

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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

PA DEPT OF BANKING

v.

DOCKET No. 10 0276 (ENF-CO)

SPENCER'S USED CARS

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 installment seller application submitted to the Department by Spencer's Used Cars, ("Spencer's") through its owner. Based on the results of its review, the Bureau has found that Spencer's 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 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. The MVFSFA requires anyone engaging in “the business of an installment seller of motor vehicles under installment sale contracts” to be licensed by the Department. 69 P.S. § 604.

4. Spencer’s is a sole proprietorship owned by Frank Spencer.

5. Spencer’s is located at 1394 Millville Road, Bloomsburg, Pennsylvania 17815.

6. The Department licensed Spencer’s as an installment seller, license no. 20270, until September 30, 2010.

7. The MVFSFA requires installment sellers to file a renewal license application with the Department “at least fifteen (15) days prior to October first, annually.” See 69 P.S. § 605E.

8. Spencer’s failed to submit a license renewal application.

9. As a result, the Department cancelled Spencer’s installment seller license on October 1, 2010.

10. On October 15, 2010, Spencer’s submitted a new application for an installment seller license with the Department.

11. The Department approved the new license application on October 22, 2010.

12. In its license application, Spencer’s notified the Department that it entered into four installment sale contracts with Pennsylvania consumers while unlicensed between October 1, 2010 and October 22, 2010.

13. Spencer’s informed the Department that it failed to submit the renewal license application because a fire destroyed its personal and business records.

VIOLATION

14. Spencer's violated Section 604(1) of the MVSFA by selling four motor vehicles under installment contracts in Pennsylvania without being licensed by the Department. 69 P.S. § 604(1).

AUTHORITY

15. 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.

16. 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).

RELIEF

17. Fine. Spencer's shall pay a fine of \$400.00 due within 30 days of the effective date of this Order (as defined in Paragraph 25). The fine shall be paid by certified check or money order made payable to the "Department of Banking" and sent to the attention of the Pennsylvania Department of Banking, Licensing Division, Bureau of Compliance, Investigation and Licensing, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

18. Corrective Measures. Spencer's shall not sell motor vehicles under installment sale contracts in Pennsylvania unless licensed by the Department as required by the MVSFA.

FURTHER PROVISIONS

19. Consent. Spencer's 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. Spencer's, 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.

20. Publication and Release. Spencer's consents to the publication and release of this Order.

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

22. 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 Spencer's.

23. Binding Nature. The Department and Spencer's intend to be and are legally bound by the terms of this Order.

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

25. Effectiveness. Spencer's hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order.

26. 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 Spencer's in the future regarding all matters not resolved by this Order.

b. Spencer's 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.

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

28. Counterparts. This Order may be executed in separate counterparts, by facsimile, and by email through portable document format.

29. 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 Spencer's Used Cars, 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 E. Knaub, Administrator
Bureau of Compliance,
Investigation and Licensing
Department of Banking

Date: 11/18/10

FOR SPENCER'S USED CARS

(Officer Signature)

(Print Officer Name)

Owner
(Title)

Date: 11/10/10