

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING

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

DOCKET No. 08-010098 (ENT-CO)

PA DEPT OF BANKING

v.

JOHN KENNEDY SUBARU, INC.

**CONSENT AGREEMENT AND ORDER**

The Commonwealth of Pennsylvania, acting through the Department of Banking, (the "Department"), Bureau of Compliance, Investigation and Licensing, (the "Bureau") has reviewed the business practices of John Kennedy Subaru, Inc. ("John Kennedy Subaru"), and its officers, employees and directors. Based on the results of its review, the Bureau believes that John Kennedy Subaru operated in violation of the Motor Vehicle Sales Finance Act (the "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 (the "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.

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3. John Kennedy Subaru was licensed as an Installment Seller, License No. 13431 (the "License"), under the MVSFSA.

4. The License expired on October 1, 2008.

5. John Kennedy Subaru was re-licensed as an Installment Seller, License No. 20160, under the MVSFSA on October 27, 2008.

6. Between October 1, 2008, and October 21, 2008, John Kennedy Subaru entered into eight (8) motor vehicle sales finance contracts (the "Contracts").

7. By entering into the Contracts, John Kennedy Subaru was engaging in the business of an installment seller without being licensed as an installment seller.

8. Section 4.1 of the MVSFSA provides, in relevant part, that no person shall engage or continue to engage in this Commonwealth either as principal, employe, agent or broker "[i]n 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.

9. Section 37.1 of the MVSFSA grants the Department the authority to issue orders as may be necessary for the enforcement of the MVSFSA. 69 P.S. § 637.1.

10. Section 37.D of the MVSFSA 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

11. John Kennedy Subaru is in violation of Section 4.1 of the MVSFSA by engaging in the business of an installment seller when it was not licensed. 69 P.S. § 604.1.

## RELIEF

12. Fine. John Kennedy Subaru shall pay to the Department a fine in the amount of \$800. The fine shall be due and payable within thirty (30) days of the Effective Date of this Order.

## FURTHER PROVISIONS

13. Consent. John Kennedy Subaru 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. John Kennedy Subaru, 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 a consumer's rights under Section 35 of the MVSFA. 69 P.S. § 635.

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

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 John Kennedy Subaru.

17. Binding Nature. The Department, John Kennedy Subaru, and all officers, owners, directors, employees, heirs and assigns of John Kennedy Subaru 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. John Kennedy Subaru hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order (the "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 John Kennedy Subaru in the future regarding all matters not resolved by this Order.

(b) John Kennedy Subaru 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 and by facsimile.

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 Department and John Kennedy Subaru intending to be legally bound, do hereby execute this Consent Agreement and Order.

**FOR THE COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING  
BUREAU OF COMPLIANCE, INVESTIGATION  
AND LICENSING**

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Ryan M. Walsh, Administrator  
Bureau of Compliance, Investigation  
And Licensing  
Department of Banking

Date: January 2, 2009

**FOR JOHN KENNEDY SUBARU, INC.**

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

\_\_\_\_\_  
(Printed Officer Name)

Sec/tres  
(Title)

Date: 12-17-08