fact based on substantial evidence, in addition to conclusions
8 of law. NRS 233B.125. The Nevada Administrative Procedures Act, Chapter
9 233B, does not provide for a declaratory order through the administrative hearing
10 process. Though NAC 232.040 indicates that declaratory orders can be
11 requested and issued by the FID – they are not prepared and issued by an
12 administrative law judge. There simply is no precedent to allow this administrative
13 matter to be bifurcated into two separate hearings and TitleMax has failed to cite
14 to any authority to support their argument.

15 Thus, as specifically directed by the Court, the purpose of granting the
16 FID's Motion remanding this contested matter to an administrative hearing is so
17 that the administrative body can apply the facts to the law and prepare findings of
18 fact, conclusions of law and a final decision. NRS 233B.125. By asking for a
19 declaratory ruling regarding the legal interpretation of NRS 604A.210,
20 NRS 604A.445 and NAC 604A.230, TitleMax is attempting to make an end run
21 around the Court and is asking this tribunal to do what the District Court wouldn't.
22 Accordingly, TitleMax's Motion for a Declaratory Ruling should be denied in its
23 entirety.

24 **TitleMax is not entitled to a declaratory Order from the**
25 **Administrative Law Judge.**

26 NRS 233B.120 provides for petitions for declaratory orders, and requires
27 that the agency provide a method for the filing and prompt disposition of petitions
28 for declaratory orders concerning the applicability of any statutory provision or

APP 015613

1 regulation. NRS 233B.120. The FID is a Division of the Department of Business
2 and Industry of the State of Nevada, and is therefore subject to the statutes and
3 regulations governing the Department of Business and Industry contained in
4 Chapter 232. When the statutes or regulations refer to the Director, they refer to
5 the Director of Business and Industry. NAC 232.010(2). The Chief of a division is
6 the executive director or the commissioner who runs the particular division. NAC
7 232.010(1). With respect to the FID, the Commissioner is the Chief of the
8 Division.

9 The procedure for requesting a declaratory order does not include a ruling
10 by an administrative law judge or hearing officer, and is governed by NAC
11 232.040 which reads as follows:

12 **NAC 232.040 Petition for declaratory order or advisory
opinion: Authorization; filing; contents. (NRS 233B.120)**

13 1. Except as otherwise provided in subsection 4, an
14 interested person may petition the Director to issue a
15 declaratory order or advisory opinion concerning the
16 applicability of a statute, regulation or decision of the
17 Department or any of its divisions.

18 2. The original and one copy of the petition must be filed
19 with:

20 (a) The chief who is authorized to administer or enforce
21 the statute or regulation or to issue the decision; or

22 (b) The Director, if the statute, regulation or decision is
23 administered or enforced by the Director.

24 3. The petition must include:

25 (a) The name and address of the petitioner;

26 (b) The reason for requesting the order or opinion;

27 (c) A statement of facts that support the petition; and

28 (d) A clear and concise statement of the question to be
decided by the Director or chief and the relief sought by the
petitioner.

4. An interested person may not file a petition for a
declaratory order or an advisory opinion concerning a question
or matter that is an issue in an administrative, civil or criminal
proceeding in which the interested person is a party.

(emphasis added). Any request for a declaratory order interpreting the
applicability of any statutory provision or regulation must be directed to the chief of
the division pursuant to the procedure described in NAC 232.040(2)(a), and must

APP 015614

1 include the information required pursuant to NAC 232.040(3). With respect to the
2 FID, a declaratory order would be prepared by the Commissioner.

3 Though declaratory orders can be requested, no such order can be
4 requested in this case. NAC 232.040(4) clearly states, "An interested person
5 may not file a petition for a declaratory order . . . concerning a question or matter
6 that is an issue in an administrative . . . proceeding" NRS 0.025 states, in
7 pertinent part:

8 1. Except as otherwise expressly
provided in a particular statute or required by the
9 context:

10 (a) "May" confers a right, privilege or
power. The term "is entitled" confers a private right.

11 (b) "May not" or "no * * * may" abridges or
removes a right, privilege or power.

12 * * *

13 (emphasis added). Therefore, TitleMax cannot request or receive a declaratory
14 order. Id.

15 **The District Court Remanded This Matter So That the ALJ Could Make**
16 **Findings of Fact, Conclusions of Law and a Decision.**

17 The District Court issued an Order granting the motion to dismiss for failure
18 to exhaust administrative remedies. The Order requires that this contested matter
19 proceed through the administrative process and that factual determinations be
20 made. Exhibits "A" & "B". Thus, as a result of going through the administrative
21 procedure, and having the facts applied to the law, the ALJ will issue findings of
22 fact, conclusions of law and a final decision which may be appealed to the district
23 court in the form of a petition for judicial review. NRS 233B.125, NRS 233b130(1).
24 Anything less could not be a "final decision" for purposes of a petition for judicial
25 review.

26 By moving for a declaratory order, TitleMax is attempting to roadblock this
27 well-established process and delay the ultimate decision concerning the results of
28 the examinations as long as possible. The latest attempt at delay is to request

APP 015615

1 that a stay be placed on submission of the evidentiary packet until a declaratory
2 order interpreting the law is issued. It is obvious that TitleMax is looking for the
3 ALJ to review the exhibits attached to the TitleMax brief, but not have the benefit
4 of the records of examination or the full record, including the Grace Period
5 Payments Deferment Agreements obtained through the examinations, which is to
6 be provided through the evidentiary packet due February 24, 2016.

7 TitleMax's strategy is contrary to 233B. As the District Court ordered,
8 there are factual issues to be determined. The question of whether TitleMax
9 violated the statutes and regulation is fundamentally dependent on applying the
10 actual facts concerning TitleMax's business model and practice, as determined by
11 this court, to the existing statutes and regulations.

12 Moreover, bifurcation is only available in certain circumstances. For
13 example, bifurcation may be appropriate when two separate trials are in the
14 interest of judicial economy and expediency. It is not economical or expedient to
15 have two separate hearings and double briefing. Bifurcation is also considered
16 when there is a chance of prejudicing the jury. Here, there is no jury.
17 NRCP42(b).

18 In this case, the decisive consideration is whether the issues are
19 "inextricably intertwined," and if so, bifurcation is not appropriate. *See generally*
20 Verner v. Nevada Power Company, 101 Nev. 551, 554, 706 P.2d 147, 150(1985);
21 *see also*; State Department of Taxation v. Masco Builder, 312 P.3d 475, 129 Nev.
22 Adv. Op. 83 (2013) (claims regarding facts which are inextricably intertwined
23 should be made at the same time during the administrative process.) Here, the
24 ultimate issue concerns certain alleged violations of specific statutes and a
25 regulation found in Chapter 604A. The actual facts surrounding the alleged
26 violations, as determined through the hearing, must be applied to the plain
27 language of the statutes. Accordingly, this matter should proceed as one single
28 hearing as ordered by the District Court.

APP 015616

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CONCLUSION

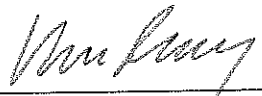
To summarize, neither Chapter 233B nor Chapter 232 provide for an ALJ to bifurcate the proceeding and first provide a declaratory order. Any such declaratory order would be issued by the FID, if it could be, and there is no reason to believe that FID would interpret the statutes differently than it has been. Additionally, the District Court made it clear in its Minute Order that both issues, co-borrowers as well as the Grace Period Payment Deferment Agreements involve questions of fact to be determined by the ALJ through the administrative process. Two separate hearings would not serve expediency or judicial economy.

As a result, the FID respectfully requests that TitleMax's Motion for a Declaratory Ruling and to Stay Deadlines be denied in its entirety.

Respectfully submitted this 24th day of February, 2016.

