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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

PA DEPT OF BANKING

COMMONWEALTH OF PENNSYLVANIA	:	DOCKET No. 11 <u>0108</u> (ENF-CO)
DEPARTMENT OF BANKING, BUREAU	:	
OF COMPLIANCE, INVESTIGATION	:	
AND LICENSING	:	
	:	
v.	:	
	:	
DON BREON, INC. d/b/a	:	
FORD OF WILLIAMSPORT	:	

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Compliance, Investigation and Licensing ("Bureau"), conducted an examination of Don Breon, Inc. d/b/a Ford of Williamsport ("Don Breon, Inc."), and its officers, employees and directors. Based on the results of the examination, the Bureau believes that Don Breon, Inc. operated in violation of the Motor Vehicle Sales Finance Act ("MVSA"), 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 MVSA for the Department.

3. Don Breon, Inc. is a motor vehicle installment seller licensed by the Department of Banking with the license number of 19932.

4. Don Breon, Inc.'s principal place of business is located at 3600 W. 4th Street, Williamsport, Pennsylvania 17701-4198.

5. On July 14, 2010, the Bureau commenced an examination of a selection of Don Breon, Inc.'s loan files.

Records

6. The Bureau's examination revealed that in three (3) loan files Don Breon, Inc. sent credit applications to lenders that reflected higher income amounts for the three consumers than the income amounts reflected in the paperwork contained the files of those consumers.

7. 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.

8. At the time of the Examination, the three (3) loan files did not contain any accompanying supporting documents to explain the increase in the consumers' income.

9. The MVSFA requires that a licensee maintain records with the minimum of information prescribed by the Department so that the Department is able to determine whether the licensee is in compliance with the MVSFA. 69 P.S. § 612.

10. Don Breon, Inc. violated the MVSFA when it failed to maintain the documentation in the consumers' files that supported the increases to their income information.

11. Don Breon, Inc. told the Department that it believes the violation occurred due to poor recordkeeping.

12. Don Breon, Inc. indicated to the Department that at all times it believed it was properly operating in full compliance with the MVSFA.

Authority of the Department

13. 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.

14. The MVSFA provides that the Department may revoke or suspend a license if a licensee "has failed to maintain satisfactory records required by this act or prescribed by the department." 69 P.S. § 610.7.

15. 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

16. Don Breon, Inc. is in violation of the MVSFA because it failed to maintain records with the minimum of information prescribed by the Department, specifically the documentation in the consumers' files that supported the increases to their income information submitted to the lender. 69 P.S. § 610.7.

RELIEF

17. Fine. Don Breon, Inc. 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.

18. Corrective Measures. Don Breon, Inc. shall submit an internal control plan to the Bureau disclosing how Don Breon, Inc. intends to implement policies and procedures to actively detect any actions that might lead to unfair, deceptive, fraudulent or illegal practices. The plan shall be sent to Ryan Walsh, Administrator, Compliance Division, at rywalsh@state.pa.us 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

19. Consent. Don Breon, Inc. 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. Don Breon, Inc., 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. Don Breon, Inc. 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 MVSA. 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 Don Breon, Inc.

23. Binding Nature. The Department, Don Breon, Inc., and all officers, owners, directors, employees, heirs and assigns of Don Breon, Inc. 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. Don Breon, Inc. hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order (the "Effective Date").

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 Don Breon, Inc. in the future regarding all matters not resolved by this Order.

b. Don Breon, Inc. 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 PDF.

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 Don Breon, Inc. d/b/a Ford of Williamsport 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: June 7, 2011

FOR DON BREON, INC. d/b/a/ FORD OF WILLIAMSPORT

(Officer Signature)

(Print Officer Name)

(Title)

Date: 6/7/11