

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND
SECURITIES, COMPLIANCE OFFICE

PA DEPARTMENT OF
BANKING AND SECURITIES

v.

Docket No. 15 0041 (BNK-CAO)

4 BELOW AUTO SALES & SERVICE, LLC

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 4 Below Auto Sales & Service, LLC, (“4 Below Auto”), and its officers, employees and directors. Based on the results of its review, the Office concludes that 4 Below Auto operated in violation of the Department’s motor vehicle sales finance statutes. 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 (“MVSFA”), 69 P.S. § 601 *et seq.*

2. The Department is the Commonwealth of Pennsylvania’s administrative agency authorized and empowered to administer and enforce the Consumer Credit Code as related to motor vehicle sales finance (“CCC”), 12 Pa. C.S. § 6101 *et seq.*

3. The CCC replaced the MVSFA effective as of November 27, 2014.

4. The Office was primarily responsible for administering and enforcing the MVSFA for the Department.

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

6. 4 Below Auto's principal place of business is located at 332 South York Road, Suite E&H, Hatboro, PA 19040.

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. 4 Below Auto submitted an application ("Application") for an installment seller license on or around August 3, 2015.

9. Upon receiving and reviewing 4 Below Auto's Application, the Department discovered that 4 Below Auto entered into fifteen (15) installment sale contracts from July 18, 2013 through September 30, 2015.

10. 4 Below Auto was not licensed to enter into installment contracts when it entered into the fifteen (15) installment contracts.

11. The former MVSFA and the current CCC prohibit 4 Below 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)).

12. The Department approved 4 Below Auto's Application on or about October 1, 2015.

13. 4 Below is now licensed as an installment seller with license no. 52883.

Authority of the Department

14. The former MVSFA and the current CCC grant the Department the authority to issue orders as may be necessary for enforcement. 69 P.S. § 637.1, 12 Pa. C.S. § 6203(a)(5).

15. The Department may revoke or suspend any license where the licensee violated a provision of the MVSFA or the CCC. 69 P.S. § 610.A.1., 12 Pa. C.S. § 6218(a)(2).

16. The former MVSFA and the current CCC both provide that any person required to be licensed under either of those acts who violate the act “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), 12 Pa. C.S. § 6274.

VIOLATION

17. 4 Below Auto violated Section 604.1 of the MVSFA and Section 6211(a) of the CCC when it engaged in the business of an installment seller while unlicensed. 69 P.S. § 604.1, 12 Pa. C.S. § 6211(a)(1).

RELIEF

18. Fine. 4 Below Auto agrees to pay a fine of one thousand five hundred dollars (\$1,500). The fine will be due within thirty (30) days of the Effective Date of the Order as defined in paragraph 26 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.

19. Corrective Action. Upon the Effective Date of this Order, 4 Below Auto shall not engage in the business of an installment seller in Pennsylvania unless it is licensed.

FURTHER PROVISIONS

20. Consent. 4 Below Auto 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. 4 Below 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.

21. 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).

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

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 4 Below Auto.

24. Binding Nature. The Department, 4 Below Auto, and all officers, owners, directors, employees, heirs and assigns of 4 Below Auto 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. 4 Below Auto hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes this Order ("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 4 Below Auto in the future regarding all matters not resolved by this Order.

b. 4 Below 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.

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 and by facsimile or electronic mail in portable document format "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 of Banking and Securities, Compliance Office and 4 Below Auto Sales & Service, LLC 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

FOR 4 BELOW AUTO SALES & SERVICE, LLC

Redacted

Redacted

John Talalai, Administrator
Compliance Office
Department of Banking and Securities

(Officer Signature)

Date: 11-13-15

Sarah Marvin
(Print Officer Name)

Owner
(Title)

Date: 10/25/15