

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

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PA DEPARTMENT OF
BANKING AND SECURITIES

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND
SECURITIES, COMPLIANCE OFFICE

v.

WESTERN FUNDING INCORPORATED

Docket No. 17 0005 (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 Western Funding Incorporated, (“Western Funding”), and its officers, employees and directors. Based on the results of its review, the Office concludes that Western Funding 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 is the Commonwealth of Pennsylvania’s administrative agency authorized and empowered to administer and enforce the CCC.
2. The Office is primarily responsible for administering and enforcing the CCC for the Department.
3. Western Funding’s principal place of business is located at 3915 E Patrick Ln, Las Vegas, NV 89120.

Unlicensed Period

4. Anyone engaging in the business of purchasing motor vehicle installment sale contracts needs to be licensed by the Department as a sales finance company. 12 Pa. C.S. § 6211(a)(2).
5. Licensed sales finance companies must submit a yearly license renewal application to the Department at least fifteen (15) days prior to October 1 of each year. 12 Pa. C.S. § 6216.
6. The Department licensed Western Funding as sales finance company, license no. 51994, through September 30, 2016.
7. Western Funding failed to timely submit a license renewal application for license no. 51994 by the October 1, 2016 deadline.
8. The Department canceled license no. 51994 effective on October 1, 2016. (12 Pa. C.S. § 6211(b)(2)).
9. Western Funding submitted a new application (“New Application”) for a sales finance company license on or around January 5, 2017.
10. Upon receiving and reviewing Western Funding’s New Application, the Department issued a new sales finance company license, license no. 59972, to Western Funding on January 24, 2017.
11. The New Application revealed that Western Funding purchased installment sale contracts between October 1, 2016 and January 24, 2017.
12. Western Funding was not licensed to purchase installment contracts when it purchased the installment sale contracts.

13. Because the Department canceled license no. 51994, the CCC prohibited Western Funding from engaging in the Commonwealth as a sales finance company without first obtaining sales finance company license from the Department. (12 Pa. C.S. § 6211(a)(2)).

Authority of the Department

14. 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).

15. 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).

16. 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

17. Western Funding was in violation of Section 6211(a)(2) of the CCC by engaging in the business of a sales finance company while unlicensed. (12 Pa. C.S. § 6211(a)(2)).

RELIEF

18. Fine. Western Funding agrees to pay a fine of Three thousand dollars (\$3,000). 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, Western Funding shall not engage in the business of a sales finance company in Pennsylvania unless it is licensed.

FURTHER PROVISIONS

20. Consent. Western Funding 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. Western Funding, 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. 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 Western Funding.

24. Binding Nature. The Department, Western Funding, and all officers, owners, directors, employees, heirs and assigns of Western Funding 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. Western Funding 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 Western Funding in the future regarding all matters not resolved by this Order.
- b. Western Funding 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 Western Funding Incorporated 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: 2-10-2017

FOR WESTERN FUNDING INCORPORATED

Redacted _____
(Officer Signature)

Jan Anderson
(Print Officer Name)

President
(Title)

Date: 02-07-2017