

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND
SECURITIES, COMPLIANCE OFFICE

v.

BUD'S AUTO SALES

PA DEPARTMENT OF
BANKING AND SECURITIES

Docket No. 15 0021 (BNK-CAO)

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking and Securities ("Department"), Compliance Office ("Office"), has reviewed the business practices of Bud's Auto Sales, ("Bud's Auto"), and its officers, employees and directors. Based on the results of its review, the Office concludes that Bud's Auto operated in violation of the Consumer Credit Code as related to motor vehicle sales finance ("CCC"), 12 Pa.C.S. § 6101 *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 was the Commonwealth of Pennsylvania's administrative agency authorized and empowered to administer and enforce the former Motor Vehicle Sales Finance Act, 69 P.S. § 601 *et seq.* ("MVSFA").

2. The Department is the Commonwealth of Pennsylvania's administrative agency authorized and empowered to administer and enforce the CCC.

3. The CCC replaced the Motor Vehicle Sales Finance Act ("MVSFA", 69 P.S. § 601 *et seq.*) effective as of November 27, 2014.

4. The Office is primarily responsible for administering and enforcing the CCC for the Department.

5. Bud's Auto's principal place of business is located at 1120 Beaver Run Road, Beaverdale, Pennsylvania 15921.

6. On April 1, 2015, the Department commenced an examination ("Examination") of Bud's Auto.

Unlicensed Period

7. Under both the former MVSFA and the current CCC, anyone engaging in the business of an installment seller of motor vehicles under installment sales contracts needs a license issued by the Department. 69 P.S. § 604, (12 Pa. C.S. § 6211(a)(1)).

8. Under both the former MVSFA and the current CCC, installment sellers must 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, (12 Pa. C.S. § 6216).

9. The Department licensed Bud's Auto as an installment seller, license no. 20254 through September 30, 2013.

10. Bud's Auto failed to timely submit a license renewal application for license no. 20254 by the October 1, 2013 deadline.

11. The Department canceled license no. 20254 effective on October 1, 2013. 609 P.S. § 607.D, (12 Pa. C.S. § 6211(b)(2)).

12. Bud's Auto submitted a new application ("New Application") for an installment seller license on or around October 17, 2013.

13. Upon receiving and reviewing Bud's Auto's New Application, the Department issued a new installment seller license, license no. 43718, to Bud's Auto on October 18, 2013.

14. On April 1, 2015, the Department commenced an examination of Bud's Auto.
15. The Examination revealed that Bud's Auto entered into thirty-one (31) installment sale contracts between October 1, 2013 and October 18, 2013.
16. Bud's Auto was not licensed to enter into installment contracts when it entered into the thirty-one (31) installment contracts.
17. Because the Department canceled license no. 20245, the former MVSFA and the current CCC prohibit Bud's Auto from engaging in the Commonwealth as an installment seller without first obtaining an installment seller license from the Department. 69 P.S. § 604.1 (12 Pa. C.S. § 6211(a)(1)).

Authority of the Department

18. The CCC grants the Department the authority to issue orders as may be necessary for the enforcement of the CCC. 12 Pa. C.S. § 6203(a)(5).
19. Section 6218 of the CCC states that the Department may revoke or suspend any license where the licensee violated a provision of this chapter. 12 Pa. C.S. § 6218(a)(2).
20. Section 6274 of the CCC provides that "[a] person required to be licensed under this chapter that violates this chapter, directs a violation of this chapter or engages in an activity for which a license could be suspended or revoked under section 6218 (relating to revocation or suspension of license) shall be subject to a civil penalty levied by the department of not more than \$2,000 for each offense." 12 Pa. C.S. § 6274.

VIOLATION

21. Bud's Auto was in violation of Section 604.1 of the MVSFA (now Section 6211(a) of the CCC) by engaging in the business of an installment seller while unlicensed. 69 P.S. § 604.1 (12 Pa. C.S. § 6211(a)(1)).

RELIEF

22. Fine. Bud's Auto agrees to pay a fine of six thousand two hundred dollars (\$6,200). The fine will be due within thirty (30) days of the Effective Date of the Order as defined in paragraph 28 below. The fine payment shall be remitted by certified check or money order made payable to the "Department of Banking and Securities" and sent to the attention of: Department of Banking and Securities, Compliance Office, 17 N. 2nd Street, Suite 1300, Harrisburg, PA 17101-2290.

23. Corrective Action. Upon the effective date of this Order, Bud's Auto shall not engage in the business of an installment seller in Pennsylvania unless it is licensed.

FURTHER PROVISIONS

24. Consent. Bud's Auto Sales hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Bureau's order authority under the CCC and agrees that it understands all of the terms and conditions contained herein. Bud's Auto Sales, 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.

25. Consumer's Rights. This Order shall not limit or impair a consumer's rights under CCC. 12 Pa. C.S. § 6236. (69 P.S. § 635).

26. 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).

27. 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 Bud's Auto Sales.

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

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

30. Effectiveness. Bud's Auto Sales hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes this Order ("Effective Date").

31. 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 Bud's Auto Sales in the future regarding all matters not resolved by this Order.

b. Bud's Auto Sales 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.

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

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

34. 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 of Banking and Securities, Compliance Office and Bud's Auto Sales intending to be legally bound do hereby execute this Consent Agreement and Order.

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

Redacted

John Talalai, Administrator
Compliance Office
Department of Banking and Securities

Date: 7-13-2015

FOR BUD'S AUTO SALES

Redacted

(Officer Signature)

Ronald C. McChellars
(Print Officer Name)

PARTNER
(Title)

Date: 7-7-15