ADAM PAUL LAXALT
Attorney General

By:


VIVIENNE RAKOWSKY
Deputy Attorney General
DAVID POPE
Senior Deputy Attorney General
Attorneys for the Respondents

CERTIFICATE OF SERVICE

(X) I certify that on this 24th day of February, 2016, I served the foregoing **OPPOSITION TO TITLEMAX'S MOTION FOR A DECLARATORY RULING AND TO STAY DEADLINES** by First-Class Mail, postage prepaid and e-mail as follows:

Denise S. McKay, Esq.
Administrative Law Judge
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An employee of the Office of the Attorney General

EXHIBIT “A”

EXHIBIT “A”

APP 015619

ROA 010942

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Location : District Courts [Images](#) [Help](#)

REGISTER OF ACTIONS

CASE NO. A-15-719176-C

Titlemax of Nevada Inc, Plaintiff(s) vs. Nevada Department of Business and Industry Financial Institutions, Defendant(s)

§
§
§
§
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§

Case Type: Other Civil Matters
Date Filed: 06/01/2015
Location: Department 21
Cross-Reference Case Number: A719176

PARTY INFORMATION

Defendant Nevada Department of Business and Industry Financial Institutions

Lead Attorneys
Adam Paul Laxalt
Retained
702-486-3420(W)

Plaintiff Titlemax of Nevada Inc

Patrick J. Reilly
Retained
702-669-4600(W)

EVENTS & ORDERS OF THE COURT

12/09/2015 [All Pending Motions](#) (9:30 AM) (Judicial Officer Adair, Valerie)

Minutes

12/09/2015 9:30 AM

- NEVADA FINANCIAL INSTITUTIONS DIVISION'S MOTION TO DISMISS FOR FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES..... PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT ALSO PRESENT: Commissioner Burns and Ms. Sekhon for the FID. Court asked the Deputy Attorney General, Mr. Pope what are the factual disputes in this case. Mr. Pope advised as to additional persons on the loans, the statutes require that the person who obtains the loan is the legal owner and that can be established by either showing you have the title that it's in your name and you can turn it over; or you have the title and you have the ability to put a security interest on it. Court asked if they are conceding that these co-borrowers don't have title to the car. Mr. Pope stated FID has not agreed or can agree they are co-borrowers. Upon inquire by the Court as to what factual issue is left, Mr. Pope advised there is no indication of who the co-borrower is or why they are there, so if you remove the co-borrower and say these additional persons are not the legal owners then the question can be answered. Court advised the facts need to be flushed out on the issue of co-borrower and guarantor. Statement by Mr. Pope. Court advised interest or additional interest is a factual dispute. Mr. Pope addressed deferment agreement and not extending the loan. Colloquy regarding statutory interpretation. Response by Mr. Pope. Court asked what is the consumer's policy, can they change the interest under the grace period or have no interest. Statement by Mr. Pope to allow the FID to opine as to statutory scheme. Argument by Mr. Reilly that the Division has to comply with the statute and the problem is rule making by enforcement; therefore, he asked for declaratory relief. Response by Mr. Pope. Court stated she finds no problem for selective enforcement or interpretation of the statute. Mr. Reilly asked to rely on the language and he addressed the guarantor. Mr. Pope addressed regulation and statute and believed plain language controls. Comments by the Court. COURT ORDERED, matter UNDER ADVISEMENT and set for Decision on the chamber calendar. 12/14/15
DECISION: NEVADA FINANCIAL INSTITUTIONS DIVISION'S MOTION TO DISMISS FOR FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES..... PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT - chamber calendar

APP 015620

| [Parties Present](#)
[Return to Register of Actions](#)

APP 015621

CASE NO. A-15-719176-C

www.ck12.org

PARTY INFORMATION

Patrick J. Reilly
Retained
702-669-4600(W)

EVENTS & ORDERS OF THE COURT

[Return to Register of Actions](#)

http://172.29.28.187/CaseDetail.aspx?CaseID=11600909&HearingID=189164371&Single... 2/16/2016
ROA 010945

EXHIBIT “B”

EXHIBIT “B”

APP 015623

ROA 010946


CLERK OF THE COURT

1 **ORDR**
2 Patrick J. Reilly, Esq.
3 Nevada Bar No. 6103
4 Joseph G. Went, Esq.
5 Nevada Bar No. 9220
6 HOLLAND & HART LLP
7 9555 Hillwood Drive, Second Floor
8 Las Vegas, Nevada 89134
9 Tel: (702) 669-4600
10 Fax: (702) 669-4650
11 Email: preilly@hollandhart.com
12 jgwent@hollandhart.com

13 *Attorneys for Plaintiff*

9 **DISTRICT COURT**
10 **CLARK COUNTY, NEVADA**

12 **TITLEMAX OF NEVADA, INC., a Nevada**
13 **corporation,**

14 **Plaintiff,**

15 **vs.**

16 **STATE OF NEVADA, DEPARTMENT OF**
17 **BUSINESS AND INDUSTRY FINANCIAL**
18 **INSTITUTIONS DIVISION,**

19 **Defendant.**

Case No.: A-15-719176-C

Dept. No.: XXI

**ORDER GRANTING DEFENDANT'S
MOTION TO DISMISS FOR FAILURE
TO EXHAUST ADMINISTRATIVE
REMEDIES**

AND

**ORDER DENYING TITLEMAX'S
MOTION FOR SUMMARY JUDGMENT**

20 Defendant's Motion to Dismiss for Failure to Exhaust Administrative Remedies and
21 TitleMax's Motion for Summary Judgment came on for hearing before this Court on December
22 9, 2015.

23 David J. Pope, Senior Deputy Attorney General appeared on behalf of the Defendant;
24 Patrick J. Reilly, Esq., of Holland & Hart LLP, appeared on behalf of the Plaintiff.

25 The Court, having considered the papers and pleadings regarding the motion, as well as
26 the oral argument presented by the parties, hereby orders as follows:

27 ///

28 ///

1 Defendant's Motion to Dismiss for Failure to Exhaust Administrative Remedies is hereby
2 granted.

3 As to the first question of whether Plaintiff has violated NAC 604A.230(1)(a) anytime a
4 co-borrower (as the term is used by Plaintiff) is not listed on the title of a vehicle, the Court finds
5 that there are questions of fact as to what the differences are between a co-borrower and a
6 guarantor.

7 As to the second question of whether Plaintiff is in violation of NRS 604A.210 by
8 charging interest during a grace period, the Court finds that there is a question of fact as to the
9 implementation of these grace periods and whether the total interest charged during the grace
10 period plus the interest charged during the term of the loan (with extensions) exceeds the amount
11 of allowable interest under NRS 604A.445.


12 Consequently, this case is dismissed and Plaintiff must exhaust its administrative
13 remedies and, thereafter, seek judicial review by a district court pursuant to Chapter 233B of the
14 NRS. Given the foregoing, TitleMax's Motion for Summary Judgment is hereby denied as
15 moot.

16 IT IS SO ORDERED.

17 DATED this 12 day of February, 2016.

18
19 
20 DISTRICT COURT JUDGE

21 Submitted by:

22 
23
24 Patrick J. Reilly, Esq.
25 Joseph G. Went, Esq.
26 HOLLAND & HART LLP
27 9555 Hillwood Drive, Second Floor
28 Las Vegas, Nevada 89134

Attorneys for Plaintiff

1 **BEFORE THE DEPARTMENT OF BUSINESS & INDUSTRY**
2 **LAS VEGAS, NEVADA**

3
4 IN THE MATTER OF:
5 FINANCIAL INSTITUTIONS DIVISION,
6 Claimants,
7 v.
8 TITLEMAX OF NEVADA, INC. AND
9 TITLEBUCKS D/B/A TITLEMAX,
10 Respondents.

ORDER GRANTING CONTINUANCE
AND SETTING REPLY BRIEF
DEADLINE

11
12 Pursuant to the parties' request as received on February 24, 2016, the parties
13 shall submit a joint evidentiary packet as set forth in my Procedural Order dated October
14 29, 2015, by **March 30, 2016**.

15 TitleMax submitted a Motion for Order in Limine on December 9, 2015. FID
16 submitted its Opposition on February 11, 2016. TitleMax shall have until **March 10,**
17 **2016**, to file any Reply thereto.

18 Dated this 26th day of February, 2016.

19
20 /s/ Denise S. McKay
21 Denise S. McKay
22 Administrative Law Judge
23 State of Nevada
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28

1 **CERTIFICATE OF MAILING**

2 I, Michelle Metivier, do hereby certify that I deposited in the U.S. mail, postage
3 prepaid, via First Class Mail and Certified Return Receipt Requested, a true and
4 correct copy of the foregoing Order Granting Continuance and Setting Reply Brief
5 Deadline to the following:

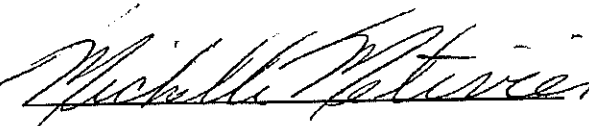
6 Patrick J. Reilly, Esq.
7 Joseph G. Went, Esq.
8 Holland & Hart LLP
9 9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134

certified# 7012 1010 0000 1166 2257
email: preilly@hollandhart.com
jgwent@hollandhart.com

10 David Pope, Esq.
11 Vivienne Rakowsky, Esq.
555 E. Washington Ave., Ste. 3900
Las Vegas, NV 89101

certified# 7012 1010 0000 1166 2264
email: DPope@ag.nv.gov
email: VRakowsky@ag.nv.gov

12 Dated this 26th day of February, 2016.

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Patrick J. Reilly, Esq.
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Attorneys for TitleMax of Nevada, Inc.

