

AFFIDAVIT OF PROBABLE CAUSE
PURSUANT TO SEC. 44-20-104 COLORADO REVISED STATUTES
Case Numbers 19-1563, 19-1578, 19-1591, 19-1596, 19-1610, 19-1621, 19-1631
Tripoli Auto Sales LLC
4980 East Evans Avenue
Denver, CO 80222
Dealer #42180

Comes now your Affiant Rob Urbach and states and affirms as follows:

Your Affiant is a Peace Officer of the State of Colorado and is presently employed as a Criminal Investigator for the Auto Industry Division of the Colorado Department of Revenue. Your Affiant is over the age of eighteen years and is not a party to any proceeding involving the subject matter of this affidavit.

Your Affiant (hereinafter referred to as I or me) has personally conducted the investigation of the offenses, and is familiar with all of the circumstances because of my personal participation in the investigation; and by obtaining documents and interviews of participants related to these offenses, all of which occurred in the State of Colorado.

On 11/14/19, the Auto Industry Division (AID) received a complaint from Muthana Mohsin Aldallee who is alleging that Tripoli Auto Sales LLC (Tripoli Auto Sales) failed to deliver the title to two vehicles he purchased from them. Subsequent conversations with the owner of Tripoli Auto Sales, Ussamah Milad Shukry, revealed that he is out of trust with his floor planners, [REDACTED] and [REDACTED].

Note: A floor plan company lends money to motor vehicle dealers in the form of advances so dealers can purchase inventory for the dealership. The floor plan company holds the titles to the vehicles as collateral on the advances. When the dealer sells the vehicle to a retail consumer, the dealer is to repay the advance and obtain the title which is then delivered to the consumer or consumer's lending institution. When the dealer fails to repay the advance after selling the vehicle, the dealer is out of trust.

I reviewed the complaint and learned Mr. Aldallee purchased two vehicles from Tripoli Auto Sales. The first vehicle is a 2012 Acura MDX, [REDACTED] purchased on 09/24/19. Mr. Aldallee paid \$3,500 cash for the vehicle. The second vehicle purchased is a 2012 Toyota RAV4 [REDACTED], purchased on 11/01/19. Mr. Aldallee paid \$5,000 cash for this vehicle. At the time of this affidavit Mr. Aldallee has not received the title to either vehicle.

On 11/20/19, I researched Tripoli Auto Sales through AID records (MYLO) and confirmed that they are a licensed Used Motor Vehicle Dealer under number 42180. Ussamah M. Shukry is listed as the sole owner and is authorized to sell.

On 11/20/19, I went to Tripoli Auto Sales at 4980 East Evans Ave. Denver, CO. Mr. Shukry was not at the location, but Nick Capra the landlord of the building was there. I introduced myself to him and I asked if Tripoli Auto Sales was still at this location. Mr. Capra told me that he was having the locks changed and not letting Mr. Shukry back into the building. Mr. Capra told me that Mr. Shukry owed him about \$20,000 in rent and was not coming back onto his property. While I was inside of the building I noticed that there were only a couple pieces of furniture and some empty filing cabinets. I also noticed that there were several manila envelopes lying around which appeared to have had deal jackets in them at one time. While I was at the dealership a male party came in looking for Mr. Shukry. I spoke with this person who told me that he was looking for the title to his vehicle. I explained that he would have to go to AID to file a complaint. Mr. Capra told me that there had been several people coming into the building looking for the owner and the titles to their vehicles.

On 11/22/19, I was informed that AID Investigator Eric Teklu was working a complaint against Tripoli Auto Sales. While investigating this complaint Investigator Teklu was informed by General Manager Jimmy Kueber from Copart Auto Auction (Copart) that Tripoli Auto Sales owes Copart \$12,116 which includes two bounced checks.

I researched AID records (MYLO) to confirm that Copart Auto Auction # 4270 is a licensed Used Motor Vehicle Dealer, and as a Wholesale Motor Vehicle Auction Dealer under license #44005.

On 11/22/19, Investigator Teklu called Mr. Shukry and asked him to come to AID to speak with us about these complaints.

On 11/22/19, I went to Tripoli Auto Sales second location at 8751 East Hampden Ave. Suite A3 Denver, CO. The doors were locked to the building and there was no one inside. I checked with the business which was just north of the dealership and asked if they had seen anyone around the dealership. They told me that there has not been anyone there for about three months.

