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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING AND SECURITIES

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PA DEPARTMENT OF  
BANKING AND SECURITIES

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

v.

Docket No. 14 0043 (BNK-CAO)

CARNS EQUIPMENT LLC

**CONSENT AGREEMENT AND ORDER**

The Commonwealth of Pennsylvania, acting through the Department of Banking and Securities ("Department"), Compliance Office, has reviewed the business practices of Carns Equipment LLC ("Carns"), and its officers, employees and directors. Based on the results of its review, the Compliance Office concludes that Carns operated in violation of the Motor Vehicle Sales Finance Act ("MVSFA"), 69 P.S. § 601 *et seq.* 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 Compliance Office is primarily responsible for administering and enforcing the MVSFA for the Department.

3. Carns is a Pennsylvania business corporation located at 14357 Clearfield Shawville Highway, Clearfield, Pennsylvania 16830.

Unlicensed Period

4. Carns began to engage in installment sales of motorcycles in 2011.

5. The MVSFA requires anyone engaging in the “business of an installment seller of motor vehicles under installment sales contracts” to first obtain an installment seller license from the Department. 69 P.S. §§ 604, 604(1).

6. Carns neglected to apply for an installment sales license pursuant to the MVSFA at the time that it began to perform installment sales of motorcycles. 69 P.S. §§ 605, 607 D.

7. Carns represents that immediately upon realizing that a license was required for the installment sale of motorcycles, Carns submitted an application for an installment seller license on September 8, 2014.

8. From 2011 to the date of application, Carns had contracted for eleven (11) installment sale contracts for motorcycles.

9. Carns cooperated fully with the Department.

10. The Department granted Carns an installment seller license, license number 47918 on September 9, 2014.

Authority of the Department

11. 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.

12. Section 604 of the MVSFA provides: “On and after the effective date of this act no person shall engage or continue to engage in this Commonwealth either as principal, employee,

agent or broker; (1) in the business of an installment seller of motor vehicles under installment sales contracts, except as authorized in this act, under license issued by the department. . .”

13. 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**

14. Carns was 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**

15. Fine. Carns agrees to pay a fine of one thousand one hundred dollars (\$1,100) which shall be payable to the Department in four monthly payments of two hundred and seventy five dollars (\$275) each. The first payment is due within thirty (30) days of the Effective Date as defined below in paragraph 23 of this Order, with the remaining monthly payments due accordingly. 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: Compliance Office, 17 N. 2nd Street, Suite 1300, Harrisburg, PA 17101.

16. Corrective Measures. Carns shall not engage in the business of installment sales if at any time it should become unlicensed.

#### **FURTHER PROVISIONS**

17. Consent. Carns 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. Carns, 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. Publication and Release. Carns consents to the publication and release of this Order.

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

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 Carns.

21. Binding Nature. The Department, Carns, and all officers, owners, directors, employees, heirs and assigns of Carns 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. Carns hereby stipulates and agrees that the Order shall become effective on the date that the Office executes the Order (the "Effective Date").

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 Carns in the future regarding all matters not resolved by this Order.

b. Carns 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, by facsimile, and by PDF.

27. 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 Carns of Clearfield, Pennsylvania, intending to be legally bound do hereby execute this Consent Agreement and Order.

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

Redacted

John Talalai, Administrator  
Compliance Office  
Department of Banking and Securities

Date: 10/14/2014

**FOR CARNS EQUIPMENT LLC**

Redacted

~~\_\_\_\_\_  
(Officer Signature)~~

Jeffrey L Carns  
(Print Officer Name)

Member  
(Title)

Date: 10/6/14