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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

FILED AT THE OFFICE OF
BANKING AND SECURITIES

COMMONWEALTH OF PENNSYLVANIA	:	
DEPARTMENT OF BANKING AND	:	
SECURITIES, BUREAU OF	:	
COMPLIANCE AND LICENSING	:	
	:	
v.	:	Docket No. 13 <u>0021</u> (ENF-CO)
	:	
KISSELL MOTOR SPORTS, INC.	:	

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking and Securities ("Department"), Bureau of Compliance and Licensing ("Bureau"), has reviewed the business practices of Kissell Motor Sports, Inc. ("Kissell Motor Sports"), and its officers, employees and directors. Based on the results of its review, the Bureau concludes that Kissell Motor Sports 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. Kissell Motor Sports is a Pennsylvania Business Corporation located at 101 Hawbaker Industrial Drive, State College, Pennsylvania 16803-2307.

Unlicensed Period

4. The Department licensed Kissell Motor Sports as an installment seller, license no. 35947 through September 30, 2012.

5. The MVSFSA 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.

6. Kissell Motor Sports failed to timely submit a license renewal application for license no. 35947 and the Department cancelled license no. 35947 on October 1, 2012. 69 P.S. §§605, 607D.

7. Kissell Motor Sports submitted a new application ("New Application") for an installment seller license to the Department on February 4, 2013.

8. Upon receiving and reviewing Kissell Motor Sports' application, the Department granted Kissell Motor Sports an installment seller license, license no. 40200, on February 6, 2013.

9. As part of the application, Kissell Motor Sports attached paperwork showing that Kissell Motor Sports originated fourteen (14) installment sale contracts while unlicensed.

10. The MVSFSA prohibited Kissell Motor Sports 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).

11. Kissell Motor Sports was not licensed to enter into installment contracts when it entered into the fourteen (14) installment contracts prior to February 6, 2013.

Authority of the Department

12. 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.

13. 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).

14. 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

15. Kissell Motor Sports is in violation of the MVSFA by engaging in business activity for which the MVSFA requires a license without first obtaining the appropriate license. 69 P.S. § 604.

RELIEF

16. Fine. Kissell Motor Sports agrees to pay a fine of one thousand four hundred dollars (\$1,400) which shall be payable to the Department within thirty (30) days of the Effective Date of this Order, as defined in paragraph 25 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.

17. Corrective Measures. Upon the Effective Date of the Order, Kissell Motor Sports shall not engage in the business of an installment seller if it should become unlicensed.

FURTHER PROVISIONS

18. Consent. Kissell Motor Sports 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. Kissell Motor Sports, 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.

19. Publication and Release. Kissell Motor Sports consents to the publication and release of this Order.

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

21. 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 Kissell Motor Sports.

22. Binding Nature. The Department, Kissell Motor Sports, and all officers, owners, directors, employees, heirs and assigns of Kissell Motor Sports intend to be and are legally bound by the terms of this Order.

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

24. Effectiveness. Kissell Motor Sports hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order (the "Effective Date").

25. 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 Kissell Motor Sports in the future regarding all matters not resolved by this Order.

b. Kissell Motor Sports 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.

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

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

28. 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 Kissell Motor Sports, 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**

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

Date: 2/15/13

FOR KISSELL MOTOR SPORTS, INC.

(Officer Signature)

PAUL KISSELL

(Print Officer Name)

PRES

(Title)

Date: 2/12/13