On 11/25/19, Mr. Shukry came to AID to meet with Investigator Teklu and I. We asked him about his dealership, and where his business was located. Mr. Shukry told us that he doesn't have a place of business right now but he is looking for one. I asked if he had let AID know that he had shut down his two business locations. He told me no. I asked if he was out of trust with his floor planners. Mr. Shukry told me that he was about \$60,000 behind with [REDACTED] and he owed [REDACTED] about [REDACTED]. I asked how many vehicles this equaled with each floor planner. He told me that he had twenty cars or more with [REDACTED] and ten vehicles or more with [REDACTED]. I asked if he was behind with anyone else. Mr. Shukry said that he was behind on two vehicles with Manheim, two vehicles with Adesa, and two vehicles at Loveland Auto Auction. Mr. Shukry also admitted to owing Copart \$9,194 for vehicles and issuing two bad checks to them. Investigator Teklu asked Mr. Shukry how long it would take him to get the floor planners and auctions paid off. Mr. Shukry did not want to put a time frame on how long it would take, but he finally said about five to six months.

On 11/25/19, I went to [REDACTED] and met with Branch Manager Kirk Wiggers. I asked Mr. Wiggers if Tripoli Auto Sales was out of trust with them. Mr. Wiggers told me that they were. He also told

me that his legal department will not let him answer many questions, but he would tell me what he could. I asked Mr. Wiggers how many vehicles Tripoli Auto Sales was out of trust on. He told me fifty, and gave me a list of the vehicles. I asked how much Tripoli Auto Sales owed [REDACTED]. Mr. Wiggers said he could not tell me that. Having previous knowledge of the type of vehicles that Tripoli Auto Sales deal in, I estimated fifty vehicles at \$2,000 a piece would be \$100,000. I asked if I was close with my math. Mr. Wiggers would not say for sure, but he did say my math was good.

During the course of this investigation, AID has received several more complaint for late title delivery. It was determined that AFC holds the titles to the following vehicles which AID has received complaints on:

AID Complaint # 19-1578, 2012 Toyota Rav4, VIN [REDACTED], floor planned on 04/11/19. The vehicle was sold by Tripoli Auto Sales on 11/01/19, to Muthana Moshsin Aldalle for \$3,500. [REDACTED] holds the title to the vehicle.

AID Complaint # 19-1591, 2008 Honda Pilot, VIN [REDACTED], floor planned on 04/30/19. The vehicle was sold by Tripoli Auto Sales on 07/04/19, to Patrick Ndosimao for \$5,700. [REDACTED] holds the title to the vehicle.

AID Complaint # 19-1596, 2012 Hyundai Accent, VIN [REDACTED], floor planned on 08/01/19. The vehicle was sold by Tripoli Auto Sales on 11/05/19, to Rafid Al Daly for \$2,500. [REDACTED] holds the title to the vehicle.

AID Complaint # 19-1621, 2010 Ford Taurus, VIN [REDACTED], floor planned on 08/01/19. The vehicle was sold by Tripoli Auto Sales on 08/06/19, to Abdurrahman Sadd Talea for \$4,400. [REDACTED] holds the title to the vehicle.

AID Complaint # 19-1631, 2008 Nissan Altima, VIN [REDACTED], floor planned on 07/23/19. The vehicle was sold by Tripoli Auto Sales on 06/10/19, to Phan Ngoc Lam Bui for \$4,850. [REDACTED] holds the title to the vehicle.

On 11/27/19, I emailed [REDACTED] to see if Tripoli Auto Sales is out of trust with them. I explained that Mr. Shukry told me that he was about \$25,000 to \$30,000 behind in paying for vehicles. I received an email back from Senior Recovery Specialist Krystal McKenzie. She wrote "The dealer has greatly understated the amount that they owe our company. As of today, there are 29 vehicles missing with a total outstanding balance of \$80,768.74. We have not been able to locate even a single vehicle remaining on this account and the dealer has not been in communication with me."

[REDACTED] holds the title to the following vehicle which AID has received a complaint on:

AID Complaint # 19-1610, 2000 Ford Focus, [REDACTED], floor planned on 10/07/19, the vehicle was sold by Tripoli Auto Sales on 10/16/19, to Norma Isela Figueroa for \$900. [REDACTED] holds the title to the vehicle.

