

FILED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

2017 JUN 19 AM 9:39

PA DEPARTMENT OF
BANKING AND SECURITIES

COMMONWEALTH OF PENNSYLVANIA	:	
DEPARTMENT OF BANKING AND	:	
SECURITIES, COMPLIANCE OFFICE	:	
	:	
v.	:	
	:	
MERKLE MOTORS, LLC	:	Docket No. : 17 <u>0033</u> (BNK-ORD)
	:	

NOTICE OF RIGHT TO APPEAL AND HEARING

You have the right to appeal the attached Order within **10 days** of the date of the Order as provided in 1 Pa. Code § 35.20. To appeal the Order, you must file a petition, in writing, with the Docket Clerk as set forth below. **If the Docket Clerk does not receive your petition within 10 days, you will waive your right to a hearing and the Order will be deemed final.**

The petition must be in writing, state clearly and concisely your grounds of interest in the subject matter, the facts you rely upon, the law you rely upon, and the relief you seek as required by 1 Pa. Code §35.17.

The petition and all other documents relating to this matter must be filed with the Docket Clerk:

Linnea Freeberg, Docket Clerk
Department of Banking and Securities
17 N. Second St., Ste. 1300
Harrisburg, PA 17101

Further, you must serve a copy of the petition on the person who signed the attached Order by providing a copy to their counsel set forth below:

David Murren
Assistant Counsel
Department of Banking and Securities
17 N. Second St., Ste. 1300
Harrisburg, PA 17101

Once you file your petition, you will be notified of pertinent information such as the name of the presiding officer designated by the Banking and Securities Commission to hear this matter and, if a hearing is scheduled, the date, time and location of the hearing. You have the right to be represented by an attorney.

All procedural matters will be governed by the Pennsylvania Administrative Agency Law, 2 Pa. C.S. §§501-508, 701-704, and the General Rules of Administrative Practice and Procedure, 1 Pa. Code §§31.1.-35.251.

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v.

MERKLE MOTORS, LLC

Docket No. : 17 0033 (BNK-ORD)

CEASE AND DESIST

Through this order, the Department of Banking and Securities (“Department”), Compliance Office, hereby suspends the installment seller license of Merkle Motors, LLC (“Merkle”). Merkle is ordered to immediately cease and desist from engaging in the installment seller business, including entering into installment contracts, until such time as the license suspension is lifted. In support of its Order, the Compliance Office states the following:

BACKGROUND

1. The Department is the Commonwealth of Pennsylvania’s administrative agency authorized and empowered to administer and enforce Section 62 of the Consumer Credit Code, 12 Pa. C.S. § 6201 *et seq.*, (“CCC”).

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

3. Merkle is currently licensed as an Installment Seller, license no. 40512 under the CCC.

4. Merkle maintains its principal place of business at 11970 Route 6, Corry, PA 16407-8975.

VIOLATIONS

5. On September 26, 2016, the Department conducted an examination of Merkle at its principal place of business.

6. On December 5, 2016, the Department issued invoice number 1801947051 in the amount of \$508.00 for costs incurred during the examination.

7. The invoice was due within 60 days of the date the invoice was issued pursuant to Section 204.B of the Banking and Securities Code (“Code”).

8. Merkle did not pay invoice 1801947051 within 60 days from the date the invoice was issued.

9. The Department sent the first dunning notice via U.S. Mail to Merkle on February 18, 2017, notifying them that invoice 1801947051 was past due. The first dunning notice also included administrative fee invoice 1801998323 in the amount of \$150.00.

10. The Department sent a second dunning notice via U.S. Mail to Merkle on March 18, 2017, notifying them that invoice 1801947051 and administrative fee invoice 1801998323 were past due. The second dunning notice also included a second administrative fee invoice, 1802010974, in the amount of \$150.

11. The Department sent a third dunning notice via U.S. Mail to Merkle on April 18, 2017, notifying them that invoice 1801947051 and administrative fee invoices 1801998323 and 1802010974 were past due. The third dunning notice also included a third administrative fee invoice, 1802024747, in the amount of \$150.

