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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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PA DEPT OF BANKING

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

DOCKET No. 10 0246 (ENF-CO)

v.

R. H. SMITH & SONS, INC.

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking (the "Department"), Bureau of Examinations has conducted an examination of R. H. Smith & Sons, Inc. ("R. H. Smith"), and its officers, employees and directors. Based on the results of the examination, the Bureau of Compliance, Investigation and Licensing (the "Bureau") believes that R. H. Smith 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.

3. On February 24, 2010, an examination of R. H. Smith was commenced at R. H. Smith's principal place of business located at 2862 Centennial Road, Hanover, PA 17331.

4. R. H. Smith was licensed as an Installment Seller, license no. 0858, (the "License") from October 1, 2007, to September 30, 2008.

5. The License expired on October 1, 2008.

6. Between October 1, 2008, and February 25, 2009, R. H. Smith entered into five (5) motor vehicle sales finance contracts (the "Contracts").

7. By entering into the Contracts, R. H. Smith was engaging in the business of an installment seller without being licensed as an installment seller.

8. Section 4.1 of the MVSFA provides, in relevant part, that no person shall engage or continue to engage in this Commonwealth either as principal, employee, agent or broker, "[i]n the business of an installment seller of motor vehicles under installment sales contracts, except as authorized in this act, under license issued by the department. . ." 69 P.S. § 604.1.

9. Section 37.D of the MVSFA provides, in relevant part, 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.

10. R. H. Smith became relicensed as an Installment Seller, license no. 22146, under the MVSFA on February 25, 2009.

VIOLATION

11. R. H. Smith 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. Within thirty (30) days of the Effective Date of this Order, R. H. Smith shall pay to the Department a fine in the amount of \$500. The fine shall be payable by certified check or money order and remitted to the attention of the Bureau of Compliance, Investigation and Licensing, Pennsylvania Department of Banking, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

13. Corrective Action. Upon the Effective Date of this Order, R. H. Smith shall not engage in the business of an installment seller when it is not licensed to do so.

FURTHER PROVISIONS

14. Consent. R. H. Smith hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Bureau's order authority under the MVSFSA and agrees that it understands all of the terms and conditions contained herein. R. H. Smith, 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.

15. Consumer's Rights. This Order shall not limit or impair a consumer's rights under Section 35 of the MVSFSA. 69 P.S. § 635.

16. 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).

17. 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 R. H. Smith.

18. Binding Nature. The Department, R. H. Smith, and all officers, owners, directors, employees, heirs and assigns of R. H. Smith intend to be and are legally bound by the terms of this Order.

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

20. Effectiveness. R. H. Smith hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes this Order (the "Effective Date").

21. 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 R. H. Smith in the future regarding all matters not resolved by this Order.

b. R. H. Smith 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.

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

23. Counterparts. This Order may be executed in separate counterparts, by facsimile or by PDF.

24. 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 and R. H. SMITH 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**

John Talalai, Administrator
Bureau of Compliance,
Investigation and Licensing
Department of Banking

Date: 10-1-2010

FOR R. H. SMITH & SONS, INC.

(Officer Signature) ✓

(Print Officer Name)

President
(Title)

Date: 9-28-10