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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

PA DEPT OF BANKING

COMMONWEALTH OF PENNSYLVANIA	:	DOCKET No. 12 <u>0016</u> (ENF-CO)
DEPARTMENT OF BANKING, BUREAU OF	:	
COMPLIANCE AND LICENSING	:	
	:	
v.	:	
	:	
MM AUTO FINANCING, INC.	:	
d/b/a MM AUTO FINANCE	:	

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking, (the "Department"), Bureau of Examinations, conducted an examination of MM Auto Financing, Inc. d/b/a MM Auto Finance ("MM Auto Financing"). Based on the results of the examination, the Bureau of Compliance and Licensing (the "Bureau") believes that MM Auto Financing operated in violation of the Consumer Discount Company Act ("CDCA") 7 P.S. § 6201 *et seq.* and Loan Interest and Protection Law ("LIPL") 41 P.S. § 100, *et seq.* The parties to the above captioned matter, in lieu of litigation, hereby stipulate that the following statements are true and correct and, intending to be legally bound, hereby agree to the terms of this Consent Agreement and Order (the "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"), the CDCA and LIPL.

2. The Bureau is primarily responsible for administering and enforcing the MVSFA, CDCA and LIPL for the Department.

3. MM Auto Financing was granted a sales finance company license, license no. 17789 under the MVSFA.

4. MM Auto Financing's principal place of business is located at 806A Lancaster Avenue, Columbia, Pennsylvania, 17512.

5. On October 19, 2011, the Department's Bureau of Examinations conducted a scheduled examination of MM Auto Financing upon which the Bureau's position is based.

VIOLATIONS

6. The examination revealed that MM Auto Financing provided consumers with small loans to finance motor vehicle repairs, without the benefit of a license under, and in violation of, the Consumer Discount Company Act and Loan Interest Protection Law.

7. MM Auto Financing charged interest on these small loans in excess of the legal limit of 6% simple interest per annum allowed under the LIPL for persons without a proper license or other legal authority to exceed the 6% limit.

8. MM Auto Financing is not licensed by the Department as a Consumer Discount Company as required for MM Auto Financing to exceed interest rates of 6%.

9. By engaging in the business of negotiating and making loans of less than \$25,000 to Pennsylvania residents and by charging fees, interest, charges or other considerations in excess of 6% on the principal loan amount per year, without being licensed by the Department, MM Auto Financing violated Section 3.A of the CDCA, 7 P.S. § 6203.A, and Section 201(a) of the LIPL, 41 P.S. § 201(a).

10. By soliciting and holding itself out as willing or able to arrange for or negotiate loans of \$25,000 or less to Pennsylvania residents where the interest, fees, charges, or other considerations in the aggregate exceed 6% on the principal loan amount per year, without being licensed by the Department, MM Auto Financing violated Section 3.B of the CDCA, 7 P.S. § 6203.B, and Section 201(a) of the LIPA, 41 P.S. § 201(a).

11. Because MM Auto Financing engaged in unlicensed activity in violation of the CDCA and LIPL, the Department has the authority to, *inter alia*, order MM Auto Financing to cease and desist the activity until licensed; require MM Auto Financing to pay the costs of the Department's enforcement action; prohibit or permanently remove MM Auto Financing from continuing the activity; and to impose such other conditions as the Department deems appropriate. 41 P.S. § 506(c)(2)-(5).

12. Section 505(b) of the LIPL states that "[a]ny person who violates a provision of this act shall be subject to a fine levied by the department ten thousand dollars (\$10,000) per offense." 41 P.S. § 505(b).

RELIEF

13. Fine. Within thirty (30) days of the effective date of this Order as defined in paragraph 23 below, MM Auto Financing shall pay to the Department a fine in the amount of \$2,000. Payments shall be remitted by certified check or money order made payable to the Department of Banking. The fine payment shall be sent to the attention of: Non-Depository Institutions, Bureau of Compliance and Licensing, Department of Banking, 17 North Second Street, Suite 1300, Harrisburg, PA 17101.

14. Loans. Upon the effective date of the Order, MM Auto Financing agrees to reduce the interest for the life of the loans to 6% in accordance with the LIPL. Within thirty

days, proof of interest reductions for the life of the loan must be sent to the attention of: Jack Talalai, Bureau of Compliance and Licensing, Department of Banking, 17 North Second Street, Suite 1300, Harrisburg, PA 17101.

15. Restitution. Upon the effective date of the Order, MM Auto Financing agrees to refund or credit to consumers the difference between the interest on the loans charged and the allowable interest of 6% in accordance with the LIPL. Within thirty days, proof of refund calculations and payments or credits to consumers should be sent to the attention of: Jack Talalai, Bureau of Compliance and Licensing, Department of Banking, 17 North Second Street, Suite 1300, Harrisburg, PA 17101.

16. MM Auto Financing shall cease and desist from offering loans to consumers unless properly licensed as a Consumer Discount Company.

FURTHER PROVISIONS

17. Consent. MM Auto Financing hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Bureau's order authority under the LIPL, and agrees that it understands all of the terms and conditions contained herein. MM Auto Financing, 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.

18. Consumer's Rights. This Order shall not limit or impair a consumer's rights under Section 35 of the MVSFA. 69 P.S. § 635.

19. Publication. The Department will publish this Order pursuant to its authority in Section 302.A.(5) of the Department of Banking Code. 71 P.S. § 733-302.A.(5).

20. 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 MM Auto Financing.

21. Binding Nature. The Department, MM Auto Financing, and all officers, owners, directors, employees, heirs and assigns of MM Auto Financing intend to be and are legally bound by the terms of this Order.

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

23. Effectiveness. MM Auto Financing hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order.

24. 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 MM Auto Financing in the future regarding all matters not resolved by this Order.

(b) MM Auto Financing 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.

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

26. Counterparts. This Order may be executed in separate counterparts, and by facsimile or as a PDF.

27. Titles. The titles used to identify the paragraphs of this document are for 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 MM Auto Financing 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**

John Talarai, Enforcement Administrator
Bureau of Compliance and Licensing
Department of Banking

Date: 2-6-2012

**FOR MM AUTO FINANCING, INC.
d/b/a MM AUTO FINANCE**

(Officer Signature)

(Printed Officer Name)

President
(Title)

Date: 2/6/12