

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING, BUREAU
OF SUPERVISION AND ENFORCEMENT

DOCKET No. 080023 (CO)

PA DEPT OF BANKING

v.

APPLE AUTO SALES, INC.

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking, ("Department"), Bureau of Supervision and Enforcement, ("Bureau") has reviewed the business practices of Apple Auto Sales, Inc. ("Apple Auto"), and its officers, employees and directors. Based on the results of its review, the Bureau believes that Apple Auto 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 Bureau is primarily responsible for administering and enforcing the MVSFA for the Department.

3. Apple Auto was licensed as an Installment Seller under the MVSFA, License No. 6616 (“License”) at its principal place of business located at 5197 Lincoln Hwy Gap, PA 17527-9612 (“Principal Place”).

4. The License expired on October 1, 2007.

5. Between October 1, 2007 and November 30, 2007, Apple Auto sold nine motor vehicles under installment sale finance contracts from the Principal Place although it was not licensed at the time.

6. On November 30, 2007, Apple Auto obtained another Installment Seller License, License No. 19065, under the MVSFA.

VIOLATION

7. Section 4.1 of the MVSFA provides that “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 sale contracts, except as authorized in this act, *under license issued by the department. . .*” 69 P.S. § 604.1 (emphasis added).

8. An installment seller is “a person engaged in the business of selling, hiring or leasing motor vehicles under installment sale contracts. . . .” 69 P.S. §603.

9. By selling *nine motor vehicles* under installment sale contracts at the Principal Place without a license, Apple Auto engaged in the business of an installment seller in violation of Section 4.1 of the MVSFA. 69 P.S. § 604.1.

10. Section 37.D of the MVSFA provides that “[a]ny person required to be licensed under this act that violates this act or directs a violation . . . 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.

RELIEF

11. Fine. Within thirty (30) days of the Effective Date of this Order, Apple Auto shall pay to the Department a fine in the amount of \$900. Payment shall be remitted by certified check or money order made payable to the "Department of Banking" and shall be sent to the attention of Non-Depository Institutions, Supervision and Enforcement located at 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

12. Corrective Action. Apple Auto agrees to maintain its license in accordance with the requirements of the MVSFA as long as it conducts business as set forth in the MVSFA.

FURTHER PROVISIONS

13. Consent. Apple Auto 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. Apple Auto, 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.

14. Consumer's Rights. This Order shall not limit or impair any consumers' rights as set forth under Section 35 of the MVSFA. 69 P.S. § 635.

15. Publication and Release. Apple Auto consents to the publication and release of this Order.

16. 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 Apple Auto.

17. Binding Nature. The Bureau, Apple Auto, and all officers, owners, directors, employees, heirs and assigns of Apple Auto intend to be and are legally bound by the terms of this Order.

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

19. Effectiveness. Apple Auto hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order (“Effective Date”).

20. 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 Apple Auto in the future regarding all matters not resolved by this Order.

(b) Apple Auto 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.

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

22. Counterparts. This Order may be executed in separate counterparts.

23. Titles. The titles used to identify the paragraphs of this document are for convenience of reference only and do not control the interpretation of this document.

WHEREFORE, in consideration of the foregoing, including the recital paragraphs, the Bureau and Apple Auto intending to be legally bound, do hereby execute this Consent Agreement and Order.

**FOR THE COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING
BUREAU OF SUPERVISION
AND ENFORCEMENT**

Ryan M. Walsh, Administrator
Bureau of Supervision and
Enforcement
Department of Banking

Date: February 8, 2008

FOR APPLE AUTO SALES, INC.

(Title) pcbs

Date: 2-4-08