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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

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BANKING AND SECURITIES

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

v.

FIRST RE-ACTION, INC.

Docket No. 14 0039 (BNK-CAO)

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking and Securities ("Department"), Bureau of Compliance and Licensing ("Bureau"), conducted a review of the business practices of First Re-Action, Inc. ("First Re-Action") and its officers, employees and directors. Based on the results of its review, the Bureau concludes that First Re-Action 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 CCLA for the Department.

3. First Re-Action is a Pennsylvania Business Corporation located at 231 W. Wingohocking Street, Philadelphia, Pennsylvania 19140-1513.

4. The Department licenses First Re-Action as a Collector-Repossessor, License No. 13126.

Inadequate Application

5. The Department's records show Redacted as the owner of First Re-Action.

6. On or about October 4, 2013, the Department received a Notice of Cancellation of bond number 185303 with HCC, American Contractors Indemnity Company, 601 S. Figueroa Street, Suite 1600, Los Angeles, CA 90017.

7. The Notice of Cancellation stated that HCC canceled the bond because the listed owner, Redacted died on or about March 21, 2013.

8. Section 5.B of the MVSFA requires a licensee to include the name and residence address of the owner on its application. 69 P.S. § 605(B).

9. The MVSFA requires licensees to submit a renewal application to the Department by at least fifteen days prior to October first each year. 69 P.S. § 605(E).

10. First Re-Action submitted its 2014 renewal application, but list John DeCaro as the owner without approval from the Bureau.

11. From October 4, 2014 to December 20, 2014, the Bureau attempted to contact First Re-Action to correct the ownership information.

12. First Re-Action did not speak with the Bureau.

13. First Re-Action is in violation of the MVSFA by failing to submit an adequate application containing the new owner of First Re-Action.

Inadequate Bond Coverage

14. Section 6.A. of the MVSFA requires that a licensee demonstrate on its renewal collector-repossessor application that it maintains "...a bond, in the form prescribed by the department, in the penal sum of five thousand dollars (\$5,000)...". 69 P.S. § 606(B).

15. The MVSFA requires that a licensee include a new bond with every renewal application. 69 P.S. § 606(C).

16. HCC cancelled First Re-Action's bond on or about October 4, 2013.

17. First Re-Action obtained new bond coverage on or about February 26, 2014.

18. First Re-Action violated the MVSFA by failing to maintain the required bond coverage from October 4, 2013 through February 26, 2014.

Hindering Examination

19. On February 25, 2014, the Bureau conducted an examination of First Re-Action at its principal place of business.

20. The MVSFA gives the Department the authority to "investigate, at any time, the business and affairs and examine the books, accounts, papers, records, documents and files of every licensee and of every person who shall be engaged in business contemplated by this act, whether such person shall act, or claim to act, as principal, agent or broker or under or without the authority of this act." 69 P.S. § 611(A).

21. The Bureau could not conduct a thorough examination because records were in such disarray.

22. The MVSFA requires every license to "maintain, at the place of business designated in the license certificate, such books, accounts and records of the business conducted under the license issued for such place of business as will enable the department to determine whether the

business of the licensee contemplated by the act is being operated in accordance with the provisions of this act.” 69 P.S. § 612(A).

23. First Re-Action violated the MVSFA by failing to have its books, accounts and records of business available in a manner which would allow for the Bureau to conduct a thorough examination.

AUTHORITY OF THE DEPARTMENT

24. 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.

25. 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).

26. 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).

RELIEF

27. Fine. First Re-Action agrees to pay a fine of two thousand dollars (\$2,000). The payment is due within thirty (30) days of the Effective Date of this Order, as defined in paragraph 35 below. The remaining three payments are due monthly thereafter. The fine payment shall be remitted by certified check or money order made payable to the “Department Banking and Securities” and sent to the attention of: Department of Banking and Securities, Bureau of Compliance and Licensing, 17 N. 2nd Street, Suite 1300, Harrisburg, PA 17101.

28. Corrective Measures. Upon the Effective Date of this Order, First Re-Action shall:

- i. Maintain a surety bond in the amount of \$5,000 at all times while licensed.
- ii. Maintain books, accounts and records of the business conducted under the license issued for such a place of business as will enable the department to determine compliance with the MVSFA.
- iii. Notify the Department of any changes to ownership, business location, practices and all other operating responsibilities and reporting requirements under the MVSFA.

FURTHER PROVISIONS

29. Consent. First Re-Action 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. First Re-Action, 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.

30. Publication and Release. First Re-Action consents to the publication and release of this Order.

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

32. 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 First Re-Action.

33. Binding Nature. The Department, First Re-Action and all officers, owners, directors, employees, heirs and assigns of First Re-Action intend to be and are legally bound by the terms of this Order.

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

35. Effectiveness. First Re-Action hereby stipulate and agree that the Order shall become effective on the date that the Bureau executes the Order (the "Effective Date").

36. 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 First Re-Action in the future regarding all matters not resolved by this Order.

b. First Re-Action acknowledge and agree 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.

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

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

39. 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 First Re-Action, Inc. 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**

Redacted

Ryan Walsh, Chief of Compliance
Department of Banking and Securities
Bureau of Compliance and Licensing

Date: September 11, 2014

By: _____

FOR FIRST RE-ACTION, INC.

Redacted

(Officer Signature)

John DeCaro

(Print Officer Name)

Owner

(Title)

Date: _____

Date: 9-9-14

BY: _____

(Officer Signature)

(Print Officer Name)

BY: _____

BY: _____