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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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

FA DEPT OF BANKING

: DOCKET No. 11 0069 (ENF-CO)

v.

MCKINNEY ROMEO MOTORS, INC.
D/B/A I-79 HONDA

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking's ("Department") Bureau of Examinations has conducted an examination of McKinney Romeo Motors, Inc., d/b/a I-79 Honda ("I-79 Honda"), and its officers, employees and directors. Based on the results of the examination, the Bureau of Compliance, Investigation and Licensing ("Bureau") found that I-79 Honda 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. I-79 Honda engages in the business of selling motor vehicles to consumers in Pennsylvania under installment sales contracts.

4. I-79 Honda's principal place of business is located at 100 Free Soil Road, Mount Morris, Pennsylvania 15349-1335.

5. I-79 Honda is licensed by the Department as an installment seller, License Number 7175.

6. On October 17, 2005, the Department commenced an examination of I-79 Honda's loan files.

7. The examination revealed that I-79 Honda assigned installment sales contracts, executed in Pennsylvania, to First Exchange Bank.

8. First Exchange Bank is not licensed by the Department as a sales finance company.

9. Section 16(A) of the MVSFA provides that:

[t]he seller of a motor vehicle under an installment sale contract, executed in the Commonwealth of Pennsylvania, shall not sell, transfer or assign the obligation represented by such contract to any person in Pennsylvania, or elsewhere, who is not licensed as a sales finance company pursuant to the provisions of this act.

See 69 P.S. § 616(A) (emphasis added).

10. After the examination, I-79 Honda represented to the Bureau that it would cease assigning installment sales contracts to First Exchange Bank, until such time that First Exchange Bank obtained a sales finance license from the Department.

11. As a result of I-79 Honda's representation to the Bureau, the Bureau, through an Administrator, sent I-79 Honda a warning letter on February 28, 2006 documenting the violation

and explaining that “[a]ny future sales or assignments to unlicensed sales finance company’s could result in appropriate action by the Department under the MVSFA.”

ALLEGED VIOLATION

12. On July 14, 2010, the Bureau commenced another examination of I-79 Honda’s loan files.

13. The examination revealed that I-79 Honda assigned 90 installment sale contracts to First Exchange Bank.

14. By assigning 90 installment sale contracts to a company not licensed by the Department as a sales finance company, it is the Bureau’s conclusion that I-79 Honda violated Section 16A of the MVSFA, 69 P.S. § 616.(A).

15. I-79 Honda contends that it believed it was complying with the MVSFA.

16. Further, I-79 Honda has informed the Department that it has instituted internal control measures which will ensure that installment sale contracts are assigned only to sales finance companies licensed by the Department.

DEPARTMENT’S AUTHORITY

17. The MVSFA provides, in relevant part, that “[a]ny person . . . *who engages in any activity for which a license could be suspended or revoked* . . . shall be subject to a civil penalty levied by the department of not more than two thousand dollars (\$2,000) for each offense.” *See* 69 P.S. § 637.D.

18. The Department may suspend or revoke a license if it finds that the licensee has “violated any provision” of the MVSFA. *See* 69 P.S. § 610A.(2).

19. Because the Department has found that I-79 Honda violated Section 16A of the MVSFA, the Department has the authority to levy a civil penalty of up to \$2,000 for each offense.

RELIEF

20. Fine. I-79 Honda shall pay to the Department a fine in the amount of \$9,000. The fine shall be payable in six installments of \$1,500 with the first installment due within 30 days of the effective date of this Order, defined in Paragraph 29, and subsequent payments due 30 days thereafter until paid in full. 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, Pennsylvania 17101.

21. Internal Control Plan. I-79 Honda shall submit an internal control plan to the Bureau explaining how it will ensure, prospectively, that the installment sales contracts it elects to assign, transfer or sell will be assigned, transferred or sold to sales finance companies licensed by the Department.

The plan shall be submitted no later than 30 days after the effective date of this Order as defined in Paragraph 29. The plan shall be sent to Ryan Walsh, Administrator of the Compliance Division, at

22. Corrective Action. I-79 Honda shall not sell, transfer or assign installment sales contracts executed in Pennsylvania to sales finance companies that are not licensed by the Department. Should I-79 Honda continue to sell, transfer or assign installment sales contracts to unlicensed sales finance companies, the Department may suspend or revoke its license as set forth in the MVSFA.

FURTHER PROVISIONS

23. Consent. I-79 Honda 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. I-79 Honda, 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.

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

25. 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).

26. 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 I-79 Honda.

27. Binding Nature. The Department, I-79 Honda, and all officers, owners, directors, employees, heirs and assigns of I-79 Honda intend to be and are legally bound by the terms of this Order.

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

29. Effectiveness. I-79 Honda hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes this Order.

30. 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 I-79 Honda in the future regarding all matters not resolved by this Order.

b. I-79 Honda 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.

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

32. Counterparts. This Order may be executed in separate counterparts and by facsimile or email.

33. 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 Commonwealth of Pennsylvania, Department of Banking, Bureau of Compliance, Investigation and Licensing and McKinney Romeo Motors, Inc. d/b/a I-79 Honda 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

Ryan Walsh, Administrator
Bureau of Compliance,
Investigation and Licensing
Department of Banking

Date: April 5, 2011

~~FOR MCKINNEY ROMEO MOTORS, INC.~~
~~d/b/a I-79 HONDA~~

(Officer Signature)

(Print Officer Name)

pres. dean

(Title)

Date: 3/30/11