

STATE OF NORTH CAROLINA

WAKE COUNTY

**FILED**  
IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

2019 MAY 20 A 11:52 19 CV 006382

STATE OF NORTH CAROLINA *ex rel.*  
JOSHUA H. STEIN, Attorney General,

Plaintiff,

v.

APPROVED FINANCIAL, INC.,

Defendant;

And

NORTH CAROLINA DIVISION OF MOTOR  
VEHICLES;

Nominal Defendant only, named solely for  
purposes of injunctive relief.

(H)

**CONSENT TEMPORARY  
RESTRAINING ORDER**

THIS CAUSE came on to be heard before the undersigned judge on Plaintiff's, the State of North Carolina, *ex rel.* Joshua H. Stein, Attorney General's ("the State"), Motion for Temporary Restraining Order and Preliminary Injunction as to Defendant Approved Financial, Inc. ("Defendant").<sup>1</sup> The parties, through counsel, advised the Court that, without any admission of liability on the part of Defendant, they have agreed to the terms of a temporary restraining order order as set forth below.

<sup>1</sup> Due to the fact that NC-DMV is included as a party to this action solely for jurisdictional and equitable purposes regarding any orders of the Court affecting automobile titles and associated liens recorded and maintained as a governmental function of NC-DMV, the term "Defendant" does not include NC-DMV; and NC-DMV is separately identified as "NC-DMV" where applicable.

The Court, for purposes of this Order and with the consent of the parties, finds as follows:

1. The State filed its Complaint on 15 May 2019. With its Complaint and exhibits, the State filed four supporting affidavits, including the affidavits of two North Carolina consumer borrowers, Melody Garrett and Matthew Malagese, and the affidavits of paralegal Jennifer L. Sugar, and former legal intern Michael Olson of the North Carolina Department of Justice.

2. Defendant was served with a copy of the State's Complaint and Motion on 16 May 2019.

3. Counsel for NC-DMV did not appear, but counsel for the State advised the Court that: the State has provided notice to NC-DMV of this hearing; the summons and Complaint have been served on NC-DMV; counsel for the State has consulted with NC-DMV's legal counsel, Assistant Attorney General John Congleton, at the Attorney General's Office in this matter, including providing NC-DMV's counsel with a copy of a proposed Temporary Restraining Order that is the same as this Order in all material respects, and identical in all respects relating to NC-DMV; and the State is unaware of any objections of NC-DMV to the entry of this Order.

4. The State has alleged that Defendant has advertised, solicited, offered, and made illegal, usurious loans to North Carolina consumers, including loans secured by consumers' vehicle titles, in violation of North Carolina law, including the Consumer Finance Act, N.C. Gen. Stat. § 53-164, *et seq.*; usury laws, N.C. Gen. Stat. § 24-1.1, *et seq.*; Telephonic Seller Registration Act, N.C. Gen. Stat. § 66-260, *et seq.*; and Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. § 75-1.1. The State has further alleged that Defendant has collected, and is continuing to collect, payments from North Carolina consumers on Defendant's illegal loans, and that Defendant has repossessed and sold, and is continuing to repossess and sell, North Carolina consumers' vehicles, all in violation of North Carolina law, including the Consumer Finance Act, N.C. Gen.

Stat. § 53-164, *et seq.*; usury laws, N.C. Gen. Stat. § 24-1.1, *et seq.*; Debt Collection Act, N.C. Gen. Stat. § 75-50, *et seq.*; and Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. § 75-1.1.

5. Defendant represents that, as of January 5, 2019, it stopped making loans to customers with North Carolina addresses on their loan application (hereinafter the “Customers”) and that, as of January 28, 2019, it voluntarily recalculated the percentage rate on all then-existing loans to the Customers to 15.99 percent, which recalculation was applied retrospectively to the beginning of such loans and resulting in credits to the Customers for the differences in the payment amounts. Defendant represents that it did these things before receiving the State’s Complaint and without being aware that the State was conducting an investigation or that the persons named in the Complaint had the concerns raised in the Complaint. Defendant also represents that, upon receipt of the State’s Complaint, Defendant did the following things with respect to the Customers: discontinued any pending repossessions, held all pending vehicle sales, discontinued any collection efforts on current and defaulted loans, including sending reminder emails informing of upcoming payments due. Defendant, without admitting to any violations of the law in the conduct of their business activities, have agreed to cease soliciting, offering, or making loans to North Carolina consumers, and to cease collecting on loans made to North Carolina consumers, including to cease repossessing and selling vehicles of North Carolina consumers during the pendency of this Order.

6. The State contends that good and sufficient cause exists for entry of this Order, and Defendant does not oppose entry of this Order.

