

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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PA DEPT OF BANKING

COMMONWEALTH OF PENNSYLVANIA :
DEPARTMENT OF BANKING, BUREAU :
OF COMPLIANCE, INVESTIGATION : Docket No. 08 0061 (ENF-CO)
AND LICENSING :
v. :
ROCKBOTTOM MOTORS, INC. :

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Examinations, has conducted an examination of Rockbottom Motors, Inc. ("Rockbottom"), and its officers, employees and directors. Based on the results of its review, the Bureau of Compliance, Investigation and Licensing ("Bureau") believes that Rockbottom operated in violation of the Motor Vehicle Sales Finance Act ("MVSFA"), 69 P.S. § 601 *et. seq.* The parties to the above captioned matter, in lieu of litigation, hereby stipulate that the following statements are true and correct in the settlement of the above-captioned matter and, intending to be legally bound, hereby agree to the terms of the Consent Agreement and Order ("Order").

BACKGROUND

1. The Department is the Commonwealth of Pennsylvania's administrative agency authorized and empowered to administer and enforce the MVSFA.
2. The Bureau is primarily responsible for administering and enforcing the MVSFA for the Department.

3. On April 9, 2007, Rockbottom became licensed as an Installment Seller, License No. 17794, at its principal place of business located at 125 Pittsburgh Street, Uniontown, Pennsylvania, 15401-2944.

4. On August 2, 2007, an examiner from the Department conducted an examination of the principal place.

5. The examination revealed that Rockbottom had sold approximately twenty-five (25) motor vehicles financed under installment sale finance contracts ("Contracts") prior to becoming licensed.

6. Section 4.1 of the MVSFSA provides that "no person shall 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. § 604.1 (emphasis added).

7. An installment seller is "a person engaged in the business of selling, hiring, or leasing motor vehicles under installment sale contracts or any legal successor in interest to such person." 69 P.S. § 603.

8. ~~Section 37.D of the MVSFSA~~ provides that "[a]ny 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 . . . 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. § 637D.

VIOLATION

9. By entering into the Contracts for the sale of motor vehicles without a license from its principal place, Rockbottom engaged in the business of an installment seller in violation of Section 4.1 of the MVSFSA.

RELIEF

10. Fine. Within thirty (30) days of the Effective Date of this Order, Rockbottom shall pay to the Department a fine in the amount of \$2,000 by certified check or money order. The certified check or money order shall be made payable to the "Department of Banking" and addressed to Non-Depository Institutions, Bureau of Compliance, Investigation and Licensing, 17 North Second Street, Suite 1300, Harrisburg, Pennsylvania 17101.

11. Corrective Measures. Rockbottom shall maintain its license in accordance with the MVSFSA as long as it is engaged in the business of an installment seller.

FURTHER PROVISIONS

12. Consent. Rockbottom hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Bureau's order authority under the MVSFSA, and agrees that it understands all the terms and conditions contained herein. Rockbottom, 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.

13. Consumers' Rights. This Order shall not limit or impair any consumers' rights as set forth under Section 35 of the MVSFSA.

14. Publication and Release. Rockbottom consents to the publication and release of this Order.

15. Entire Agreement. This Order contains the whole 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 Rockbottom.

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

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

18. Effectiveness. Rockbottom hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order (“Effective Date”).

19. 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 Rockbottom in the future regarding all matters not resolved by this Order.

b. Rockbottom 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.

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

21. Counterparts. This Order may be executed in separate counterparts.

22. 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 Rockbottom intending to be legally bound, do hereby execute this Consent Agreement and Order.

**FOR THE COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING
BUREAU OF COMPLIANCE, INVESTIGATION
AND LICENSING**

Ryan M. Walsh, Administrator
Bureau of Compliance, Investigation
and Licensing
Department of Banking

Date: April 7, 2008

FOR ROCKBOTTOM MOTORS, INC.

(Printed Officer Name)

Owner
(Title)

Date: 3/29/08