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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

2016 FEB -2 PM 4: 32

PA DEPARTMENT OF
BANKING AND SECURITIES

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

v. :

DOCKET NO. 16 0009 (BNK-CO)

BRANDON C. DALUSIO, d/b/a :
CROSS ROADS AUTO SALES :

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking and Securities ("Department"), Bureau of Non-Depository Examinations conducted an examination of the business practices of Brandon C. Dalusio, d/b/a, Cross Roads Auto Sales ("Cross Roads"), and its officers, employees and directors on or around April 27, 2015. Based on the results of the examination, the Department's Compliance Office concludes that Cross Roads operated in violation of the Department's motor vehicles sales finance statutes. The parties to the above-captioned matter, in lieu of litigation, hereby stipulate that the following statements are true and correct in 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 Consumer Credit Code, 12 Pa.C.S. § 6101 et seq. ("CCC").

2. The Department was the Commonwealth of Pennsylvania's administrative agency authorized and empowered to administer and enforce the former Motor Vehicle Sales Finance Act, 69 P.S. § 601 et seq. ("MVSA").

3. The CCC replaced the MVSFSA effective as of November 27, 2014.
4. The Compliance Office is primarily responsible for administering and enforcing the CCC and the MVSFSA for the Department.
5. Cross Roads is a Pennsylvania business located at 318 Turner Ln, West Chester, PA 19380-4538.
6. On April 27, 2015, the Bureau conducted a routine examination of Cross Roads at its principal location.
7. The Department reviewed contracts executed by Cross Roads prior to November 27, 2014, therefore the law applicable at the time was the MVSFSA.

Fee Itemization

8. Installment sellers may include, *inter alia*, the following costs or fees in an installment contract:
 - a. Sales tax. 69 P.S. § 614B.5; 12 Pa.C.S. § 6222(5)(i)(A).
 - b. Title fees. 69 P.S. § 618A.2; 12 Pa.C.S. § 6242(a)(2).
 - c. Lien fees. 69 § 618A.1; 12 Pa.C.S. § 6242(a)(1).
 - d. Registration fees. 69 P.S. § 618B.1; 12 Pa.C.S. § 6242(b)(1).
 - e. Transfer fees. 69 P.S. § 618B.1; 12 Pa.C.S. § 6242(b)(1).
 - f. Messenger fees. 69 P.S. § 614B.5; 12 Pa.C.S. § 6222(5)(v).
9. The former MVSFSA and the current CCC require an installment sale contract to clearly and conspicuously separately itemize other charges, necessary or incidental to the sale or financing of a motor vehicle, including the fees set forth in paragraph 8. 69 P.S. § 614G; 12 Pa.C.S. §§ 6222(5), 6224.

10. The examination revealed Cross Roads did not clearly and conspicuously separately itemize the title fee, lien fee and/or registration fee in the contracts reviewed.

11. Instead, the contracts show that those fees were combined together and listed on the "k. Paid to public officials, including filing fees" line.

12. Because Cross Roads chose to incorporate the permitted fees into its installment sales contracts, the MVSFA and CCC, required those items to be clearly and conspicuously separately itemized on all installment sales contracts. 69 P.S. § 614G; 12 Pa.C.S. § 6224.

Customer Information Security and Screening Requirements

13. The examination also revealed that:

a. Cross Roads did not have a written security plan for protecting customer information as required by the Gramm-Leach-Bliley Act. 15 U.S.C. § 6801; 16 C.F.R. § 314 *et seq.*

b. Cross Roads did not provide its privacy policy disclosure to consumers as required by the Gramm-Leach-Bliley Act. 15 U.S.C. § 6802; 16 C.F.R. § 314 *et seq.*

c. Cross Roads did not have a red flag/identity theft program in place as required by the Federal Trade Commission's ("FTC") Fair and Accurate Credit Transaction Act. 15 U.S.C. § 1681 *et seq.*; 16 C.F.R. § 681.1.

d. Cross Roads did not document screening of its customers as required by the Office of Foreign Assets Control ("OFAC"). 31 C.F.R. § 501.

Authority of the Department

14. The MVSFA and CCC grant the Department the authority to issue orders as may be necessary for the enforcement of the MVSFA and CCC. 69 P.S. § 637.1; 12 Pa.C.S. § 6203(a)(5).

15. Section 637(d) of the MVSFA provides that “[a]ny person required to be licensed under this act that violates this act...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); *see also* 12 Pa.C.S. § 6274.

VIOLATION

16. Cross Roads violated Sections 614.G of the MVSFA, now Section 6224 of the CCC, when it failed to clearly and conspicuously separately itemize the title fees, lien fees, and registration fees in its installment sale contracts as required by the Department. 69 P.S. § 614G; 12 Pa.C.S. § 6224.

17. Cross Roads violated several federal statutes and regulations by not maintaining or providing proper documentation required by the Gramm-Leach-Bliley Act, the FTC and the OFAC.

RELIEF

18. Fine. Cross Roads agrees to pay a fine of \$500. The fine will be due within 30 days of the Effective Date of Order as defined in paragraph 26 below. All fine payments shall be remitted by certified check or money order payable to the “Department of Banking and Securities” and sent to the attention of Compliance Office, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

19. Corrective Measures. Upon the Effective Date of the Order, Cross Roads shall:

a. Separate the costs payable by buyer including, but not limited to sales tax, title fee, lien fee, registration fee or transfer fee on all installment contracts.

b. Develop and maintain a written information security plan that describes how the company protects consumer information records in accordance with the Gramm-Leach-Bliley Act.

c. Provide notice to consumers of Cross Road's privacy policy as required by the Gramm-Leach-Bliley Act.

d. Develop and maintain a written anti-identity theft protection program in accordance with the FTC's Fair and Accurate Credit Transaction Act to detect, prevent and mitigate identity theft in connection with opening new and existing accounts.

e. Document and complete OFAC screening on buyers to ensure that no transactions are being conducted for designated persons and entities identified on OFAC's Specially Designated Nationals list.

FURTHER PROVISIONS

20. Consent. Cross Roads hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Compliance Office's order authority under the MVSFSA, now CCC, and agrees that it understands all of the terms and conditions contained herein. Cross Roads, 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. The Department will publish this Order pursuant to its authority in Section 302.A(5) of the Department of Banking and Securities Code. 71 P.S. § 733-302.A(5).

22. Consumer Rights. This Order shall not limit or impair a consumer's rights under the MVSFA or CCC. *See* 69 P.S. § 635, 12 Pa.C.S. § 6236.

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 Compliance Office and Cross Roads.

24. Binding Nature. The Department, Cross Roads, and all officers, owners, directors, employees, heirs and assigns of Cross Roads 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. Cross Roads hereby stipulates and agrees that the Order shall become effective on the date the Compliance Office 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 Cross Roads in the future regarding all matters not resolved by this Order.

b. Cross Roads 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, or 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 and Brandon C. Dalusio, d/b/a Cross Roads Auto Sales 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**

**FOR BRANDON C. DALUSIO, d/b/a
CROSS ROADS AUTO SALES**

Redacted

Redacted

Ryan Walsh, Director
Compliance Office
Department of Banking and Securities

(Officer Signature)

Brandon Dalusio

(Print Officer Name)

Date: February 2, 2016

OWNER

(Title)

Date: 1/26/2016