

FILED

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING AND SECURITIES

2016 DEC 16 AM 11:49

PA DEPARTMENT OF  
BANKING AND SECURITIES

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING AND  
SECURITIES, COMPLIANCE OFFICE

v.

Docket No. 16 0065 (BNK-CAO)

DAVID & SONS AUTO SALES

**CONSENT AGREEMENT AND ORDER**

The Commonwealth of Pennsylvania, acting through the Department of Banking and Securities ("Department"), Compliance Office, has reviewed the business practices of David & Sons Auto Sales ("David & Sons"), and its officers, employees and directors. Based on the results of its review, the Compliance Office concludes that David & Sons operated in violation of the Consumer Credit Code as related to motor vehicle sales finance, 12 Pa.C.S. § 6101 *et seq.* ("CCC"). 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 CCC.
2. The Compliance Office is primarily responsible for administering and enforcing the CCC for the Department.
3. David & Sons' principal place of business is located at 4027 Columbia Ave Columbia, PA 17512-9213.

### Authority of the Department

4. 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).
5. 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).
6. 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.

### Unlicensed Period

7. Anyone engaging in the business of an installment seller of motor vehicles under installment sales contracts needs a license issued by the Department. 12 Pa. C.S. § 6211(a)(1).
8. Installment sellers must submit a yearly renewal license application to the Department at least fifteen (15) days prior to October 1 of each year. 12 Pa. C.S. § 6216.
9. The Department licensed David & Sons as an installment seller, license no. 7281 through September 30, 2016.
10. David & Sons failed to timely submit a license renewal applications by the October 1, 2016 deadline.
11. The Department canceled license no. 7281 effective on October 1, 2016. 12 Pa. C.S. § 6211(b)(2).
12. David & Sons submitted a new installment seller application (“New Application”) on or around November 1, 2016.

13. The Department approved David & Sons new application and issued installment seller license no. 59175 effective November 29, 2016.

14. During a review of the application, the Department discovered that David & Sons entered into one (1) installment sale contract from October 1, 2016 to present.

15. David & Sons was not licensed to engage in the installment seller business when it took assignment of the (1) installment contract while unlicensed from October 1, 2016 to present.

16. Because the Department canceled license no. 7281, the CCC prohibited David & Sons from engaging in the Commonwealth as an installment seller without first obtaining an installment seller license from the Department. 12 Pa. C.S. § 6211(a)(1).

#### **VIOLATION**

17. David & Sons violated Section 6211(a) of the CCC when it entered into an installment agreement thereby engaging in the business of an installment seller while unlicensed. 12 Pa. C.S. § 6211(a)(1).

#### **RELIEF**

18. Fine. David & Sons agrees to pay a fine of one hundred and twenty five dollars (\$125). Payment is due within thirty (30) days of the Effective Date of the Order as defined 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, David & Sons shall not engage in the business of an installment seller in Pennsylvania unless it is licensed.

## FURTHER PROVISIONS

20. Consent. David & Sons hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Compliance Office's order authority under the CCC and agrees that it understands all of the terms and conditions contained herein. David & Sons, 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.

22. Publication. The Department will publish this Order pursuant to its authority in Section 302.A.(5) of the Department of Banking 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 Compliance Office and David & Sons.

24. Binding Nature. The Department, David & Sons, and all officers, owners, directors, employees, heirs and assigns of David & Sons 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. David & Sons hereby stipulates and agrees that the Order shall become effective on the date that the Compliance Office 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 David & Sons in the future regarding all matters not resolved by this Order.

b. David & Sons 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 David & Sons 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

FOR DAVID & SONS AUTO SALES

Redacted \_\_\_\_\_

Redacted \_\_\_\_\_

John Talalai, Administrator  
Compliance Office  
Department of Banking and Securities

(Officer Signature)

Date: 12-16-16

David De Jesus  
(Print Officer Name)



Owner  
(Title)

Date: 12-12-16