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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.

KARNS PERFORMANCE LLC

Docket No. 17 0044 (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 Karns Performance LLC ("Karns"), and its officers, employees and directors. Based on the results of its review, the Office concludes that Karns operated in violation of Chapter 62 of the Consumer Credit Code ("CCC"), 12 Pa.C.S. § 6201 *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. Karns is licensed as an Installment Seller, license number 34113, under the CCC.
4. Karns principal place of business is located at 5203 E Trindle Road Mechanicsburg, PA 17050-3552.

5. On February 15, 2017, an examiner from the Department commenced a routine examination of Karns at its principal place of business.

Office of Foreign Asset Control

6. During the examination, the examiner found that Karns was not consistently screening consumers' names against the Office of Foreign Assets Control ("OFAC") list as required by 31 CFR Chapter V et seq.

7. By not complying with 31 CFR Chapter V et seq., Karns was in violation of 12 Pa.C.S. § 6218(a)(13).

8. Karns acknowledged the finding.

Red Flag Rules of Identity Theft

9. During the examination, the examiner found that Karns failed to obtain training for implementation of the program in accordance with the Red Flag Rules of Identity Theft Prevention as required by the Federal Trade Commission's Fair and Accurate Credit Transaction's Act ("FACT Act")

10. By not complying with the Fact Act, Karns was in violation of 12 Pa.C.S. § 6218(a)(13).

11. Karns acknowledged the findings.

Privacy Notice Disclosure

12. During the examination, the examiner found that Karns was not providing privacy notice disclosures to consumers as required by 15 U.S.C. § 6803.

13. By not complying with 31 CFR 313.1 et seq., Karns was in violation of 12 Pa.C.S. § 6218(a)(13).

14. Karns acknowledged the finding.

Authority of the Department

15. 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).

16. 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).

17. 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

**VIOLATIONS**

18. Karns violated 31 CFR Chapter V et seq. when it failed to screen consumers against the Office of Foreign Assets Control list.

19. Karns violated the Federal Fair and Accurate Credit Transaction Act when it failed to obtain training for implementation of the Red Flag Rules of Identity Theft program.

20. Karns violated 15 U.S.C. § 6803 when it failed to provide privacy notice disclosures to consumers.

**RELIEF**

21. Fine. Karns agrees to pay a fine of fifteen hundred dollars (\$1,500). The first payment of five hundred dollars (\$500) is due within thirty (30) days of the Effective Date of the Order as defined in paragraph 29 below. The remaining two payments of five hundred dollars (\$500) each shall be due and payable every thirty (30) days thereafter until the fine is paid in full. The fine payments 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. Second Street, Suite 1300, Harrisburg, PA 17101-2290.

22. Corrective Action. Upon the Effective Date of this Order, Karns shall screen consumers against the Office of Foreign Assets Control list, obtain the proper training for the implementation of the Red Flag Rules of Identity Theft program, and issue a separate privacy notice disclosure to consumers.

### **FURTHER PROVISIONS**

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

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

25. 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).

26. 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 Office and Karns.

27. Binding Nature. The Department, Karns, and all officers, owners, directors, employees, heirs and assigns of Karns intend to be and are legally bound by the terms of this Order.

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

29. Effectiveness. Karns hereby stipulates and agrees that the Order shall become effective on the date that the Office executes this Order (“Effective Date”).

30. 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 Karns in the future regarding all matters not resolved by this Order.
- b. Karns 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.

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

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

33. 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 Karns Performance 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**

Redacted \_\_\_\_\_

John Talalai, Administrator  
Compliance Office  
Department of Banking and Securities

Date: 7-21-2017



**FOR KARNS PERFORMANCE LLC**

Redacted  
\_\_\_\_\_  
(Officer Signature)

Frederick D Karns  
\_\_\_\_\_  
(Print Officer Name)

Owner  
\_\_\_\_\_  
(Title)

Date. 7-21-17