IT IS THEREFORE ORDERED that Defendant Approved Financial, Inc., together with its owner(s), officers, agents, employees, and attorneys, and all persons associated with or working with the foregoing, are temporarily restrained from:

- (1) Soliciting, offering, arranging, or making any loans, including vehicle title loans, to North Carolina consumers;
- (2) Collecting any payments on any loan(s) made to any North Carolina consumer borrower by Defendant;
- (3) Repossessing or selling any vehicle owned or previously owned by a North Carolina consumer borrower of Defendant, or any vehicle located in the State of North Carolina;
- (4) Placing liens on vehicles or vehicle titles of North Carolina consumers, and from transferring any such titles, except to transfer a title back to the North Carolina consumer;
- (5) Transferring, concealing, spending, or disposing of any money or funds received, directly or indirectly, from any North Carolina consumers in connection with Defendant's lending activities, except to return funds to North Carolina consumers;
- (6) Directly or indirectly dissipating any assets of Defendant outside the ordinary course of business, including but not limited to any dissipation of such assets for the purpose of evading the potential payment of restitution to North Carolina consumers, should the State prevail on its claims in this case; and,
- (7) Destroying, removing, transferring, erasing, or otherwise disposing of any business or financial records relating to Defendant's business activities, including but not limited to any business or financial records relating to any loan transaction

involving a North Carolina consumer borrower.

Defendant represents that it already put these measures in place upon receipt of the State's Complaint or earlier.

IT IS FURTHER ORDERED that, during the pendency of this Order and notwithstanding any other provision hereof, if a Customer specifically requests to make a payoff to have his or her vehicle lien released, then Defendant shall accept the payoff, release the lien, and report the circumstances relative to the same to the State's counsel identified below within three (3) days.

IT IS FURTHER ORDERED that, during the pendency of this Order, NC-DMV shall not allow any liens submitted to be recorded on or after the date of this Order or previously submitted but yet to be recorded as of the date of this Order in favor of Defendant on North Carolina vehicle titles. Further, NC-DMV shall not allow any attempted transfers that it may identify by Defendant of any such vehicle titles containing a lien in favor of Defendant, pending further order of the Court. Further, NC-DMV is authorized to place a block on any such affected titles as it may deem necessary to effectuate this Order, pending further order of the Court. NC-DMV and the North Carolina Department of Justice shall work together to effectuate the terms of this Order, including but not limited to providing and exchanging information regarding liens and titles covered by this Order, and in identifying affected consumers.

IT IS FURTHER ORDERED that, by consent of the Parties, this Order shall remain in effect for thirty <sup>Five</sup> ~~(30)~~ days and may be extended by the Parties or modified by further Order of this Court. If necessary, the parties will work together to schedule a preliminary injunction

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hearing at a mutually agreeable time prior to expiration of this Order, and if no other agreement is reached, this Order shall return for hearing on June 24, 2019 at 10:00 A.M.

Stephen P. O'Neil

Hon.

Superior Court Judge

**CONSENTED TO:**

**Plaintiff:**

STATE OF NORTH CAROLINA, *ex rel.*  
JOSHUA H. STEIN, ATTORNEY GENERAL

By: M. Lynne Weaver 5/20/19  
M. Lynne Weaver Date  
Special Deputy Attorney General

**Defendant Approved Financial, Inc.:**

By: Joseph S. Dowdy 5/20/19  
Joseph S. Dowdy Date  
Kilpatrick Townsend & Stockton, LLP  
4208 Six Forks Road, Suite 1400  
Raleigh, NC 27609  
Ph. (919) 420-1718  
jdowdy@kilpatricktownsend.com  
Counsel for Defendant

By: Marie DeRose 5/20/2019  
Marie DeRose Date  
Legal Manager  
Approved Financial, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this date I have served a copy of the foregoing TEMPORARY RESTRAINING ORDER upon Defendant Approved Financial, Inc. <sup>by hand on counsel on court</sup> and nominal Defendant NC-DMV by depositing a copy with the U.S. Mail, Certified Mail, return receipt requested, and addressed to:

~~Approved Financial, Inc.  
c/o InCorp Services, Inc., Registered Agent  
17888 67th Ct. North  
Loxahatchee, FL 33470~~

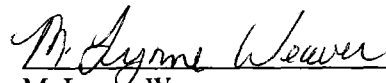
~~Approved Financial, Inc.  
175 SW 7th St. Ste. 1900  
Miami, FL 33130~~

~~Approved Financial, Inc.  
c/o InCorp Services, Inc., Registered Agent  
317 Ruth Vista Road  
Lexington, SC 29073-8628~~

~~Approved Financial, Inc.  
c/o Capital Administrations, LLC, Registered Agent  
1712 Pioneer Ave., Ste. 115  
Cheyenne, WY 82001~~

Brandon Mattox  
Charlotte Hanemann  
Office of the Commissioner  
North Carolina Division of Motor Vehicles  
3101 Mail Service Center  
Raleigh, NC 27699-3101

This the 20<sup>th</sup> day of May, 2019.

  
\_\_\_\_\_  
M. Lynne Weaver  
Special Deputy Attorney General