

FILED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

2014 NOV -4 AM 10: 05

PA DEPARTMENT OF
BANKING AND SECURITIES

COMMONWEALTH OF PENNSYLVANIA :
DEPARTMENT OF BANKING AND :
SECURITIES, COMPLIANCE OFFICE :

v. :

BIG DADDY AUTO SALES :

DOCKET No. 14 0050 (BNK-C&D)

NOTICE OF RIGHT TO APPEAL AND HEARING

You, Big Daddy Auto Sales, have the right to appeal the attached Cease and Desist Order ("Order") within **10 days** of the date of service. See 1 Pa. Code § 35.20. The date of service is the date we deposited the Order in the mail or delivered it to you in person, as the case may be, as set forth in 1 Pa. Code § 33.34. If you appeal the Order, you also have a right to a hearing.

To file an appeal and request a hearing on the Order, you must file a petition with the Secretary of Banking and Securities within 10 days of the date of service. The petition must be in writing, state clearly and concisely your grounds of interest in the subject matter, the facts you rely upon, the law you rely upon, and the relief you seek. See 1 Pa. Code §35.17. Please deliver your petition to:

Linnea Freeberg, Docket Clerk
Office of Executive Deputy Secretary
Pennsylvania Department of Banking and Securities
17 North Second Street, Suite 1300
Harrisburg, PA 17101

The petition must be **received** by the Docket Clerk within the aforementioned 10 day deadline. **If the Docket Clerk does not receive your petition on time, you will waive your right to an appeal and a hearing and the Order will be deemed final.**

If you choose to file a petition challenging the Order, please send an additional copy to:

Sharon Williams
Assistant Counsel
Pennsylvania Department of Banking and Securities
17 North Second Street, Suite 1300
Harrisburg, PA 17101

Once you file your petition appealing the Order and requesting a hearing, you will be notified of the hearing date, time, place, the person who will preside at your hearing, and any other pertinent information.

You have the right to be represented by an attorney. Corporations may be required to be represented by an attorney.

The hearing and all other procedural matters will be governed by the Pennsylvania Administrative Agency Law, 2 Pa. C.S. §§501-508, 701-704, and the General Rules of Administrative Practice and Procedure, 1 Pa. Code §§31.1.-35.251.

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CEASE AND DESIST ORDER

WHEREAS, the Department of Banking and Securities (“Department”) is the Commonwealth of Pennsylvania’s administrative agency authorized and empowered to administer and enforce the Motor Vehicle Sales Finance Act (“MVSFA”) 69 P.S. § 601 *et seq.*; and

WHEREAS, the Compliance Office (“Office”) has the primary responsibility of administering and enforcing the MVSFA for the Department; and

WHEREAS, the Department requires that persons who engage in the business of originating installment sale contracts for the purpose of selling a motor vehicle must be properly licensed according to the MVSFA, *see* 69 P.S. § 604.1; and

BACKGROUND

WHEREAS, Big Daddy Auto Sales is a Pennsylvania Business Corporation located at 1268 Pittsburgh Road, Uniontown, PA 15401; and

WHEREAS, Big Daddy Auto Sales is not licensed by the Department; and

WHEREAS, in July of 2013, a Department examiner observed a “Buy Here Pay Here” financing sign at Big Daddy Auto Sales’ Uniontown location; and

WHEREAS, in October of 2013, Big Daddy Auto Sales applied for a license with the Department; and

WHEREAS, on December 4, 2013, the Department and Big Daddy Auto Sales entered into a Consent Agreement and Order (“December 3, 2013 CAO”) for unlicensed “Buy Here Pay Here” contracts; and

WHEREAS, in February of 2014, Big Daddy Auto Sales withdrew its license application; and

VIOLATIONS

Unlicensed Activity

WHEREAS, on or around September of 2014 the Department became aware that Big Daddy Auto Sales was entering into “Buy Here Pay Here” contracts.

WHEREAS, according to Pennsylvania Department of Transportation (“PennDOT”) records provided to the Department, Big Daddy Auto Sales entered into fifteen (15) installment sale contracts between January of 2014 and October of 2014; and

WHEREAS, by engaging in the business of an installment seller of motor vehicles under installment sale contracts while not licensed by the Department, Big Daddy Auto Sales violated Section 4.1 of the MVSFA; and

Violation of Previous Order

WHEREAS, the December 4, 2013 CAO prohibited Big Daddy Auto Sales from engaging in the business of installment sales unless it obtained an installment seller license; and

WHEREAS, according to PennDOT records provided to the Department, Big Daddy Auto Sales entered into installment sale contracts after December 4, 2013; and

WHEREAS, by engaging in the business of an installment seller of motor vehicles under installment sale contracts while not licensed by the Department after December 4, 2013, Big Daddy Auto Sales violated the December 4, 2013 CAO; and

WHEREAS, due to Big Daddy Auto Sales' violations, the Department has the authority to issue an order and impose a "civil penalty" of not more than \$2,000 "for each offense". 69 P.S. §§.637.D, 637.1; and

AND NOW THEREFORE, since Big Daddy Auto Sales has engaged in unlicensed activity and violated a previous consent agreement and order, the Office, pursuant to its authority referenced above hereby imposes the following Order:

1. Contract Origination. Upon the Effective Date of this Order¹, Big Daddy Auto Sales and any and all officers, members, managers, employees shall cease and desist from engaging in the motor vehicle installment seller business subject to the MVSFA, including, but not limited to, accepting applications and negotiating installment seller contracts in Pennsylvania, unless and until such time that Big Daddy Auto Sales is licensed by the Department pursuant to the MVSFA.

2. Fine. Upon the Effective Date of this Order, Big Daddy Auto Sales shall pay a \$17,000 fine for violating the MVSFA. The fine shall be made by certified check or money order made payable to the "Department of Banking and Securities" and shall be sent to the attention of the Department of Banking and Securities, Compliance Office, 17 North Second Street, Suite 1300, Harrisburg, Pennsylvania 17101.

¹ This Order is effective on the tenth day of the date it is executed below, if no petition for hearing is timely filed. If a petition for hearing is timely filed, the Order will become effective on the date upon which a final order is issued.

IT IS SO ORDERED.

Redacted

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John Talalai, Administrator
Department of Banking and Securities
Compliance Office

10/4/14
(Date)

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing **Cease and Desist Order** upon the parties below, who constitute the only parties of record in this proceeding, in accordance with the requirements of 1 Pa. Code §§ 33.35 and 33.36:

BY CERTIFIED AND FIRST CLASS MAIL

Big Daddy Auto Sales
1268 Pittsburgh Road
Uniontown, PA 15401

Dated this 4th day of November, 2014

Redacted

~~_____~~
Sharon Williams
Assistant Counsel
Attorney I.D. # 207545
FOR: Commonwealth of Pennsylvania
Department of Banking and Securities
17 North Second Street, Suite 1300
Harrisburg, PA 17101
(717) 787-1471