

FILED

COMMONWEALTH OF PENNSYLVANIA 2011 DEC 13 PM 3:12
DEPARTMENT OF BANKING

~~PA DEPT OF BANKING~~

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

v.

MIKE SHUBA AUTO SALES & SERVICE

Docket No. 11 0194 (ENF-CO)

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Compliance and Licensing ("Bureau"), has reviewed the business practices of Mike Shuba Auto Sales & Service ("Mike Shuba Auto"), and its officers, employees and directors. Based on the results of its review, the Bureau concludes that Mike Shuba 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. Mike Shuba Auto is a Pennsylvania Business Corporation located at 780 Jefferson Avenue, Washington, Pennsylvania 15301-4135.

Unlicensed Period

4. 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.

5. The Department licensed Mike Shuba Auto as an Installment Seller, license no. 11369 through September 30, 2011.

6. The MVSFA requires installment sellers to submit a yearly renewal license application to the Department at least fifteen (15) days prior to October 1 of each year. 69 P.S. § 605.

7. Mike Shuba Auto failed to timely submit a license renewal application for license no. 11369 and the Department cancelled license no. 11369 on October 1, 2011. 69 P.S. § 605, 69 P.S. § 607D.

8. On October 19, 2011, Mike Shuba Auto submitted a new application ("New Application") for an installment seller license.

9. Mike Shuba Auto attached paperwork for three (3) installment contracts to its New Application.

10. Mike Shuba Auto was not licensed to enter into installment contracts when it entered into the three (3) installment contracts between October 1, 2011 and October 18, 2011.

11. Upon receiving and reviewing Mike Shuba Auto's New Application, the Department granted Mike Shuba Auto a new installment seller license, license no. 36018.

12. Because the Department cancelled license no. 11369, the MVSFA prohibited Mike Shuba 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).

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. Section 610(A)(2) of 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).

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. Mike Shuba Auto is in violation of Section 604(1) of the MVSFA by engaging in the business of an installment seller while unlicensed. 69 P.S. § 604(1).

RELIEF

17. Fine. Mike Shuba Auto agrees to pay a fine of three hundred dollars (\$300) which shall be due and payable to the Department within thirty (30) days of the Effective Date of this Order as defined in paragraph 25. 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 and Licensing, 17 N. 2nd Street, Suite 1300, Harrisburg, PA 17101.

18. Corrective Measures. Upon the Effective Date of the Order, Mike Shuba Auto shall not engage in the business of installment sales if at any time it should become unlicensed.

FURTHER PROVISIONS

19. Consent. Mike Shuba Auto 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. Mike Shuba 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.

20. Publication and Release. Mike Shuba Auto 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 Mike Shuba Auto.

23. Binding Nature. The Department, Mike Shuba Auto, and all officers, owners, directors, employees, heirs and assigns of Mike Shuba Auto 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. Mike Shuba Auto 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 Mike Shuba Auto in the future regarding all matters not resolved by this Order.

b. Mike Shuba 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.

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 Mike Shuba Auto Sales & Service intending to be legally bound do hereby execute this Consent Agreement and Order.

**FOR THE COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING
BUREAU OF COMPLIANCE AND LICENSING**

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

Date: 12/13/11

FOR MIKE SHUBA AUTO SALES & SERVICE

(Officer Signature)

(Print Officer Name)

OWNER
(Title)

Date: 12-6-11