

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. 120029 (ENF-CO)

TRI COUNTY AUTO CENTER, LTD.
d/b/a TRI COUNTY TOYOTA SCION

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 Tri County Auto Center, Ltd. d/b/a Tri County Toyota Scion (“Tri County Toyota Scion”), and its officers, employees and directors. Based on the results of its review, the Bureau concludes that Tri County Toyota Scion 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. Tri County Toyota Scion is a Pennsylvania Business Corporation located at 15 D and L Drive, Limerick, Pennsylvania 19468-1230.

Unlicensed Period

4. The Department licensed Tri County Toyota Scion as an Installment Seller, license no. 4584.

5. 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.

6. Tri County Toyota Scion failed to timely submit a license renewal application for license no. 4584 and the Department cancelled license no. 4584. 69 P.S. § 605, 69 P.S. § 607D.

7. The MVSFA requires anyone engaging in the “business of an installment seller of motor vehicles under installment sales contracts” to first obtain an installment seller license from the Department. 69 P.S. § 604(1). 69 P.S. § 604.

8. In October of 2011, Tri County Toyota Scion discovered that it no longer possessed an installment seller license from the Department.

9. Immediately subsequent to the discovery, Tri County Toyota Scion submitted an application (“Application”) for an installment seller license on October 27, 2011.

10. Tri County Toyota Scion attached to its Application the paperwork for installment contracts that Tri County Toyota Scion entered into while unlicensed in October 2011.

11. After discussions with Tri County Toyota Scion, it was discovered that Tri County Toyota Scion had engaged in numerous installment sales between the cancellation of the prior license and the submission of its Application on October 27, 2011.

12. Tri County Toyota Scion cooperated fully with the Department.

13. Upon reviewing Tri County Toyota Scion's Application, the Department granted Tri County Toyota Scion an installment seller license, license no. 36596 on January 9, 2012.

Authority of the Department

14. 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.

15. 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).

16. 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

17. Tri County Toyota Scion was 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

18. Fine. Tri County Toyota Scion agrees to pay a fine of seventy-five thousand dollars (\$75,000) which shall be payable to the Department in eighteen monthly payments. The first payment in the amount of seven thousand dollars (\$7,000) shall be due on April 1, 2012. The remaining seventeen payments of four thousand dollars (\$4,000) shall be made on the first of each month thereafter until the final payment is made on September 1, 2013. 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.

19. Corrective Measures. Tri County Toyota Scion shall not engage in the business of installment sales if at any time it should become unlicensed.

FURTHER PROVISIONS

20. Consent. Tri County Toyota Scion 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. Tri County Toyota Scion, 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. Tri County Toyota Scion 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 MVSFA. 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 Tri County Toyota Scion.

24. Binding Nature. The Department, Tri County Toyota Scion, and all officers, owners, directors, employees, heirs and assigns of Tri County Toyota Scion 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. Tri County Toyota Scion 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 Tri County Toyota Scion in the future regarding all matters not resolved by this Order.

b. Tri County Toyota Scion 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 Tri County Auto Center, Ltd. d/b/a Tri County Toyota Scion 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: 3/7/12

**FOR TRI COUNTY AUTO CENTER, LTD.
d/b/a TRI COUNTY TOYOTA SCION**

(~~Officer Signature~~) _____

Bryan Kreger
(Print Officer Name)

Vice President & General Manager
(Title)

Date: 2-29-12