

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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

PA DEPT OF BANKING

v.

Docket No. 11 0203 (ENF-CO)

BENNETT I, LLC d/b/a
BENNETT INFINITI OF WILKES-BARRE

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Compliance and Licensing ("Bureau"), has reviewed the business practices of Bennett I, LLC d/b/a Bennett Infiniti of Wilkes-Barre ("Bennett Infiniti of Wilkes-Barre"), and its officers, employees and directors. Based on the results of its review, the Bureau concludes that Bennett Infiniti of Wilkes-Barre operated in violation of 69 P.S. § 601 et seq., the Motor Vehicle Sales Finance Act. 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 Motor Vehicle Sales Finance Act.
2. The Bureau is primarily responsible for administering and enforcing the MVSFA for the Department.

3. Bennett Infiniti of Wilkes-Barre is a Pennsylvania Business Corporation located at 1060 Highway 315 Boulevard, Plains, Pennsylvania 18702-6927.

Unlicensed Period

4. The MVSFA requires anyone engaging in the business of an installment seller of motor vehicles under installment sales contracts to be licensed by the Department. 69 P.S. § 604.

5. The Department licensed Bennett Infiniti of Wilkes-Barre as an Installment Seller, license no. 34119 through September 30, 2011.

6. The MVSFA requires installment sellers to submit a yearly renewal license application to the Department at least fifteen (15) days prior to October 1 of each year. 69 P.S. § 605.

7. Bennett Infiniti of Wilkes-Barre failed to timely submit a license renewal application for license no. 34119 and the Department cancelled license no. 34119 on October 1, 2011. 69 P.S. § 605, 69 P.S. § 607D.

8. On October 13, 2011, Bennett Infiniti of Wilkes-Barre submitted a new application ("New Application") for an installment seller license.

9. Bennett Infiniti of Wilkes-Barre attached paperwork for nine (9) installment contracts to its New Application.

10. Bennett Infiniti of Wilkes-Barre was not licensed to enter into installment contracts when it entered into the nine installment contracts between October 1, 2011 and October 17, 2011.

11. Upon receiving and reviewing Bennett Infiniti of Wilkes-Barre's New Application, the Department granted Bennett Infiniti of Wilkes-Barre a new installment seller license, license no. 36986 on October 18, 2011.

12. Because the Department cancelled license no. 34119, the MVSFA prohibited Bennett Infiniti of Wilkes-Barre from engaging in the “business of an installment seller of motor vehicles under installment sales contracts” without first obtaining an installment seller license from the Department. 69 P.S. § 604(1).

Authority of the Department

13. The MVSFA grants the Department the authority to issue orders as may be necessary for the enforcement of the MVSFA. 69 P.S. § 637.1.

14. Section 610(A)(2) of the MVSFA states that the Department may revoke or suspend any license where “[t]he licensee has violated any provision of this act.” 69 P.S. § 610(A)(2).

15. Section 637(D) of the MVSFA 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

16. Bennett Infiniti of Wilkes-Barre is in violation of Section 604(1) of the MVSFA by engaging in the business of an installment seller while unlicensed. 69 P.S. § 604(1).

RELIEF

17. Fine. Bennett Infiniti of Wilkes-Barre agrees to pay a fine of nine hundred dollars (\$900) which shall be due and payable to the Department within thirty (30) days of the Effective Date of this Order as defined in paragraph 25. The fine payment shall be remitted by certified

check or money order made payable to the "Department of Banking" and sent to the attention of Bureau of Compliance and Licensing, 17 N. 2nd Street, Suite 1300, Harrisburg, PA 17101.

18. Corrective Measures. Upon the Effective Date of the Order, Bennett Infiniti of Wilkes-Barre shall not engage in the business of installment sales if at any time they should become unlicensed.

FURTHER PROVISIONS

19. Consent. Bennett Infiniti of Wilkes-Barre 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. Bennett Infiniti of Wilkes-Barre, 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.

20. Publication and Release. Bennett Infiniti of Wilkes-Barre consents to the publication and release of this Order.

21. Consumer Rights. This Order shall not limit or impair a consumer's rights under the MVSFA. 69 P.S. § 635.

22. 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 Bennett Infiniti of Wilkes-Barre.

23. Binding Nature. The Department, Bennett Infiniti of Wilkes-Barre, and all officers, owners, directors, employees, heirs and assigns of Bennett Infiniti of Wilkes-Barre intend to be and are legally bound by the terms of this Order.

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

25. Effectiveness. Bennett Infiniti of Wilkes-Barre hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order (the "Effective Date").

26. 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 Bennett Infiniti of Wilkes-Barre in the future regarding all matters not resolved by this Order.

b. Bennett Infiniti of Wilkes-Barre 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.

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

28. Counterparts. This Order may be executed in separate counterparts, by facsimile, and by PDF.

29. 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 Bennett I, LLC d/b/a Bennett Infiniti of Wilkes-Barre intending to be legally bound do hereby execute this Consent Agreement and Order.

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

Robert Knaub, Administrator
Bureau of Compliance and Licensing
Department of Banking

Date: 12/19/11

**FOR BENNETT I, LLC
d/b/a BENNETT INFINITI OF WILKES-BARRE**

(Officer Signature)

(Print Officer Name)

Controller
(Title)

Date: 12/19/11