**STATE OF NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION**

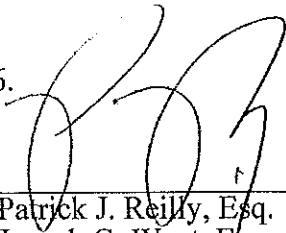
IN THE MATTER OF:

TITLEMAX OF NEVADA, INC. AND
TITLEBUCKS d/b/a TITLEMAX

**REPLY MEMORANDUM IN SUPPORT
OF MOTION *IN LIMINE***

TitleMax of Nevada, Inc. dba TitleMax and/or TitleBucks ("TitleMax"), by and through its attorneys of record, the law firm of Holland & Hart LLP, hereby submits this reply in support of its request to issue an order *in limine* precluding the FID from introducing any evidence that was not disclosed by November 13, 2015.

DATED this 10th day of March, 2016.



Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

Attorneys for TitleMax of Nevada, Inc.

APP 015628

MEMORANDUM OF POINTS AND AUTHORITIES

TitleMax does not dispute that the FID has authority to request information from TitleMax; however, the FID is not allowed to abuse its powers of investigation to circumvent the Procedural Order (Oct. 29, 2015) in this matter. The Procedural Order gave the FID a strict deadline of November 13, 2015, to produce the evidence it intended to use to prosecute this matter. The Procedural Order was based upon and specifically referenced the need to uphold basic tenets of procedural due process in hearings such as this. *See* Procedural Order at pp. 1-2.

This Motion is straightforward. The FID was ordered to produce its evidence on or before November 13, 2015. *See* Procedural Order dated October 29, 2015. The FID produced documents on said date. *See* FID's Disclosure attached hereto as Exhibit 1. The FID should not be allowed to blindsides TitleMax at the evidentiary hearing by submitting information uncovered after the fact, which the FID has admitted that it plans to do.

The Nevada Supreme Court has made it clear that "although proceedings before administrative agencies may be subject to more relaxed procedural and evidentiary rules, due process guarantees of fundamental fairness still apply." *Dutchess Business Services, Inc. v. Nevada State Bd. of Pharmacy*, 124 Nev. 701, 712, 191 P.3d 1159, 1167 (citations omitted). To accomplish fundamental fairness, an administrative body "must...give notice to the defending party of '...factual material on which the agency relies for decision...'" *Id.* citing *Bowman Transp. v. Ark.-Best Freight System*, 419 U.S. 281, 288-89 n. 4, 95 S.Ct. 438 (1974). Indeed, the U.S. Supreme Court has repeatedly and unequivocally provided that "the Due Process Clause forbids an agency to use evidence in a way that forecloses an opportunity to offer a contrary presentation." *Bowman Transp.*, 419 U.S. 281, 288-89 n. 4, 95 S.Ct. 438 (1974); *see also Ohio Bell Telephone Co. v. Public Utilities Comm'n*, 301 U.S. 292, 57 S.Ct. 724; *United States v. Abilene & S.R. Co.*, 265 U.S. 274, 44 S.Ct. 565 (1924).

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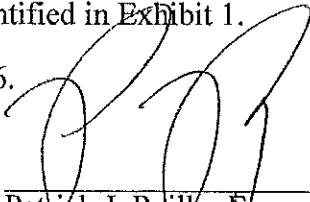
APP 015629

1 The FID fully admits that it plans to introduce evidence obtained after November 13,
2 2015. *See* Opposition, §4. This constitutes a blatant disregard for the Procedural Order. And,
3 equally troubling, the FID is engaging in this gamesmanship under the guise of its investigatory
4 powers. The investigatory requests issued by the FID since November 13, 2015, have nothing to
5 do with investigation of other matters—rather, they are thinly veiled one-way discovery requests
6 in which the FID is seeking additional information solely for the purpose of prosecuting this
7 proceeding. TitleMax is allowed no discovery in this matter, and is not allowed to inflate the
8 record in this manner. Why should the FID be allowed such preferential treatment?

9 The answer is obvious—the FID may not pad the evidentiary record with undisclosed
10 evidence, as it would specifically violate the Procedural Order in this matter. Indeed, such
11 preferential treatment would contravene basic due process, as well as established court
12 precedent.

13 For these reasons, an order should be issued limiting the FID's evidence at the
14 administrative hearing to the documents identified in Exhibit 1.

15 DATED this 10th day of March 2016.

16
17 
18 Patrick J. Reilly, Esq.
19 Joseph G. Went, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

20 *Attorneys for TitleMax of Nevada, Inc.*

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28 APP 015630

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of March, 2016, a true and correct copy of the foregoing **REPLY MEMORANDUM IN SUPPORT OF MOTION *IN LIMINE*** was served by the following method(s):

☒ U.S. Mail: by depositing same in the United States mail, first class postage fully prepaid to the persons and addresses listed below:

Denise S. McKay, Esq.
Administrative Law Judge
Nevada Division of Business & Industry
555 E. Washington Avenue, Suite 4900
Las Vegas, Nevada 89101

Hearing Officer

Adam Paul Laxalt
Attorney General
David J. Pope
Sr. Deputy Attorney General
555 E. Washington Ave., Suite 3900
Las Vegas, NV 89101

*Attorneys for State of Nevada Department of
Business and Industry Financial Institutions
Division*

☒ Email: by electronically delivering a copy via email to the following e-mail address:

Denise S. McKay, Esq.
Email: dsmckay@business.nv.gov

David J. Pope
Sr. Deputy Attorney General
Email: dpope@ag.nv.gov

*Attorneys for State of Nevada Department of
Business and Industry Financial Institutions
Division*

☐ Facsimile: by faxing a copy to the following numbers referenced below:


An Employee of Holland & Hart LLP

EXHIBIT 1

APP 015632

ROA 010955

ADAM PAUL LAXALT
Attorney General
DAVID POPE
Senior Deputy Attorney General
CHRISTOPHER ECCLES
Deputy Attorney General
555 East Washington Avenue, Suite 3900
Las Vegas, Nevada 89101
Telephone: (702) 486-3105
Facsimile: (702) 486-3416
E-Mail: ceccles@ag.nv.gov

BEFORE THE DEPARTMENT OF BUSINESS AND INDUSTRY

LAS VEGAS, NEVADA

* * *

IN THE MATTER OF:

FINANCIAL INSTITUTIONS DIVISION,

Claimants,

v.

TITLEMAX OF NEVADA, INC. and
TITLEBUCKS d/b/a TITLEMAX,

Respondents.

DIVISION'S PRODUCTION PURSUANT
TO THE ADMINISTRATIVE LAW
JUDGE'S PROCEDURAL ORDER
DATED OCTOBER 29, 2015

DIVISION'S PRODUCTION

The NEVADA FINANCIAL INSTITUTIONS DIVISION of the DEPARTMENT OF BUSINESS & INDUSTRY, STATE OF NEVADA (the "Division"), hereby produces the following to Respondents pursuant to the Administrative Law Judge's Procedural Order dated October 29, 2015:

I. IDENTIFICATION OF THE TYPE AND / OR AMOUNT OF PENALTIES THE DIVISION SEEKS AGAINST RESPONDENTS

- A. Fines of \$10,000 per violation of NRS and / or NAC Chapter 604A pursuant to NRS 604A.820(2)(b);

APP 015633

- B. Recovery of investigative costs and attorney's fees pursuant to NRS 604A.820(2)(c);
- C. That pursuant to NRS 604A.810 the Administrative Law Judge order Respondents to desist and refrain from violating NRS 604A.210, 604A.445, and NAC 604A.230;
- D. That pursuant to NRS 604A.900 the Administrative Law Judge declare loans void and that Respondent is not entitled to collect, receive, or retain any principal, interest or other charges or fees with respect to the Respondent's willful violations.

