

3. On December 1, 1998, Ace Auto of Altoona became licensed as an Installment Seller under the MVFSA, license no. 6308, located at 712-7th Avenue, Altoona, PA 16602.

4. Ace Auto of Altoona was licensed as a sole proprietorship.

5. In 2005, Ace Auto of Altoona changed its business from a sole proprietorship to a Pennsylvania Business Corporation (“Corporation”).

6. Ace Auto of Altoona, however, did not apply for an Installment Seller license on behalf of the Corporation until October 26, 2007.

7. From January 1, 2007 through October 26, 2007, Ace Auto of Altoona entered into approximately twenty-three (23) installment sale contracts (“Contracts”) with consumers as a Corporation even though it was licensed as a sole proprietorship.

VIOLATIONS

8. The MVFSA provides that,

[N]o person shall engage or continue to engage in this Commonwealth either as a principal, employe, agent or broker . . . [i]n the business of an installment seller of motor vehicles under installment sale contracts, except as authorized in this act, under license issued by the Department

69 P.S. §604 (emphasis added).

9. To obtain a license, an applicant must file an application with the Department.

10. The application must contain, *inter alia*,

the name under which the business is conducted, the address of the place of business . . . the date and place of incorporation, if the applicant is a corporation; the name and residence address of the owner, if the applicant is an individual owner; the name and residence address of all owners, partners, or members, if the applicant is a partnership or association; the name and address of all officers and directors, if the applicant is a corporation, and such other information as the department may require.

69 P.S. §605B (emphasis added).

17. Corrective Action. Ace Auto of Altoona hereby agrees to maintain his license in accordance with the terms of the MVSFA and any other applicable law and/or regulation as long as it continues in the business of an installment seller in the Commonwealth as set forth in the MVSFA.

FURTHER PROVISIONS

18. Consent. Ace Auto of Altoona hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Bureau's order authority under the MVSFA and agrees that it understands all of the terms and conditions contained herein. Ace Auto of Altoona, by voluntarily entering into this Order, waives any right to a hearing or appeal concerning the terms, conditions and/or penalties set forth in this Order.

19. Publication and Release. Ace Auto of Altoona consents to the publication and release of this Order.

20. Consumer's Rights. This Order shall not limit or impair any consumers' rights as set forth under Section 35 of the MVSFA. 69 P.S. § 635.

21. Entire Agreement. This Order contains the entire agreement between the parties. There are no other terms, obligations, covenants, representations, statements, conditions, or otherwise, of any kind whatsoever concerning this Order. This Order may be amended in writing by mutual agreement by the Bureau and Ace Auto of Altoona.

22. Binding Nature. The Bureau, Ace Auto of Altoona, and all officers, owners, directors, employees, heirs and assigns of Ace Auto of Altoona intend to be and are legally bound by the terms of this Order.

23. Counsel. This Order is entered into by the parties upon full opportunity for legal advice from legal counsel.

11. “If the department approves an application for license, it shall issue to the applicant a license certificate showing the *name of the person authorized to do business thereunder* and the address of the licensee.” 69 P.S. §608 (emphasis added).

12. Section 8B of the MVSFA specifically provides that, “[a] license *shall not* be transferred or assigned.” 69 P.S. §608B (emphasis added).

13. Because licenses cannot be transferred or assigned under the MVSFA, Ace Auto of Altoona had to submit an application for an Installment Seller on behalf of the Corporation when it changed from a sole proprietorship to the Corporation.

14. By failing to submit a new license application for the Corporation and by entering into Contracts between January 1, 2007 and October 26, 2007, Ace Auto of Altoona, the Corporation, engaged in the business of an installment seller without being properly licensed as an installment seller.

15. Section 37.D of the MVSFA provides, in relevant part, that

Any person required to be licensed under this act that violates this act or directs a violation or who engages in any activity for which a license could be suspended or revoked under section 10 *shall be subject to a civil penalty levied by the department of not more than two thousand dollars (\$2,000) for each offense.*

69 P.S. § 637.D (emphasis added).

RELIEF

16. Fine. Within thirty (30) days of the Effective Date of this Order, Ace Auto of Altoona shall pay to the Department a fine in the amount of \$1,100. Payment shall be remitted by certified check or money order to be made payable to the “Department of Banking” and shall be sent to the Attention of the Non-Depository Institutions, Supervision and Enforcement located at 17th North Second Street, 13th Floor, Harrisburg, PA 17101.

24. Effectiveness. Ace Auto of Altoona hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order ("Effective Date").

25. Other Enforcement Action.

a. The Department reserves all of its rights, duties, and authority to enforce all statutes, rules and regulations under its jurisdiction against Ace Auto of Altoona in the future regarding all matters not resolved by this Order.

b. Ace Auto of Altoona acknowledges and agrees that this Order is only binding upon the Department and not any other local, state or federal agency, department or office regarding matters within this Order.

26. Authorization. The parties below are authorized to execute this Order and legally bind their respective parties.

27. Counterparts. This Order may be executed in separate counterparts and by facsimile.

28. Titles. The titles used to identify the paragraphs of this document are for the convenience of reference only and do not control the interpretation of this document.

WHEREFORE, in consideration of the foregoing, including the recital paragraphs, the Bureau and Ace Auto of Altoona intending to be legally bound do hereby execute this Consent Agreement and Order.

**FOR THE COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING
BUREAU OF SUPERVISION
AND ENFORCEMENT**

Ryan M. Walsh, Administrator
Bureau of Supervision and
Enforcement
Department of Banking

Date: January 9, 2008

FOR ACE COMPANIES, INC. d/b/a ACE AUTO SALES

(Print Officer Name)

OWALSH
(Title)

Date: 1/4/08