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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

2011 SEP -2 PM 3:45

<p>COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF BANKING, BUREAU OF COMPLIANCE, INVESTIGATION AND LICENSING</p> <p style="text-align: center;">v.</p> <p>MIKE'S AUTO AND TRUCK, INC.</p>	<p>:</p>	<p>DOCKET No. 11 <u>0148</u> ^{PA DEPT OF BANKING} (ENF-CO)</p>
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CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Compliance, Investigation and Licensing ("Bureau"), has examined the business practices of Mike's Auto and Truck, Inc. ("Mike's Auto and Truck"), and its officers, employees and directors. Based on the results of its examination, the Bureau concludes that Mike's Auto and Truck 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 ("MVSFA").

2. The Bureau is primarily responsible for administering and enforcing the MVSFSA for the Department.

3. Mike's Auto and Truck is a Pennsylvania Business Corporation located at 5100 Buchanan Trail East, Waynesboro, Pennsylvania 17268.

4. On or about February 15, 2011 and February 17, 2011, the Bureau conducted an on-site examination ("Examination") of Mike's Auto and Truck at its principal place of business in Waynesboro, Pennsylvania.

Unlicensed Period

5. The MVSFSA 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.

6. The MVSFSA 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. The Department licensed Mike's Auto and Truck as an Installment Seller, license no. 18735 through September 30, 2009.

8. Mike's Auto and Truck failed to timely submit a license renewal application for license no. 18735 and the Department cancelled license no. 18735 on October 1, 2009. 69 P.S. § 605, 609 P.S. § 607.D.

9. Mike's Auto and Truck submitted a new application ("New Application") for an installment seller license.

10. Upon receiving and reviewing Mike's Auto and Truck's New Application, the Department granted Mike's Auto and Truck a new installment seller license, license no. 29816 on November 13, 2009.

11. The Examination revealed that Mike's Auto and Truck entered into six (6) installment contracts between October 1, 2009 and November 13, 2009.

12. Mike's Auto and Truck was not licensed to enter into installment contracts when it entered into the six (6) installment contracts.

13. Because the Department cancelled license no. 18735, the MVSFSA prohibited Mike's Auto and Truck 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

14. 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.

15. Section 610.A.2 of the MVSFSA 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.

16. Section 637.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

17. Mike's Auto and Truck is in violation of Section 604.1 of the MVSFSA by engaging in the business of an installment seller while unlicensed. 69 P.S. § 604.1.

RELIEF

18. Fine. Mike's Auto and Truck agrees to pay a fine of six hundred dollars (\$600) which shall be due and payable to the Department within thirty (30) days of the Effective Date of this Order. 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, Investigation and Licensing, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

19. Corrective Measures. Upon the effective date of the Order, Mike's Auto and Truck shall not engage in the business of installment sales if at any time it should become unlicensed.

FURTHER PROVISIONS

20. Consent. Mike's Auto and Truck 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. Mike's Auto and Truck, 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.

21. Publication and Release. Mike's Auto and Truck consents to the publication and release of this Order.

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

23. 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 Mike's Auto and Truck.

24. Binding Nature. The Department, Mike's Auto and Truck, and all officers, owners, directors, employees, heirs and assigns of Mike's Auto and Truck intend to be and are legally bound by the terms of this Order.

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

26. Effectiveness. Mike's Auto and Truck hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order (the "Effective Date").

27. 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 Mike's Auto and Truck in the future regarding all matters not resolved by this Order.

b. Mike's Auto and Truck 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.

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

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

30. 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 Mike's Auto and Truck, Inc. 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 J. ...
Bureau of Compliance,
Investigation and Licensing
Department of Banking

Date: 9/2/2011

FOR MIKE'S AUTO AND TRUCK, INC.

(Officer Signature)

(Print Officer Name)

Owner
(Title)

Date: 9/01/11