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COMMONWEALTH OF PENNSYLVANIA 2010 NOV 29 PM 4:04
DEPARTMENT OF BANKING

PA DEPT OF BANKING

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

: DOCKET No. 10 0283 (ENF-CO)

v.

ROGER'S AUTO AND BOAT SALES

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Compliance, Investigation and Licensing ("Bureau"), has reviewed the business practices of Roger's Auto and Boat Sales ("Roger's Auto"), and its officers, employees and directors. Based on the results of its review, the Bureau believes that Roger's Auto operated in violation of 69 P.S. § 601 et. seq., the Motor Vehicle Sales Finance Act. 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 Motor Vehicle Sales Finance Act ("MVSFA").

2. The Bureau is primarily responsible for administering and enforcing the MVSFA for the Department.

3. The MVSFA requires anyone engaging in the business of an installment seller of motor vehicles under installment sales contracts to be licensed by the Department. 69 P.S. § 604.

4. The Department has never issued an Installment Seller license to Roger's Auto.

5. On October 13, 2010, Roger's Auto submitted an application for an Installment Seller license with copies of fourteen (14) contracts it entered into while unlicensed.

6. Upon further investigation, the Bureau and Roger's Auto determined that from November 28, 2008 through the present, Roger's Auto had actually entered into thirty-one (31) motor vehicle installment sales contracts while unlicensed.

7. Roger's Auto's application for an Installment Seller license is still pending.

8. The MVSFA prohibited Roger's Auto from engaging in the "business of an installment seller of motor vehicles under installment sales contracts" without first obtaining an installment seller license from the Department. 69 P.S. § 604(1).

9. Roger's Auto told the Department it failed to submit a license application because the owner was unaware that the Department required motor vehicle installment sellers to be licensed.

Authority of the Department

10. The MVSFA grants the Department the authority to issue orders as may be necessary for the enforcement of the MVSFA. 69 P.S. § 637.1.

11. Section 637(D) of the MVSFA 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 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).

VIOLATION

12. Roger's Auto is in violation of Section 604(1) of the MVSA by engaging in the business of an installment seller while unlicensed. 69 P.S. § 604(1).

RELIEF

13. Fine. Roger's Auto agrees to pay a fine of three thousand one hundred dollars (\$3,100) which shall be due and payable to the Department payable in ten (10) installments of \$310. The first payment of \$310 shall be due on or before January 1, 2011. Each subsequent payment of \$310 is due on or before the first of each month thereafter until the \$3,100 fine is paid in full on or before October 1, 2011. The fine payment shall be remitted by certified check or money order made payable to the "Department of Banking" and sent to the attention of: Pennsylvania Department of Banking, Licensing Division, Bureau of Compliance, Investigation and Licensing, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

14. Corrective Measures. Upon the effective date of the Order, Roger's Auto shall not engage in the business of installment sales until such time as its application for an installment seller license is approved.

FURTHER PROVISIONS

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

16. Publication and Release. Roger's Auto consents to the publication and release of this Order.

17. Consumer Rights. This Order shall not limit or impair a consumer's rights under the MVSFA. 69 P.S. § 635.

18. 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 Roger's Auto.

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

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

21. Effectiveness. Roger's Auto hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order (the "Effective Date").

22. 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 Roger's Auto in the future regarding all matters not resolved by this Order.

b. Roger's 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.

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

24. Counterparts. This Order may be executed in separate counterparts, by facsimile, and by PDF.

25. 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 Department and Roger's Auto and Boat Sales 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**

Robert Knaub, Administrator
Bureau of Compliance,
Investigation and Licensing
Department of Banking

Date: 11/29/10

FOR ROGER'S AUTO AND BOAT SALES

(Officer Signature)

(Print Officer Name)

owner
(Title)

Date: 11/24/10