II. PROPOSED EXHIBITS¹

- A. Provided on a CD: 307 Original Loan Agreements and Grace Period Payments Deferment Agreements identified by the Division pursuant to examinations, including any workpapers related thereto such as customer paystubs and customer receipts / repayment plan receipts; Respondent's title loans wherein the co-signor's name is not on the title to the subject vehicle are included on the CD;
- B. The Division's 2014 Report of Examination;
- C. The Division's 2015 Report of Examination;
- D. Consumer Complaint received by the Division on October 9, 2015 from Gloria Whitaker and Devon Whitaker, with attached exhibits, totaling 24 pages.

III. PROPOSED WITNESSES AND A BRIEF STATEMENT SUMMARIZING EACH WITNESSES'S EXPECTED TESTIMONY

- A. Gloria Whitaker and Devon Whitaker – Testimony will reflect their consumer complaint filed with the Division and matters related to their title loans and Grace Period Payments Deferment Agreement with Respondent;
- B. Ma Theresa ("Tess") Dihiansan, FID Examiner – Testimony will reflect Ms.

¹ Proposed Exhibits A-D were obtained from Respondent via the Division's examinations. Proposed Exhibit E was forwarded to Respondent by the Division.

APP 015634

1 Dihiansan's role in FID's examinations of Respondent and her findings related
2 thereto;

3 C. Christian Yanez, FID Examiner – Testimony will reflect Mr. Yanez's role in FID's
4 examinations of Respondent and his findings related thereto;

5 D. Harveen Sekhon – FID Supervisory Examiner - Testimony will reflect Mrs.
6 Sekhon's supervisory role with respect to FID's examinations of Respondent
7 and her review and findings related thereto;

8 DATED this 13th day of November, 2015.

9
10 SUBMITTED BY:

11 ADAM PAUL LAXALT
12 Attorney General

13 By: /s/ CHRISTOPHER ECCLES
14 CHRISTOPHER ECCLES
15 Deputy Attorney General
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APP 015635

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on the 13th day of November, 2015, I sent a true and correct copy of the foregoing DIVISION'S PRODUCTION PURSUANT TO THE ADMINISTRATIVE LAW JUDGE'S PROCEDURAL ORDER DATED OCTOBER 29, 2015, via Legal Wings for personal service, addressed as follows:

Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134
Attorneys for Respondent TITLEMAX


An Employee of the Nevada Attorney General's Office

APP 015636

ROA 010959

EXHIBIT A

APP 015637

ROA 010960

EXHIBIT B

APP 015638

ROA 010961



BRIAN SANDOVAL
Governor

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

BRUCE BRESLOW
Director

GEORGE E. BURNS
Commissioner

CHAPTER 604A
REPORT OF EXAMINATION

TITLEMAX OF NEVADA, INC.
DBA: TITLEMAX
5060 S. FORT APACHE RD. STE. 140
LAS VEGAS, NV 89148
WWW.TITLEMAX.COM

Examiner In Charge:	Christian Yanez	Examined as of:	August 31, 2014
Examination Started:	August 6, 2014	Examination Closed:	December 18, 2014
Total Exam Hours:	11.00	Examination Number:	64673

THIS REPORT IS STRICTLY CONFIDENTIAL

The information contained in this report is based on the books and records of the licensee as licensed under NRS 604A, on statements made to the examiner by the directors, officers, and employees, and on information obtained from other sources believed to be reliable and presumed by the examiner to be correct. It is emphasized that this report is a report of examination, and not an audit of the licensee, and should not be construed as such. This report of examination does not replace nor relieve the principals of their responsibility for performing or providing for adequate audits of the business.

This copy of the report is the property of the Department of Business and Industry of the State of Nevada, and is furnished to the licensee for its confidential use. Under no circumstances shall the licensee, or any of its directors, officers, or employees disclose in any manner the report or any portion thereof to any person or organization not officially connected with the licensee as officer, director, attorney, or auditor unless otherwise directed. Should any legal process document be served calling for the surrender of this report or any portion thereof, the Commissioner of the Financial Institutions Division shall be notified immediately.

Each principal has the responsibility to review the contents of this report.

State of Nevada
Department of Business and Industry, Financial Institutions Division

Christian Yanez
Examiner In Charge

APP 015639

ROA 010962

EXAMINATION COMMENTS AND CONCLUSIONS



STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

APP 015640

REPORT OF EXAMINATION

ROA 010963

EXAMINATION COMMENTS AND CONCLUSIONS

INTRODUCTION

The annual examination of TitleMax of Nevada, Inc. DBA: TitleMax located at 5060 S. Fort Apache Rd., Ste. 140 Las Vegas, NV 89147 commenced on August 6, 2014. This business location currently holds a Nevada Revised Statutes (NRS) Chapter 604A license issued by the State of Nevada Financial Institutions Division (FID). The licensee has been granted approval to initiate Title Loans in accordance with applicable statutes and regulations.

The licensee's website www.titlemax.com is used as the main source of information for different products and services that TitleMax offers. Customers have the ability to complete a loan applications on-line. The application is reviewed by the call center and the customer is referred to one of the stores to complete the loan process.

The licensee currently offers the 120 day loan which allows the customer to make installment payments.

TitleMax currently has 40 locations in the state of Nevada. All the locations were visited during the process of this examination.

SCOPE OF EXAMINATION

The primary purpose of the examination was to determine compliance with NRS 604A and NAC 604A. The examination consisted of a review of the following: active loans, paid-off loans, delinquent loans, loans that are in the repayment plan and declined loans, surety bonding requirement, completion of the manager's and statutory compliance questionnaires, and a review of the company's policies and procedures and forms used in the operation of the business. Emphasis was placed on compliance with state regulations as well as federal regulations such as the Truth in Lending Act (Regulation Z) and the Equal Credit Opportunity Act (Regulation B).

Annual Report

The annual report of operations is due to the Financial Institutions Division by April 15th each year. The annual report of operations for year ending 2013 was received on April 8th, 2014 which is in accordance with NRS 604A.750.

Surety Bond

The Surety Bond appears to be sufficient. It is currently posted at \$265,000.00 under Bond Number 60088894 with Capitol Indemnity Corporation and is due for renewal on February 15, 2014. The licensee is in compliance with NRS 604A.610.

Internal / External Review

Titlemax did not submit any internal or external reviews. Internal or external reviews were not part of the scope of the current examination.



EXAMINATION COMMENTS AND CONCLUSIONS

Financial Audit / CPA

The CPA of the Financial Institutions Division performed an analysis of key financial figures for the fiscal year ending December 31, 2013, which were included in the 2013 Annual Report of Operations. No areas of concern were noted.

Internal Routine and Control

The licensee uses CashWise Financial Services Software for its loan operations. Title loan underwriting process includes:

- Loan application form
- Income and obligations
- Government issued photo identification
- Valid phone number
- Title of the vehicle
- Proof of insurance
- Current registration
- Affidavit stating the customer's ability to repay the loan

During the previous examination the licensee was offering 30 day title loans. On January 28, 2014 the licensee sent a letter to the Financial Institutions Division stating that TitleMax is going to stop offering the 30 day title loans and start offering the 210 day title loans.

During the on-site visitation of current examination it was discovered that TitleMax stopped offering the 30 day loans as of July, 2014. The new product, 210 day title loan is currently being offered in all TitleMax locations in the State of Nevada.

The 210 day product mirrors NRS 604A.445 (3):

3. The original term of a title loan may be up to 210 days if:
- (a) The loan provides for payments in installments;
 - (b) The payments are calculated to ratably and fully amortize the entire amount of principal and interest payable on the loan;
 - (c) The loan is not subject to any extension; and
 - (d) The loan does not require a balloon payment of any kind.

The licensee also implemented "Grace Period Payments Deferment Agreement." During the onsite visitations of store locations it was observed employees are pre-printing this grace period agreement and putting it in customer's files. The employees are also encouraging the customers to enter into this grace period agreement. The employees are provided the following statement to read to customers:



EXAMINATION COMMENTS AND CONCLUSIONS

“TMX Employee:

Great! Your contract states that you have 7 payments of <Amortized Loan Payments> which are for every 30 days starting on < Due Date>. By making this payment on time, your loan will be paid in full when you make the final payment. However, for your convenience, you can also make a minimum payment of <Minimum Payment to Extend> during this time. Any principal left at the end of the term will be placed on a 0% payment plan for an additional seven months. Do you have any questions?”