On 12/04/19, I was advised by Agent In Charge (AIC) Christine Hartman that Mr. Shukry had come into AID with a change of location for his business. AIC Hartman asked me to drive to the new location and see if Mr. Shukry had his dealership operational. On 12/05/19, I went to the new address at 5777 East Evans Ave. Denver, CO 80222, and there was no signage on the outside of the building saying that Tripoli Auto Sales was located there. I spoke with the building manager who told me that Tripoli Auto Sales had rented a suite in the building, and the management is in charge of putting up signs for the business. I went to the suite that Tripoli Auto Sales rented, but there was no one there. The door was open and when I looked inside I noticed there was no furniture or any office supplies in the office.

There are currently ten additional title delivery complaints against Tripoli Auto Sales at this time.

For the remainder of this affidavit "I" or "me" will refer to Criminal Investigator Eric Teklu.

On 9/11/19, Yusra Aboqalam wrote out a complaint and submitted it to the Auto Industry Division (AID) under complaint # 19-1563. The complaint pertains to a vehicle that he purchased (cash) from Tripoli Auto Sales on 9/18/19. He alleges that the dealer has failed to deliver title to him.

On 11/14/19, at approximately 1030 hours, I went to the dealer but it was closed. The hours of operation posted on the front door stated that they opened at 1000 hours. Upon returning to my office I proceeded to email Mr. Shukry written notice of the investigation affording the dealer 10 days in which to respond with written data, views, and arguments with respect to the facts or conduct. The following morning he replied stating that he would call me in the middle of the day, but never did.

On 11/20/19, Mr. Shukry finally called me. He stated that he was having problems with his current location and was seeking out another location. He stated that he would be submitting Change-of-Location paperwork to AID shortly. Upon asking Mr. Shukry about the vehicle in question, he stated that the title was being held by Copart due to some financial issues. Upon asking him when he expected to have the matter resolved, he stated that he would be attempting to resolve the matter this week.

On 11/20/19, I sent an email to the general manager at Copart Auctions (Littleton), James Kueber, inquiring about the vehicle and Mr. Shukry's account. The following day he sent me an email which states, "*The invoice is attached. This vehicle was purchased at a different Copart location, so I cannot give you any specific information about this lot, but his account shows that he owes Copart \$12,116. This is including 2 bounced checks.*" The invoice confirms that Tripoli Auto Sales purchased the vehicle from the Brighton location on 5/14/19.

On 11/25/19, Mr. Shukry voluntarily came to my office and met with myself and AID Investigator Urbach, whom was also investigating one or more complaints against the dealer. With regard to his dealership location, Mr. Shukry stated that he permanently left his previous location (8751 E. Hampden Ave. #A3, Denver, CO 80231) at the end of August 2019. He further stated that he left his most recent location (4980 E. Evans Ave., Denver, CO 80220) on 11/16/19,

due to issues with the landlord. Upon my request he voluntarily signed a statement attesting to this. I informed Mr. Shukry that his dealer license would be deemed inactive until he secured another acceptable location. I then informed him about my discovery that he bounced two checks to Copart and currently owes them \$12,116. He acknowledged the bad checks, but stated that the amount due was actually \$9,194. He explained that the higher amount included multiple \$400 fees which would be waived once he paid them.

Based on the foregoing Tripoli Auto Sales LLC, license #42180, is alleged to have violated:

C.R.S 44-20-121(3) A motor vehicle dealer's, wholesale motor vehicle auction dealer's, wholesaler's, buyer agent's, or used motor vehicle dealer's license may be denied, suspended, or revoked on the following grounds:

- (d) Defrauding any buyer, seller, motor vehicle salesperson, or financial institution to the person's damage;
- (e) Intentional or negligent failure to perform any written agreement with any buyer or seller;
- (g) Having made a fraudulent or illegal sale, transaction, or repossession;
- (m) To willfully violate any state or federal law respecting commerce or motor vehicles, or any lawful rule respecting commerce or motor vehicles promulgated by any licensing or regulating authority pertaining to motor vehicles, under circumstances in which the act constituting the violation directly and necessarily involves commerce or motor vehicles;

TO WIT:

C.R.S. 18-5-512. Issuance of a bad check

(3) Except as provided in section 18-5-205, a person commits a class 3 misdemeanor if he issues or passes a check or similar sight order for the payment of money, knowing that the issuer does not have sufficient funds in or on deposit with the bank or other drawee for the payment in full of the check or order as well as all other checks or orders outstanding at the time of issuance.

