

FILED

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING AND SECURITIES

2019 FEB 13 AM 9:37

COMMONWEALTH OF PENNSYLVANIA	:	
DEPARTMENT OF BANKING AND	:	
SECURITIES, BUREAU OF COMPLIANCE	:	
AND LICENSING	:	
	:	
	:	
v.	:	
	:	DOCKET No. 130019 (ENF-CO)
KENNEDY AUTO, LLC	:	
d/b/a KENNEDY AUTO	:	

PA DEPARTMENT OF BANKING AND SECURITIES

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking and Securities ("Department"), Bureau of Examinations, has conducted an examination of Kennedy Auto, LLC d/b/a Kennedy Auto ("Kennedy Auto") and its officers, employees and directors. Based on the results of the examination, the Bureau of Compliance and Licensing ("Bureau") concluded that Kennedy Auto 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. Kennedy Auto is a Pennsylvania Business Corporation located at 1401 Kennedy Blvd., Aliquippa, PA 15001.

4. On October 1, 2011, Kennedy Auto's installment seller license, license number 28874, expired because it did not renew its license.

5. Kennedy Auto applied for and received another installment seller license from the Department on October 14, 2011, license number 35949.

6. On May 29, 2012, an examiner from the Department commenced an examination of Kennedy Auto at its principal place of business.

#### VIOLATION

7. During the examination, the examiner found that Kennedy Auto entered into two (2) installment sale contracts between October 1, 2011 and October 14, 2011, a period in which Kennedy Auto did not maintain an installment seller license with the Department.

8. The first installment sales contract was entered into on October 12, 2011.

9. The second installment sales contract was entered into on October 13, 2011.

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

11. Kennedy Auto violated Section 4.1 of the MVSFA by continuing to engage in the business of an installment seller by entering into installment sales contracts while not licensed by the Department.

12. Due to Kennedy Auto's violations, the Department has the authority to issue an order and impose a "civil penalty" of not more than \$2,000 "for each offense." *See* 69 P.S. §§ 637.D, 637.1.

#### RELIEF

13. Fine. Within thirty days (30) of the Effective Date of this Order as defined below, Kennedy Auto agrees to pay the Department \$200. The payment shall be remitted by certified check or money order made payable to the Pennsylvania Department of Banking and Securities, and sent to the attention of: Pennsylvania Department of Banking and Securities, Non-Depository Institutions, Bureau of Compliance and Licensing, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

14. Corrective Action. Kennedy Auto shall not engage in the business of an installment seller in Pennsylvania unless it is licensed by the Department.

#### FURTHER PROVISIONS

15. Consent. Kennedy Auto 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. Kennedy Auto, 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.

16. Consumer Rights. This Order shall not limit or impair consumers' rights provided by Section 35 of the MVSFA. *See* 69 P.S. § 635.

17. Publication. The Department will publish this Order pursuant to its authority in Section 302.A.(5) of the Department of Banking Code. *See* 71 P.S. § 733-302.A.(5).

18. 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 Kennedy Auto.

19. Binding Nature. The Department, Kennedy Auto, and all officers, owners, directors, employees, heirs and assigns of Kennedy Auto intend to be and are legally bound by the terms of this Order.

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

21. Effectiveness. Kennedy Auto hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes this Order.

22. 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 Kennedy Auto in the future regarding all matters not resolved by this Order.

b. Kennedy Auto 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.

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

24. Counterparts. This Order may be executed in separate counterparts and by facsimile or electronic mail in portable document format known as "PDF."

25. 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 and Securities, Bureau of Compliance and Licensing and Kennedy Auto, LLC intending to be legally bound, do hereby execute this Consent Agreement and Order.

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

**FOR KENNEDY AUTO, LLC  
d/b/a KENNEDY AUTO**

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

(Officer Signature)

Gloria Krotec

Date: 2-12-2013

(Print Officer Name)

Member Officer

(Title)

Date: 1/15/13