This agreement consists of separating the interest and principal from the original amortized schedule payments and prolonging the payment of principal until the full interest is paid. This agreement has a schedule of 14 payments which for the first seven payment the customer pays only interest. For the remaining seven payments the customer pays the principal. The total amount paid under this agreement is higher from the original amortized payments scheduled under the original loan agreement.

The “Grace Period Payments Deferment Agreement” offered by TitleMax clearly contradicts with 604A.445(3).

Training

TitleMax provides training upon hire and annually thereafter. All employees are required to complete refresher courses on-line and as needed. The Compliance Department has the responsibility of overseeing that all training materials are up to date with any industry changes and demands.

Display of License, Notices, and Disclosures

The State of Nevada, Financial Institutions Division NRS 604A license is displayed conspicuously by the licensee which is in compliance with NRS 604A.635 and NAC 604A.060.

The contact number of the office of the Commissioner, notice of fees charged and business hours are posted conspicuously in the location where the licensee conducts business, which is in compliance with, NRS 604A.405, NAC 604A.130, NAC 604A.140, and NAC 604A.150.

Record Retention

According to the managers questionnaire, it is the licensee’s policy to maintain all records for five years which is in compliance with NRS604A.700 and NAC 604A.200.

Collection Agency Utilized by the Licensee

As of the examination date, the licensee does not utilize the services of a third party collection agency. The internal collection process consists of sending letters and making phone calls to delinquent customers by TitleMax’s collection department.



EXAMINATION COMMENTS AND CONCLUSIONS

FDCPA

TitleMax employees are required to be certified on an annually basis. All collection employees are required a minimum score of 80% to obtain the FDCPA certification. The store managers monitor all contact with debtors to assure that policy and produces are followed by all employees.

FinCen Registration

TitleMax is not considered a Money Services Business in accordance with 31 CFR Chapter X § 1022.380; as such, the licensee is not registered with FinCEN as a Money Service Business.

Complaints Filed Since the Previous Examination

The Financial Institutions Division complaint database was verified and indicates that as of October 14, 2014 there were three complaints filed against TitleMax since the previous examination. TitleMax responded to the complaints in a timely manner.

Total Sample Size

As of Exam Date	August 31, 2014		
	Population	Sample Size	Penetration
LOAN TYPES:			
Active Loans	41	10	24.39%
Delinquent Loans	30	5	16.67%
Closed Loans	10	4	40.00%
Declined Loans	1	1	100.00%
Total Loans =	82	20	24.39%

All of the loan samples were chosen randomly by the examiner. As of the examination date, the licensee had:



EXAMINATION COMMENTS AND CONCLUSIONS

PREVIOUS VIOLATIONS OF STATUTES AND REGULATIONS

NRS 604A.450 Title loans: Prohibited acts by licensee regarding amount of loan and customer's ability to repay loan. A licensee who makes title loans shall not:

2. Make a title loan without regard to the ability of the customer seeking the title loan to repay the title loan, including the customer's current and expected income, obligations and employment.

During the previous examination the licensee was found to be underwriting title loans in excess of the customer's disclosed income and obligations. There was no regard given to the customer's ability to repay the loan. This will be cited as a repeat violation. Please refer to the current violation section for more details.

NAC 604A.230 Prohibited acts: Miscellaneous acts.

1. A licensee shall not:

(a) Require or accept a guarantor to a transaction entered into with a customer.

NRS 604A.105 "Title loan" defined.

1. "Title loan" means a loan made to a customer pursuant to a loan agreement which, under its original terms

(b) Requires the customer to secure the loan by either:

(1) Giving possession of the title to a vehicle legally owned by the customer to the licensee or any agent, affiliate or subsidiary of the licensee.

NRS 604A.115 "Title to a vehicle" or "title" defined. "Title to a vehicle" or "title" means a certificate of title or ownership issued pursuant to the laws of this State that identifies the legal owner of a vehicle or any similar document issued pursuant to the laws of another jurisdiction.

During the previous examination several of the loan files reviewed showed co-borrowers which were not listed on the title of the vehicle. This violation will be cited as a repeat violation. Please refer to the current violation section for more details.

NRS 604A.410 Written loan agreement required; contents

2. The loan agreement must include, without limitation, the following information:

c) The date and amount of the loan, amount financed, annual percentage rate, finance charge, total of payments, payment schedule and a description and the amount of every fee charged, regardless of the name given to the fee and regardless of whether the fee is required to be included in the finance charge under the Truth in Lending Act and Regulation Z;

During the previous examination, the licensee did not indicate on the extension receipts the effective date of the extension. This violation occurred on the 30 day title loans. Since the previous examination the licensee has stopped offering the 30 day title loans. The new product 210 day title loan offered by the licensee does not allow any extensions. Therefore, this violation is deemed rectified.



EXAMINATION COMMENTS AND CONCLUSIONS

NAC 604A.160 Translation of documents written in language other than English.

2. A document translated pursuant to this section must be:

(a) Translated by an interpreter who is:

(1) Certified by the Court Administrator in accordance with the provisions of NRS 1.510 and regulations adopted pursuant thereto; or **NAC 604A.200** Maintenance of books and records.

1. Except as otherwise provided in NRS 604A.700, a licensee shall maintain for at least 3 years the original or a copy of each account, book, paper, written or electronic record or other document that concerns each loan or other transaction involving a customer in this State.

2. Except as otherwise provided in NRS 604A.620, those records must be maintained at a place of business in this State designated by the licensee.

(2) Approved in writing by the Division.

(b) Accompanied by a certificate issued by the interpreter.

During the previous examination, the licensee did not provide a copy of the Certified Court Interpreter in the State of Nevada. During the current examination the licensee was able to provide a copy of the Certified Court Interpreter for the State of Nevada. Therefore, this violation is deemed rectified.

NAC 604A.200 Maintenance of books and records.

1. Except as otherwise provided in NRS 604A.700, a licensee shall maintain for at least 3 years the original or a copy of each account, book, paper, written or electronic record or other document that concerns each loan or other transaction involving a customer in this State.

2. Except as otherwise provided in NRS 604A.620, those records must be maintained at a place of business in this State designated by the licensee.

During the previous examination, the licensee was unable to provide all the records requested by the examiner in charge. During the current examination the licensee was able to provide all the records requested. Therefore, this violation is deemed rectified.

NRS 604A.410 Written loan agreement required; contents.

1. Before making any loan to a customer, a licensee shall provide to the customer a written loan agreement which may be kept by the customer and which must be written in:

(a) English, if the transaction is conducted in English; or

(b) Spanish, if the transaction is conducted in Spanish.

During the previous examination the licensee was found to be using loan agreement written in English and receipts written in Spanish. During the current examination there was no evidence of such. Therefore, this violation is deemed rectified.



EXAMINATION COMMENTS AND CONCLUSIONS

NRS 604A.475 Repayment plan

2. If the licensee intends to commence any civil action or process of alternative dispute resolution or repossess a vehicle in an effort to collect a defaulted loan, the licensee shall deliver to the customer, not later than 15 days after the date of default, or not later than 5 days after a check is not paid upon presentment or an electronic transfer of money fails, whichever is later, written notice of the opportunity to enter into a repayment plan. The written notice must:

(a) Be in English, if the initial transaction was conducted in English, or in Spanish, if the initial transaction was conducted in Spanish.

During the previous examination the licensee had a repayment plan offer in English and the receipt was issued in Spanish. During the current examination, there was no evidence that the repayment plans and the receipts were done in separate languages. Therefore, this violation is deemed rectified.

NRS 604A.150 Additional terms defined under federal law; calculation of amount financed, annual percentage rate and finance charge.

2. For the purposes of this chapter, proper calculation of the amount financed, annual percentage rate and finance charge for a loan must be made in accordance with the Truth in Lending Act and Regulation Z.

During the previous examination the licensee was found understating the APR. During the current examination there was no evidence of such. Therefore, the violation is deemed rectified.

EXIT MEETING

The exit meeting was held telephonically on December 18, 2014. The licensee was represented by Carrie E. Carbone, SVP of Compliance and Product General Counsel, Victoria Newman, Compliance and Corporate Counsel, Sarah C. Poff, Director of Compliance. The Financial Institutions Division was represented by Christian Yanez, Examiner in charge, Harveen Sekhon, Supervisory Examiner, Christopher Eccles, Attorney, Andrea Bruce, Examiner.