12. The dunning notices were not returned to the Department as undeliverable

13. On May 26, 2017, Andrew Bohr of the Compliance Office, tried to call the business number for Merkle, but the line had a busy signal. An attempt was also made to call Stephan Merkle’s cell phone, which provided a recording that the number may have been changed or

disconnected. Additionally, an email was sent to the listed address for Stephan Merkle requesting that he contact the Department regarding the examination invoice. The email was returned as undeliverable.

14. On June 2, 2017, a letter was mailed to Merkle by Certified Mail requesting the company contact the Department regarding the examination invoice. The Certified Mail Receipt was returned to the Department signed on June 12, 2017. The signature was unreadable.

15. On June 12, 2017, Andrew Bohr received a voicemail from Stephan Merkle regarding the examination invoice. The call was returned the same day but there was no answer, so a voicemail was left for Stephan.

16. On June 14, 2017, Andrew Bohr attempted to call Stephan to follow up on the previous voicemail. On this attempt, the phone was picked up but no one answered the phone, only a background conversation could be heard. Another attempt was made immediately after this with the same result

17. Merkle has not notified the Department of any changes to its contact information as required by the CCC § 6215(c).

18. Section 6203(d) of the CCC provides that the costs of the examination, may be assessed by the Department.

19. By failing to pay examination invoice 1801947051 and administrative fee invoices 1801998323, 1802010974, and 1802024747, Merkle is in violation of Section 6203(d) of the CCC.

AUTHORITY

20. Section 6218(4) of the CCC authorizes the Department to suspend or revoke a license if the licensee has “Failed to comply with a demand, order or regulation of the department lawfully made by the department under and within the authority of [the CCC].”

21. The Department has the authority to issue orders for enforcement including the authority to suspend any license issued pursuant to the CCC if a licensee has failed to comply with or violated any provision of the CCC.

22. Pursuant to Section 204.B of the Code, the Department “may impose in addition to the money assessed a maximum penalty fee of one hundred fifty dollars (\$150.00) for that sixty-day period and each successive thirty-day period of delinquency.”

RELIEF

23. Examination Invoice. Merkle will pay in full the amount of \$958 for examination invoice number 1801947051 issued on December 5, 2016, and administrative fee invoices 1801998323 issued on February 18, 2017; 1802010974 issued on March 18, 2107; and 1802024747 issued on April 18, 2017.

24. Payment. Payment shall be remitted by certified check or money order made payable to the Pennsylvania Department of Banking and Securities and sent to the attention of: PA Comptroller Operations, Accounts Receivable, P.O. Box 2833, Harrisburg, PA 17105.

FURTHER PROVISIONS

25. Since Merkle has failed to pay outstanding examination invoice 1801947051 and administrative fee invoices 1801998323, 1802010974, and 1802024747, the Compliance Office, pursuant to its authority referenced above, hereby imposes the following Order:

26. On the effective date of the Order, Merkle’s installment seller license shall be **SUSPENDED**, meaning that Merkle and its owners, officers, directors and/or employees, shall not engage in the installment seller business in Pennsylvania as defined in Section 6202 of the CCC, until such time that the Compliance Office lists the suspension.

27. Specifically, on the effective date of the Order, Merkle shall not enter into motor vehicle installment sale contracts with consumers.

28. This Order shall become effective on the date that the Compliance Office executes it.

29. Nothing in this Order shall prevent the Compliance Office from taking any further administrative action as deemed necessary.

IT IS SO ORDERED.

Redacted

James Keiser, Chief
Compliance Office
Department of Banking and Securities

June 19, 2017
(Date)



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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing Suspension Order upon the parties below, who constitute the only parties of record in this proceeding, in accordance with the requirements of 1 Pa. Code § 33.35, 33.36 and 33.37:

BY CERTIFIED AND FIRST CLASS MAIL

Merkle Motors, LLC
11970 Route 6
Corry, PA 16407-8975

Dated this 11th day of June 2017.

Redacted
David Murren
FOR: Commonwealth of Pennsylvania
Department of Banking and Securities
17 North Second Street, Suite 1300
Harrisburg, PA 17101
(717) 787-1471