

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

FILED

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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND
SECURITIES, COMPLIANCE OFFICE

v.

S.D.A. OF AMERICA, INC.

PA DEPARTMENT OF
BANKING AND SECURITIES

Docket No. 16-0029 (BNK-CAO)

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 S.D.A. of America, Inc. (“S.D.A.”), and its officers, employees and directors. Based on the results of its review, the Compliance Office concludes that S.D.A. operated in violation of the Consumer Credit Code as related to motor vehicle sales finance (“CCC”), 12 Pa.C.S. § 6101 *et seq.* and the former Motor Vehicle Sales Finance Act, 69 P.S. § 601 *et seq.* (“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 was the Commonwealth of Pennsylvania’s administrative agency authorized and empowered to administer and enforce the former Motor Vehicle Sales Finance Act (“MVSFA”), 69 P.S. § 601 *et seq.*

2. The Department is the Commonwealth of Pennsylvania’s administrative agency authorized and empowered to administer and enforce the Consumer Credit Code as related to motor vehicle sales finance (“CCC”), 12 Pa. C.S. § 6101 *et seq.*

3. The CCC replaced the MVSFA effective November 27, 2014.

4. The Compliance Office was primarily responsible for administering and enforcing the MVSFA for the Department.

5. The Compliance Office is primarily responsible for administering and enforcing the CCC for the Department.

6. S.D.A.'s principal place of business is located at 2060 Mt. Paran Rd., N.W. Ste. 101 Atlanta, GA 30327.

Unlicensed Period

7. Under both the former MVSFA and the current CCC, anyone engaging in the business of a sales finance company of motor vehicles under installment sales contracts needs a license issued by the Department. 69 P.S. § 604, 12 Pa. C.S. § 6211(a)(2).

8. The Department licensed S.D.A. as a sales finance company, license no. 10131, through September 30, 2014.

9. S.D.A. failed to timely submit a license renewal application for license no. 10131 by the October 1, 2014 deadline.

10. Under the CCC, sales finance companies must submit a yearly renewal license application to the Department at least fifteen days prior to October 1 of each year. 12 Pa. C.S. § 6216.

11. The Department canceled S.D.A.'s license effective on October 1, 2014. 12 Pa. C.S. § 6211(b)(2).

12. S.D.A. submitted a new application for a sales finance company license on or around February 25, 2016.

13. During a review of the new application, the Department discovered that S.D.A. purchased 96 installment sale contracts from October 1, 2014 to present.

14. S.D.A. was not licensed to purchase installment sale contracts when it entered into the 96 installment contracts.

15. The former MVSFA and the current CCC prohibit S.D.A. from engaging in the Commonwealth as a sales finance company without first obtaining a sales finance company license from the Department. 69 P.S. § 604.1, 12 Pa. C.S. § 6211(a)(2).

Authority of the Department

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

17. The Department may revoke or suspend any license where the licensee violated a provision of the MVSFA or the CCC. 69 P.S. § 610.A.1., 12 Pa. C.S. § 6218(a)(2).

18. The former MVSFA and the current CCC both provide that any person required to be licensed under either of those acts who violate the 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), 12 Pa. C.S. § 6274.

VIOLATION

19. S.D.A. violated Section 604.1 of the MVSFA and Section 6211(a) of the CCC when it engaged in the business of a sales finance company without a license. 69 P.S. § 604.1, 12 Pa. C.S. § 6211(a)(1).

RELIEF

20. Fine. S.D.A. agrees to pay a fine of four thousand eight hundred dollars (\$4,800). The fine will be due within 30 days of the Effective Date of the 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: Department of Banking and Securities, Compliance Office, 17 N. 2nd Street, Suite 1300, Harrisburg, PA 17101-2290.

21. Corrective Action. Upon the Effective Date of this Order, S.D.A. shall not engage in the business of a sales finance company in Pennsylvania unless it is licensed.

FURTHER PROVISIONS

22. Consent. S.D.A. hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Compliance Office's order authority under the CCC and agrees that it understands all of the terms and conditions contained herein. S.D.A., 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.

23. Consumer's Rights. This Order shall not limit or impair a consumer's rights under CCC. 12 Pa. C.S. § 6236. (69 P.S. § 635).

24. Publication. The Department will publish this Order pursuant to its authority in Section 302.A.(5) of the Department of Banking Code and Securities Code. 71 P.S. § 733-302.A.(5).

25. 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 S.D.A.

26. Binding Nature. The Department, S.D.A., and all officers, owners, directors, employees, heirs and assigns of S.D.A. intend to be and are legally bound by the terms of this Order.

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

28. Effectiveness. S.D.A. hereby stipulates and agrees that the Order shall become effective on the date that the Compliance Office executes this Order ("Effective Date").

29. 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 S.D.A. in the future regarding all matters not resolved by this Order.

b. S.D.A. 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.

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

31. Counterparts. This Order may be executed in separate counterparts and by facsimile or electronic mail in portable document format "PDF."

32. 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, Compliance Office and S.D.A. of America, Inc. 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 S.D.A. OF AMERICA, INC.

Redacted

Redacted

John Talalai, Administrator
Compliance Office
Department of Banking and Securities

(Officer Signature)

Date: 5/24/2016

GARY R. PAGE
(Print Officer Name)

CEO
(Title)

Date: 5/7/16