EXAMINATION COMMENTS AND CONCLUSIONS

CURRENT VIOLATIONS OF APPLICABLE STATUTES AND REGULATIONS

STATE

REPEAT VIOLATION

NRS 604A.450 Title loans: Prohibited acts by licensee regarding amount of loan and customer's ability to repay loan. A licensee who makes title loans shall not:

2. Make a title loan without regard to the ability of the customer seeking the title loan to repay the title loan, including the customer's current and expected income, obligations and employment.

The title loans itemized below were underwritten in excess of the customer's disclosed income and obligations, therefore, there was no regard given to the customer's ability to repay the loan:

No Regard to Customer's Ability to Repay the Title Loan						
Borrower's Name	Loan Number	Term	Stated Income	Stated Obligations	Total Amount of Loan(s)	Amount Over
Dawn Rierson	13869-0098157	30 day	\$1,200.00	\$800.00	\$2,282.40	\$1,882.40
Edward Chan	13869-0116090	210 day	\$2,000.00	\$500.00	*\$2,053.36	\$553.36

* Amount off installment payment

Management's response: Ms. Sarah C. Poff, Director of Compliance, stated that a response will be sent to the Financial Institution Division once the report of examination is received.

REPEAT VIOLATION

NAC 604A.230 Prohibited acts: Miscellaneous acts.

1. A licensee shall not:

- (a) Require or accept a guarantor to a transaction entered into with a customer.

NRS 604A.105 "Title loan" defined.

1. "Title loan" means a loan made to a customer pursuant to a loan agreement which, under its original terms

- (b) Requires the customer to secure the loan by either:

- (1) Giving possession of the title to a vehicle legally owned by the customer to the licensee or any agent, affiliate or subsidiary of the licensee.



STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

APP-015648

ROA 010971

EXAMINATION COMMENTS AND CONCLUSIONS

NRS 604A.115 "Title to a vehicle" or "title" defined. "Title to a vehicle" or "title" means a certificate of title or ownership issued pursuant to the laws of this State that identifies the legal owner of a vehicle or any similar document issued pursuant to the laws of another jurisdiction.

During the current examination, the licensee provided a policy which states the following:

"The primary borrower must be on the title; however if there is a co-borrower (on the title or not), he must sign the Application and Contract."

During the stores visits, the examiner in charge found several files where the co-borrower was not in the vehicle title. In some instances the co-borrower had a different address and different last name.

Management's response: Ms. Sarah C. Poff, Director of Compliance, stated that a response will be sent to the Financial Institution Division once the report of examination is received.

NRS 604A.445 Title loans: Restrictions on duration of loan and periods of extension.

Notwithstanding any other provision of this chapter to the contrary:

3. The original term of a title loan may be up to 210 days if:
 - (a) The loan provides for payments in installments;
 - (b) The payments are calculated to ratably and fully amortize the entire amount of principal and interest payable on the loan;
 - (c) The loan is not subject to any extension; and
 - (d) The loan does not require a balloon payment of any kind.

NRS 604A.210 Chapter does not prohibit licensee from offering customer grace period. The provisions of this chapter do not prohibit a licensee from offering a customer a grace period on the repayment of a loan or an extension of a loan, except that the licensee shall not charge the customer:

1. Any fees for granting such a grace period; or
2. Any additional fees or additional interest on the outstanding loan during such a grace period.

Since the previous examination, Titlemax implemented a 210 day title loan product that mirrored NRS 604A.445 (3). The current examination showed that Titlemax's original loan agreement complies with NRS 604A.445(3). The examination also showed that Titlemax markets and offers an amendment to the original loan agreement that violates NRS 604A.445 (3) and NRS 604A.210.

Onsite visits to Titlemax locations and conversations with store employees showed that Titlemax routinely offers an amendment to the original loan agreement called the "Grace Period Payments Deferment Agreement" (hereinafter, the "Amended Agreement").

Regarding the marketing of the Amended Agreement by store employees, onsite store visits showed that employees routinely encourage customers to enter into the Amended Agreement. The employees are



EXAMINATION COMMENTS AND CONCLUSIONS

trained to encourage customers to participate in the Amended Agreement as soon as the original agreement is issued, and not wait until the loan is in default status. Pre-printed amended agreements were found in customers' files during the onsite store visits.

Moreover, management issued the below marketing statement with the instruction that employees should encourage customers to enter into the Amended Agreement. The marketing statement provides:

"Your contract states that you have 7 payments of <Amortized Loan Payments> which are for every 30 days starting on < Due Date>. By making this payment on time, your loan will be paid in full when you make the final payment. However, for your convenience, you can also make a minimum payment of <Minimum Payment to Extend> during this time. Any principal left at the end of the term will be placed on a 0% payment plan for an additional seven months. Do you have any questions?"

The marketing statement emphasizes lower payments. But, in fact, under the Amended Agreement, the total amount owed by the customer is more than the total amount owed under the original loan agreement, as further detailed below.

The text of the Amended Agreement provides:

"Because this is only an amendment and modification of the loan agreement in which we are only modifying and deferring your payments under the Title Loan Agreement, you acknowledge and agree that all of the terms and conditions of the Title Loan Agreement, including the charging of simple interest and waiver of jury trial and arbitration provision remain in full force and effect."

This statement shows an intent to avoid compliance with NRS 604A.445(3).

Under the original loan agreement the customer makes seven fully amortized payments (210 days) to pay the loan off without a balloon payment at the end, thereby complying with all provisions of NRS 604A.445(3). But, under the Amended Agreement, the customer makes 14 payments (390 days), the first seven payments are only interest and last seven payments are principal. Thus, Amended Agreement separates interest and principal from the original amortized schedule of payments, and thereby prolongs the payment of principal until the full interest is paid.

For an example of how customers owe more under the Amended Agreement compared to the original agreement, please see below:

LOAN NUMBER	TOTAL AMOUNT TO BE PAID UNDER ORIGINAL LOAN AGREEMENT	TOTAL AMOUNT TO BE PAID UNDER "AMENDED" LOAN AGREEMENT	OVERAGE
13869-0114073	\$4,476.94	\$5,246.29	\$769.35



EXAMINATION COMMENTS AND CONCLUSIONS

Titlemax must comply with NRS 604A.445 (3) and NRS 604A.210. Customers who enter into the Amended Agreement owe more money compared to the original loan with its fully amortized payments. Thus, Titlemax's Amended Agreement violates NRS 604A.445 (3) and NRS 604A.210.

Management's response: Ms. Sarah C. Poff, Director of Compliance, stated that a response will be sent to the Financial Institution Division once the report of examination is received.

FEDERAL

No violations of Federal laws were noted during the examination. However, this examination should not be considered a full compliance examination relative to Federal statutes.

SUMMARY

Each licensee, upon completion of an examination, is rated "Satisfactory," "Needs Improvement," or "Unsatisfactory," based primarily on compliance with applicable statutes and regulations and the perceived capability of management to achieve and maintain such compliance. The rating of the licensee at this examination is "Needs Improvement."

A rating of "**Needs Improvement**" indicates that the licensee and the management of the licensee have demonstrated less than satisfactory compliance, or instances and situations involving a lack of compliance with applicable state and federal laws and regulations and that regulatory supervision is required. The licensee and management will be required to respond in writing to the report of examination within 30 days providing the procedures that have been initiated for the correction of the violations and deficiencies noted in the report made by the examiner pursuant to state and federal laws and regulations.



CONFIDENTIAL – SUPERVISORY SECTION

EXAMINER(S):	OFFSITE	ONSITE		
Christian Yanez	5.00		DATE OF LAST EXAM	October 29, 2013
Andrea Bruce		4.50	RATING OF LAST EXAM	Needs Improvement
			MANAGER(S)	Jason Stinehour
CLERICAL TIME	.50		OFFICE HOURS	Mon-Fri 9:00am-7:00pm; Sat 10:00am-4:00pm
SUPERVISORY REVIEW	1.00		NUMBER OF EMPLOYEES	4
TOTAL BILLABLE HOURS	6.50	4.50	EXAMINATION RATING	Needs Improvement

SEND REPORT TO (List only if address is different than what is listed on the cover page. If the only difference is the Attn: then list below who the Attn: should be):

TitleMax of Nevada, Inc.
DBA: TitleMax
Attn: Ms. Sarah Poff, Director of Compliance
15 Bull Street, Suite 200
Savannah, GA 31401

MANAGEMENT:

TitleMax's executive officers are listed as follows:

Tracy Young, CEO
Carrie Lee, Corporate Office Manager/EA to CEO
Arthur Tretyak, SVP of Internet Lending Operations
Elizabeth Nelson, CAO
Paul Melvin, Corporate Controller
Lauren Thomas, VP Human Resources
Doug Marohn, SVP of Operations
Otto Bielss, SVP Operations
Kelly Wall, VP Finance
Brian Schmidt, General Counsel



STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

APP 015652

ROA 010975

CONFIDENTIAL – SUPERVISORY SECTION

COMMENTS:

The primary contact for this examination were:

Sara Dipalermo (No longer with the company.)
Ms. Sarah Poff, Director of Compliance. Ms. Poff can be reached at telephone number 912- 629 -1533 or at sarah.poff@titlemax.com.

