

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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

v.

E&K AUTO SALES CORPORATION

: DOCKET No. 11 0151 PA DEPT OF BANKING
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CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking (“Department”), Bureau of Compliance, Investigation and Licensing (“Bureau”), has examined the business practices of E&K Auto Sales Corporation (“E&K Auto Sales”), and its officers, employees and directors. Based on the results of its examination, the Bureau concludes that E&K Auto Sales 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. E&K Auto Sales is a Pennsylvania Business Corporation located at 1100 Veterans Highway, Bristol, Pennsylvania 19007.

4. On or about January 31, 2011, the Bureau conducted an on-site examination ("Examination") of E&K Auto Sales at its principal place of business in Bristol, Pennsylvania.

5. From June 14, 2010 until February 11, 2011, E&K Auto Sales was licensed as a Sales Finance Company.

6. While conducting the examination, the Bureau discovered that E&K Auto Sales should have been licensed as an installment seller, not a sales finance company, because of the type of business in which E&K Auto Sales is engaged.

7. Upon discovering that E&K Auto Sales held the incorrect license, E&K Auto Sales submitted a new application ("New Application") for an installment seller license.

8. On February 11, 2011 E&K Auto Sales' sales finance company license was cancelled.

9. As of February 11, 2011, E&K Auto Sales is licensed as an installment seller with license no. 33871.

Unlicensed Installment Sales

10. During the examination, the Bureau discovered that prior to obtaining any license from the Department, E&K Auto Sales engaged in the business of an installment seller.

11. 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. § 604.1.

12. Prior to June 14, 2010, E&K Auto Sales did not hold any license issued by the Department.

13. The Examination revealed that E&K Auto Sales entered into sixteen (16) installment contracts between July 29, 2009 and June 14, 2010.

14. When it entered into the sixteen (16) installment contracts, E&K Auto Sales was not licensed by the Department either correctly as an installment seller or incorrectly as a sales finance company.

15. The MVSFA prohibited E&K Auto Sales 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.

Authority of the Department

16. 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.

17. The MVSFA states that the Department may revoke or suspend any license where "[t]he licensee has violated any provision of this act." 69 P.S. § 610.A.2.

18. 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

19. E&K Auto Sales is in violation of the MVSFA by engaging in the business of an installment seller while unlicensed. 69 P.S. § 604.1.

RELIEF

20. Fine. E&K Auto Sales agrees to pay a fine of one thousand six hundred dollars (\$1,600) which shall be due and payable to the Department in six installment payments. The first payment shall be in the amount of \$200 and shall be due within 30 days of the Effective Date of this Order. The five subsequent payments shall each be in the amount of \$280 and are due on or before the first of each month thereafter until the fine is paid in full. 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 Bureau of Compliance, Investigation and Licensing, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

21. Corrective Measures. Upon the effective date of the Order, E&K Auto Sales shall not engage in the business of installment sales if at any time it should become unlicensed.

FURTHER PROVISIONS

22. Consent. E&K Auto Sales 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. E&K Auto Sales, 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.

23. Publication and Release. E&K Auto Sales consents to the publication and release of this Order.

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

25. 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 E&K Auto Sales.

26. Binding Nature. The Department, E&K Auto Sales, and all officers, owners, directors, employees, heirs and assigns of E&K Auto Sales intend to be and are legally bound by the terms of this Order.

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

28. Effectiveness. E&K Auto Sales hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order (the "Effective Date").

29. 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 E&K Auto Sales in the future regarding all matters not resolved by this Order.

b. E&K Auto Sales 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.

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

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

32. 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 E&K Auto Sales Corporation 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

Jc¹ / [Signature] Administrator
Bureau of Compliance,
Investigation and Licensing
Department of Banking

Date: 9/12/2011

FOR E&K AUTO SALES CORPORATION

(Officer Signature)

(Print Officer Name)

(Title)

Date: 8/22/11

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