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COMMONWEALTH OF PENNSYLVANIA FEB 23 PM 3:24  
DEPARTMENT OF BANKING

PA DEPT OF BANKING

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING, BUREAU  
OF COMPLIANCE, INVESTIGATION AND  
LICENSING

DOCKET No. 89100014 (ENF-CO)

v.

BATTAGLIA AUTO WRECKING, INC.  
D/B/A BATTAGLIA AUTO SALES

**CONSENT AGREEMENT AND ORDER**

The Commonwealth of Pennsylvania, acting through the Department of Banking, (the "Department"), Bureau of Compliance, Investigation and Licensing, (the "Bureau") has reviewed the business practices of Battaglia Auto Wrecking, Inc. d/b/a Battaglia Auto Sales ("Battaglia Auto"), and its officers, employees and directors. Based on the results of its review, the Bureau believes that Battaglia Auto operated in violation of the Motor Vehicle Sales Finance Act (the "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 this 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. Battaglia Auto was licensed as an Installment Seller, License No. 14552 (the "License"), under the MVSFSA.

4. The License expired on October 1, 2008.

5. Battaglia Auto has not been licensed as an Installment Seller since October 1, 2008.

6. Between October 1, 2008, to August 5, 2009, Battaglia Auto entered into two motor vehicle sales finance contracts ("Contracts").

7. By entering into the Contracts, Battaglia Auto was engaging in the business of an installment seller without being licensed as an installment seller.

8. Section 4.1 of the MVSFSA states that "no person shall engage or continue to engage in this Commonwealth either as principal, employee, agent or broker, [i]n the business of an installment seller of motor vehicles under installment sales contracts, except as authorized in this act, under license issued by the Department. . ." 69 P.S. § 604.1.

9. Section 37.D of the MVSFSA states 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 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.

10. Effective August 5, 2009, Battaglia Auto is licensed as an Installment Seller, license no. 15909.

#### **VIOLATION**

11. Battaglia Auto is in violation of Section 4.1 of the MVSFSA by engaging in the business of an installment seller when it was not licensed. 69 P.S. § 604.1.

## RELIEF

12. Fine. Within thirty (30) days of the Effective Date of this Order, Battaglia Auto shall pay to the Department a fine in the amount of two hundred dollars (\$200). 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 Bureau of Compliance, Investigation and Licensing located at Market Square Plaza, 17 North Second Street, Suite 1300, Harrisburg, PA 17101.

13. Corrective Action. Upon the Effective Date of this Order, Battaglia Auto shall not engage in the business of an installment seller when it is not licensed to do so.

## FURTHER PROVISIONS

14. Consent. Battaglia Auto 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 of the terms and conditions contained herein. Battaglia Auto, 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.

15. Consumer's Rights. This Order shall not limit or impair a consumer's rights under Section 35 of the MVSFSA. 69 P.S. § 635.

16. Publication. The Department will publish this Order pursuant to its authority in Section 302.A.(5) of the Department of Banking Code. 71 P.S. § 733-302.A.(5).

17. 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 Battaglia Auto.

18. Binding Nature. The Department, Battaglia Auto, and all officers, owners, directors, employees, heirs and assigns of Battaglia Auto intend to be and are legally bound by the terms of this Order.

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

20. Effectiveness. Battaglia Auto hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order (the "Effective Date").

21. 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 Battaglia Auto in the future regarding all matters not resolved by this Order.

(b) Battaglia Auto 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.

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

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

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