The secondary contact was Ms. Jasmine Henry, General Manager. Ms. Henry can be reached at telephone number 702-878-6800 or at jasmine.henry@titlemax.com.

Ms. Henry assisted the examiners by printing the loan inventories for all the locations.

Mr. Christian Yanez was the examiner in charge during the process of this examination for all the locations in the State of Nevada. Ms. Andrea Bruce was the secondary examiner during the process of this examination. Ms. Bruce conducted and completed loan reviews for several Titlemax locations.

The following locations were reviewed during the process of this examination.

Store	Address	City	State	Zip
TitleBucks	7150 S. DURANGO DRIVE, #190	LAS VEGAS	NV	89113
TitleMax	6820 W. FLAMINGO RD, SUITE F & G	LAS VEGAS	NV	89103
TitleMax	6525 S. FORT APACHE ROAD, STE 110	LAS VEGAS	NV	89148
TitleMax	3525 S. FORT APACHE ROAD, SUITE 160	LAS VEGAS	NV	89147
TitleMax	4700 SPRING MOUNTAIN ROAD	LAS VEGAS	NV	89102
TitleMax	3575 W. TROPICANA AVENUE	LAS VEGAS	NV	89103
TitleMax	5060 S. FORT APACHE ROAD, SUITE 140	LAS VEGAS	NV	89148
TitleMax	6795 W. TROPICANA AVENUE, SUITE 140	LAS VEGAS	NV	89103
TitleMax	7615 S. RAINBOW BLVD, STE 100	LAS VEGAS	NV	89139
TitleMax	7380 S. EASTERN AVENUE, SUITE 126	LAS VEGAS	NV	89123
TitleMax	3810 BLUE DIAMOND ROAD #150	LAS VEGAS	NV	89139
TitleMax	6530 S. DECATUR BLVD, #100	LAS VEGAS	NV	89118
TitleMax	9555 S. EASTERN AVE, SUITE 105	LAS VEGAS	NV	89123
TitleMax	3391 E. TROPICANA AVENUE, STE 1	LAS VEGAS	NV	89121
TitleMax	3547 S. MARYLAND PKWY	LAS VEGAS	NV	89169
TitleMax	3365 E. FLAMINGO ROAD, SUITE 1	LAS VEGAS	NV	89121
TitleMax	4749 S. MARYLAND PKWY	LAS VEGAS	NV	89119
TitleMax	4650 E. SUNSET ROAD, SUITE C	HENDERSON	NV	89014
TitleMax	16 W. HORIZON RIDGE PKWY #160	HENDERSON	NV	89012
TitleMax	4944 BOULDER HIGHWAY	LAS VEGAS	NV	89121



STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
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ROA 010976

CONFIDENTIAL – SUPERVISORY SECTION

TitleMax	4000 BOULDER HWY, SUITE 5	LAS VEGAS	NV	89121
TitleMax	1210 N. BOULDER HWY, SUITE C	HENDERSON	NV	89011
TitleBucks	4150 BOULDER HIGHWAY, SUITE 105	LAS VEGAS	NV	89121
TitleMax	2400 N. BUFFALO DRIVE #140	LAS VEGAS	NV	89128
TitleMax	2550 S. EASTERN AVENUE	LAS VEGAS	NV	89169
TitleMax	6450 W. LAKE MEAD BLVD, STE 150	LAS VEGAS	NV	89108
TitleMax	3900 W. SAHARA AVENUE	LAS VEGAS	NV	89102
TitleMax	4811 WEST CRAIG ROAD	LAS VEGAS	NV	89130
TitleMax	6436 N. DECATUR BLVD., #115	LAS VEGAS	NV	89131
TitleMax	4077 W. CHARLESTON BLVD.	LAS VEGAS	NV	89102
TitleBucks	4750 W. LAKE MEAD, #102	LAS VEGAS	NV	89108
TitleMax	8414 W. FARM ROAD, SUITE 130	LAS VEGAS	NV	89131
TitleMax	4001 N. LAS VEGAS BLVD.	LAS VEGAS	NV	89115
TitleMax	3220 S. VIRGINIA STREET	RENO	NV	89502
TitleMax	2020 E. WILLIAMS STREET	CARSON CITY	NV	89701
TitleMax	1995 W. WILLIAMS AVENUE	FALLON	NV	89406
TitleMax	900 W. FIFTH STREET	RENO	NV	89503
TitleMax	1600 N. NELLIS BLVD, SUITE 102	LAS VEGAS	NV	89115
TitleMax	1225 E. CHARLESTON BLVD.	LAS VEGAS	NV	89104
TitleMax	4741 E. CHARLESTON BLVD.	LAS VEGAS	NV	89104

The on-site visits were delayed due to the fact that some documentations including manager's questionnaires were delay by the licensee.

During the current examination, Titledmax switched products from the 30 day title loan to the 210 day title loan and implemented the grace period deferment agreement. The result of this new implementation is the increase on the overall amount the consumer has to pay to close his/her loan.

Also, Titledmax compliance personnel wanted to meet with the Financial Institutions Division to discuss the current examination. The meeting was held on the Financial Institutions Division on Tuesday October 7, 2014 at 3:00 PM. Representing Titledmax were:

- John Griffin, Partner at Griffin Rowe.
- Victoria Newman, Compliance and Corporate Counsel
- Sarah "Sally" Poff, Director of Compliance
- Rachael Schreiber, Director of Government Relations



CONFIDENTIAL – SUPERVISORY SECTION

Representing the Financial Institutions Division were:

- Harveen Sekhon, Supervisory Examiner
- Len Esterly, Deputy Commissioner
- Christopher Eccles, Attorney
- Andrea Bruce, Examiner (Secondary examiner)
- Christian Yanez, Examiner (Examiner in charge)

The seriousness of the violation required more involvement of Harveen Sekhon, Supervisory Examiner and Christopher Eccles, Attorney. The final rating was reached by mutual decision with the examiner in charge, supervisory examiner, Deputy Commissioner and Commissioner.

Suggestions for future examination

For future examinations, the examiner in charge should conduct an unannounced examination. Once on-site contact the Titlemax corporate office and email the managers questionnaire. The examiner in charge should give the licensee the option of either copy the documentation or if the licensee would like the examiners to copy the documentation. The examiner in charge should ensure proper documentation is copied in all loans reviews. Paid in full loans cannot be chosen from the inventory list and should be chosen from each location.

Reviewed By: _____

Harveen Sekhon
Acting Supervisory Examiner



STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

APP-015655

ROA 010978

EXHIBIT C

APP 015656

ROA 010979



BRIAN SANDOVAL
Governor

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

BRUCE BRESLOW
Director

GEORGE E. BURNS
Commissioner

CHAPTER 604A
REPORT OF EXAMINATION

TITLEMAX OF NEVADA INC.
DBA: TITLEMAX
5871 E. LAKE MEAD BLVD.,
LAS VEGAS, NV 89156
WWW.TITLEMAX.COM

Examiner In Charge:	Ma. Theresa Dihiansan	Examined as of:	May 4, 2015
Examination Started:	May 22, 2015	Examination Closed:	June 17, 2015
Total Exam Hours:	12.0	Examination Number:	66958

THIS REPORT IS STRICTLY CONFIDENTIAL

The information contained in this report is based on the books and records of the licensee as licensed under NRS 604A, on statements made to the examiner by the directors, officers, and employees, and on information obtained from other sources believed to be reliable and presumed by the examiner to be correct. It is emphasized that this report is a report of examination, and not an audit of the licensee, and should not be construed as such. This report of examination does not replace nor relieve the principals of their responsibility for performing or providing for adequate audits of the business.

