

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING AND SECURITIES

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

v.

BRUSH VALLEY AUTO SALES  
& SERVICE, INC.

Docket No. 13 00711 (ENF-CO)

2013 NOV 22 AM 10:16  
DEPARTMENT OF BANKING AND SECURITIES  
BANKING AND SECURITIES

FILED

**CONSENT AGREEMENT AND ORDER**

The Commonwealth of Pennsylvania, acting through the Department of Banking and Securities (“Department”), Bureau of Examinations has conducted an examination of Brush Valley Auto Sales & Service, Inc. (“Brush Valley Auto”) and its officers, employees and directors. Based on the results of its review, the Bureau of Compliance and Licensing (“Bureau”) concluded that Brush Valley Auto operated in violation of 69 P.S. § 601 *et seq.*, the Motor Vehicle Sales Finance Act (“MVSFA”). 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 MVSFA.
2. The Bureau is primarily responsible for administering and enforcing the MVSFA for the Department.

3. Brush Valley Auto is a Pennsylvania Business Corporation located at 5474 Rt 56, Brush Valley, PA 15720-0216.

4. The Department licensed Brush Valley Auto as an installment seller, License No. 11134 through September 30, 2012.

5. Brush Valley Auto failed to timely submit a license renewal application for License No. 11134.

6. License No. 11134 was cancelled on October 1, 2012.

7. Brush Valley Auto submitted a new application (“New Application”) for an installment seller license to the Department in October of 2012.

8. Upon receiving and reviewing Brush Valley Auto’s New Application, the Department granted it an installment seller license, License No. 39015, on October 17, 2012.

9. Brush Valley Auto is currently licensed by the Department as an installment seller.

#### Unlicensed Activity

10. The Department conducted a routine examination of Brush Valley Auto on August 07, 2013.

11. During the examination, the examiner requested, *inter alia*, documents reflecting any business conducted between October 1 and October 17, 2012 (“Unlicensed Period”).

12. Based upon the documents produced, the examiner determined that Brush Valley Auto entered into 2 installment sales contracts during the Unlicensed Period.

13. The MVSFA prohibits Brush Valley Auto from engaging “[i]n the business of an installment seller of motor vehicles under installment sales contracts” without an installment seller license. 69 P.S. § 604.1.

14. Brush Valley Auto violated the MVSFA because it entered into 2 installment contracts during the Unlicensed Period.

#### Authority of the Department

15. The MVSFA grants the Department the authority to issue orders as may be necessary for the enforcement of the MVSFA. *See* 69 P.S. § 637.1.

16. Section 10.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.

17. Section 37.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.

#### **RELIEF**

18. Fine. Brush Valley Auto agreed to pay a fine of \$200 which shall be payable to the Department within 30 days of the Effective Date of this Order, as defined below. The fine payment shall be remitted by certified check or money order made payable to the “Department of Banking and Securities” and sent to the attention of: Bureau of Compliance and Licensing, 17 N. 2nd Street, Suite 1300, Harrisburg, PA 17101.

19. Corrective Measures. Upon the Effective Date of the Order, Brush Valley Auto shall not engage in the unlicensed business of installment sales.

#### **FURTHER PROVISIONS**

20. Consent. Brush Valley 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. Brush Valley 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.

21. Publication and Release. Brush Valley Auto consents to the publication and release of this Order. *See* 71 P.S. § 733-302.A.(5).

22. Consumer Rights. This Order shall not limit or impair a consumer's rights under the MVSFA. *See* 69 P.S. § 635.

23. 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 Brush Valley Auto.

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

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

26. Effectiveness. Brush Valley Auto hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order (the "Effective Date").

27. 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 Brush Valley Auto in the future regarding all matters not resolved by this Order.

b. Brush Valley 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.

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

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

30. 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 of Banking and Securities, Bureau of Compliance and Licensing and Brush Valley Auto, Inc. intending to be legally bound do hereby execute this Consent Agreement and Order.

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

**FOR BRUSH VALLEY AUTO SALES & SERVICE, INC.**

John Talalai, Administrator  
Bureau of Compliance and Licensing  
Department of Banking and Securities

Date: 11/22/2013

(Officer Signature)

Kevin T Albright  
(Print Officer Name)

General Manager  
(Title)

Date: 11-8-13