C.R.S. 42-6-112 Initial registration of a motor vehicle - dealer responsibility to timely forward certificate of title to purchaser or holder of a chattel mortgage. A dealer of motor or off-highway vehicles shall, within thirty days after the sale, deliver or facilitate the delivery of the certificate of title to a purchaser or the holder of a chattel mortgage on the motor or off-highway vehicle subject to section 42-6-109.

C.R.S. 44-20-119. Notice of change of address or status

(1) The board, through the executive director, shall not issue a motor vehicle dealer's license or used motor vehicle dealer's license to any applicant therefor who has no principal place of business as is defined in this part 1. Should the motor vehicle dealer or used motor vehicle dealer change the site or location of the dealer's principal place of business, the dealer shall immediately upon making the change so notify the board in writing, and thereupon a new license shall be granted for the unexpired portion of the

term of the license at a fee established pursuant to section 44-20-111. Should a motor vehicle dealer or used motor vehicle dealer, for any reason whatsoever, cease to possess a principal place of business, as defined in this part 1, from and on which the dealer conducts the business for which the dealer is licensed, the dealer shall immediately so notify in writing the board and, upon demand therefor by the board, shall deliver to it the dealer's license, which shall be held and retained until it appears to the board that the licensee again possesses a principal place of business; whereupon, the dealer's license shall be reissued. Nothing in this part 1 shall be construed to prevent a motor vehicle dealer or used motor vehicle dealer from conducting the business for which the dealer is licensed at one or more sites or locations not contiguous to the dealer's principal place of business but operated and maintained in conjunction therewith.

C.R.S. 44-20-130. Drafts not honored for payment

(1) If a motor vehicle dealer, wholesaler, or used motor vehicle dealer issues a draft or check to a motor vehicle dealer, wholesaler, used motor vehicle dealer, motor vehicle auction house, or consignor and fails to honor the draft or check, then the license of the licensee shall be subject to suspension pursuant to section 44-20-104 (3)(e)(I). The license suspension shall be effective upon the date of any final decision against the licensee based upon the unpaid draft or check. A licensee whose license has been suspended pursuant to the provisions of this subsection (1) shall not be eligible for reinstatement of the license and shall not be eligible to apply for any other license issued under this part 1 unless it is demonstrated to the board that the unpaid draft or check has been paid in full and that any fine imposed on the licensee pursuant to subsection (2) of this section has been paid in full.

(2) Any motor vehicle dealer, wholesaler, or used motor vehicle dealer that issues a draft or check to a motor vehicle dealer, wholesaler, used motor vehicle dealer, motor vehicle auction house, or consignor and who fails to honor the draft or check, causing loss to a third party, commits a misdemeanor and shall be punished by a fine of two thousand five hundred dollars. Any fine collected for a violation of this subsection (2) shall be awarded to the law enforcement agency that investigated and issued the citation for the violation.

C.R.S. 44-20-121 (7) Any license issued pursuant to this part 1 may be denied, revoked, or suspended if unfitness of the licensee or licensee applicant is shown in the following:

(c) The financial character or record of the licensee or licensee applicant;

Regulation 44-20-121(7)

(c) The Board, in determining whether a licensee or applicant has demonstrated unfitness of financial character or record, will consider net worth, liquid assets including cash, lines of credit, marketable securities, credit reports, unpaid judgments and/or tax liens, delinquent debts, and bankruptcy status. Applications for a motor vehicle dealer or used motor vehicle license will be closely evaluated based on the factors herein and the applicant's concept of operation for the business to assess the potential for harm to retail customers.



Rob Urbach
Criminal Investigator
Auto Industry Division
Colorado Department of Revenue

Subscribed and sworn to before me this 10TH day of DECEMBER, 2019



Notary Public

JOHN PETER OPEKA
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20164006957
MY COMMISSION EXPIRES FEBRUARY 22, 2020