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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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PA DEPT OF BANKING

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

: DOCKET No. 11 0061 (ENF-CO)

v.

ABELOFF PONTIAC D/B/A
ABELOFF NISSAN

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Compliance, Investigation and Licensing ("Bureau"), conducted an investigation of Abeloff Pontiac Inc., d/b/a Abeloff Nissan ("Abeloff Pontiac"), and its officers, employees and directors. Based on the results of the investigation, the Bureau believes that Abeloff Pontiac 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 Motor Vehicle Sales Finance Act.
2. The Bureau is primarily responsible for administering and enforcing the MVSFA for the Department.

3. Abeloff Pontiac is a motor vehicle installment seller licensed by the Department of Banking with the license number of 19581.

4. The MVSFA defines an installment seller as "a person engaged in the business of selling, hiring or leasing motor vehicles under installment sales contracts or any legal successor in interest to such person." 69 P.S. § 603.

5. Abeloff Pontiac's principal place of business is located at 130 Route 611, Bartonsville, Pennsylvania 18321-9372.

6. On July 19, 2010, the Bureau commenced an examination of a selection of Abeloff Pontiac's loan files.

7. The Bureau's examination revealed that in three (3) loan files Abeloff Pontiac sent credit applications to lenders that reflected higher income amounts for the three consumers than the income amounts provided to Abeloff Pontiac by those consumers.

8. The three loan files did not contain any accompanying supporting documents to explain Abeloff Pontiac's increase of the consumers' income information.

9. Abeloff Pontiac violated the MVSFA when it submitted three credit applications to lenders that contained unsupported increases to the consumers' income information.

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. The MVSFA provides that the Department may revoke or suspend a license if a licensee "has engaged in unfair, deceptive, fraudulent or illegal practices for conduct in connection with any business regulated under this act..." 69 P.S. § 610.14.

12. 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

13. Abeloff Pontiac is in violation of the MVSFA because it submitted three credit applications to lenders that contained undocumented increases in consumer income information which is an “unfair, deceptive, fraudulent, or illegal practice.” 69 P.S. § 610.14.

RELIEF

14. Fine. Abeloff Pontiac agrees to pay a fine of one thousand five hundred dollars (\$1,500) which shall be due and payable to the Department within thirty (30) days of the Effective Date of this Order. The fine payment shall be remitted by certified check or money order made payable to the Pennsylvania Department of Banking and sent to the attention of Bureau of Compliance, Investigation and Licensing, Pennsylvania Department of Banking, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

15. Corrective Measures. Abeloff Pontiac shall submit an internal control plan to the Bureau disclosing how Abeloff Pontiac intends to implement policies and procedures to actively detect any future indications of unfair, deceptive, fraudulent or illegal practices. The plan shall be sent to Ryan Walsh, Administrator, Compliance Division, at _____ and be submitted no later than thirty (30) days after the Effective Date of this Order. Ryan Walsh, Administrator, Compliance Division will review the plan.

FURTHER PROVISIONS

16. Consent. Abeloff Pontiac 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. Abeloff Pontiac, 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.

17. Publication and Release. Abeloff Pontiac consents to the publication and release of this Order.

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

19. 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 Abeloff Pontiac.

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

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

22. Effectiveness. Abeloff Pontiac hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order (the "Effective Date").

23. 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 Abeloff Pontiac in the future regarding all matters not resolved by this Order.

b. Abeloff Pontiac 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.

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

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

26. 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 Abeloff Pontiac Inc. d/b/a Abeloff Nissan 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: March 24, 2011

FOR ABELOFF PONTIAC INC. D/B/A ABELOFF NISSAN

(Officer Signature)

(Print Officer Name)

President
(Title)

Date: 3-15-11