This copy of the report is the property of the Department of Business and Industry of the State of Nevada, and is furnished to the licensee for its confidential use. Under no circumstances shall the licensee, or any of its directors, officers, or employees disclose in any manner the report or any portion thereof to any person or organization not officially connected with the licensee as officer, director, attorney, or auditor unless otherwise directed. Should any legal process document be served calling for the surrender of this report or any portion thereof, the Commissioner of the Financial Institutions Division shall be notified immediately.

Each principal has the responsibility to review the contents of this report.

State of Nevada
Department of Business and Industry, Financial Institutions Division

Ma. Theresa Dihiansan, CAMLS
Examiner In Charge

APP 015657

ROA 010980

EXAMINATION COMMENTS AND CONCLUSIONS

INTRODUCTION

The follow-up examination of TitleMax of Nevada Inc. DBA: TitleMax located at 5871 E. Lake Mead Blvd., Las Vegas, NV 89156 commenced on May 4, 2015. This business location currently holds a Nevada Revised Statutes (NRS) Chapter 604A license issued by the State of Nevada Financial Institutions Division (FID). The licensee has been granted the approval to underwrite Title Loans in accordance with applicable statutes and regulations.

The licensee's website www.titlemax.com is used to advertise the various products and services it currently offers. Customers can start the application process online but must visit the branch location to process the loan.

As of the examination date, TitleMax currently has 42 licensed locations in the State of Nevada and all the locations were visited during the process of this examination. The corporate office located at 15 Bull St., Suite 200, Savannah Georgia 31401 is also licensed under NRS 604A. This location does not underwrite loans and is used for administrative purposes only. All licensed locations are listed in the table below:

Store	Address	City	State	Zip
TitleBucks	7150 S. DURANGO DRIVE, #190	LAS VEGAS	NV	89113
TitleMax	6820 W. FLAMINGO RD, SUITE F & G	LAS VEGAS	NV	89103
TitleMax	6525 S. FORT APACHE ROAD, STE 110	LAS VEGAS	NV	89148
TitleMax	3525 S. FORT APACHE ROAD, SUITE 160	LAS VEGAS	NV	89147
TitleMax	4700 SPRING MOUNTAIN ROAD	LAS VEGAS	NV	89102
TitleMax	3575 W. TROPICANA AVENUE	LAS VEGAS	NV	89103
TitleMax	5060 S. FORT APACHE ROAD, SUITE 140	LAS VEGAS	NV	89148
TitleMax	6795 W. TROPICANA AVENUE, SUITE 140	LAS VEGAS	NV	89103
TitleMax	7615 S. RAINBOW BLVD, STE 100	LAS VEGAS	NV	89139
TitleMax	7380 S. EASTERN AVENUE, SUITE 126	LAS VEGAS	NV	89123
TitleMax	3810 BLUE DIAMOND ROAD #150	LAS VEGAS	NV	89139
TitleMax	6530 S. DECATUR BLVD, #100	LAS VEGAS	NV	89118
TitleMax	9555 S. EASTERN AVE, SUITE 105	LAS VEGAS	NV	89123
TitleMax	3391 E. TROPICANA AVENUE, STE 1	LAS VEGAS	NV	89121
TitleMax	3547 S. MARYLAND PKWY	LAS VEGAS	NV	89169
TitleMax	3365 E. FLAMINGO ROAD, SUITE 1	LAS VEGAS	NV	89121
TitleMax	4749 S. MARYLAND PKWY	LAS VEGAS	NV	89119
TitleMax	4650 E. SUNSET ROAD, SUITE C	HENDERSON	NV	89014
TitleMax	16 W. HORIZON RIDGE PKWY #160	HENDERSON	NV	89012
TitleMax	4944 BOULDER HIGHWAY	LAS VEGAS	NV	89121
TitleMax	4000 BOULDER HWY, SUITE 5	LAS VEGAS	NV	89121
TitleMax	1210 N. BOULDER HWY, SUITE C	HENDERSON	NV	89011



STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

REPORT OF EXAMINATION

APP 015658

ROA 010981

EXAMINATION COMMENTS AND CONCLUSIONS

Store	Address	City	State	Zip
TitleBucks	4150 BOULDER HIGHWAY, SUITE 105	LAS VEGAS	NV	89121
TitleMax	2400 N. BUFFALO DRIVE #140	LAS VEGAS	NV	89128
TitleMax	2550 S. EASTERN AVENUE	LAS VEGAS	NV	89169
TitleMax	6450 W. LAKE MEAD BLVD, STE 150	LAS VEGAS	NV	89108
TitleMax	3900 W. SAHARA AVENUE	LAS VEGAS	NV	89102
TitleMax	4811 WEST CRAIG ROAD	LAS VEGAS	NV	89130
TitleMax	6436 N. DECATUR BLVD., #115	LAS VEGAS	NV	89131
TitleMax	4077 W. CHARLESTON BLVD.	LAS VEGAS	NV	89102
TitleBucks	4750 W. LAKE MEAD, #102	LAS VEGAS	NV	89108
TitleMax	8414 W. FARM ROAD, SUITE 130	LAS VEGAS	NV	89131
TitleMax	4001 N. LAS VEGAS BLVD.	LAS VEGAS	NV	89115
TitleMax	3220 S. VIRGINIA STREET	RENO	NV	89502
TitleMax	2020 E. WILLIAMS STREET	CARSON CITY	NV	89701
TitleMax	1995 W. WILLIAMS AVENUE	FALLON	NV	89406
TitleMax	900 W. FIFTH STREET	RENO	NV	89503
TitleMax	1600 N. NELLIS BLVD, SUITE 102	LAS VEGAS	NV	89115
TitleMax	1225 E. CHARLESTON BLVD.	LAS VEGAS	NV	89104
TitleMax	4741 E. CHARLESTON BLVD.	LAS VEGAS	NV	89104
TitleMax	6060 BOULDER HWY.	LAS VEGAS	NV	89122
TitleMax	5871 E. LAKE MEAD BLVD.	LAS VEGAS	NV	89156
TitleMax	15 BULL ST.	SAVANNAH	GA	31401

As of the examination date, the store located at 6060 Boulder Hwy., Suite 5 and 6, Las Vegas, NV 89122 was just opened for business and has not started underwriting title loans yet. As such, loan review was not part of the scope of the examination for this location.

SCOPE OF EXAMINATION

The primary purpose of the examination was to determine compliance with NRS Chapter 604A and Nevada Administrative Code (NAC) Chapter 604A. The examination consisted of a review of active, paid, delinquent and declined loans, a review of surety bond terms, completion of the manager's and statutory compliance questionnaires, and a review of the company's policies and procedures and forms used in the operation of the business. Appropriate licenses and fee-related postings were also examined. Emphasis was placed on compliance with State regulations as well as the Truth in Lending Act (Regulation Z).

The current examination mainly focused on the prior violations that were cited which resulted in a less than satisfactory rating.



STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

REPORT OF EXAMINATION

APP 015659

ROA 010982

EXAMINATION COMMENTS AND CONCLUSIONS

Annual Report

The Annual Report of Operations was received by the FID on March 24, 2015. The licensee is in compliance with NRS 604A 750.

Surety Bond

The Surety Bond is sufficient. It is currently posted at \$265,000.00, with Capitol Indemnity Corporation under Surety Bond number 60088894 and is due for renewal on February 15, 2016. The licensee is in compliance with NRS 604A.610.

Internal / External Review

Aside from the Nevada State examination, there was no written documentation provided for internal or external reviews at the time of the examination.

Financial Audit / CPA

The CPA of the Financial Institutions Division reviewed the key financial figures submitted along with the licensee's Annual Report of Operations. There are no weaknesses identified in the business operations.

Internal Routine and Control

During the previous examination, the licensee was utilizing CashWise Financial Services Software for its loan operations. However, at the start of the examination process, the licensee was in the process of converting its Software Program from CashWise Financial Services to TLX Software Program.

The Title loan underwriting process includes:

- Loan application form
- Income and obligations
- Government issued photo identification
- Valid phone number
- Title of the vehicle
- Proof of insurance
- Current registration
- Affidavit stating the customer's ability to repay the loan

As of the examination date, the licensee offers title loans with the original term of 210 days which parallel NRS 604A.445 (3):

3. The original term of a title loan may be up to 210 days if:
 - (a) The loan provides for payments in installments;
 - (b) The payments are calculated to ratably and fully amortize the entire amount of principal and interest payable on the loan;



STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

REPORT OF EXAMINATION

APP 015660

ROA 010983