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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND
SECURITIES, COMPLIANCE OFFICE

v.

WIEST ENTERPRISES, INC
d/b/a CLEAR CHOICE AUTO SALES

PA DEPARTMENT OF
BANKING AND SECURITIES

Docket No. 17 0047 (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 Wiest Enterprises, Inc (“Wiest”), and its officers, employees and directors. Based on the results of its review, the Office concludes that Wiest 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. Wiest’s location at 5200 Simpson Ferry Road, Mechanicsburg, PA 17050-3514 is licensed as Installment Seller #15091 under the CCC.

4. Wiest's location at 1110 Harrisburg Pike, Carlisle, PA 17103-1617 is licensed as Installment seller #37854 under the CCC.

5. On February 6 and 7, 2017, an examiner from the Department conducted routine examinations of both the Mechanicsburg and Carlisle locations.

Office of Foreign Asset Control

6. During the examinations, the examiner found that Wiest 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., Wiest was in violation of 12 Pa.C.S. § 6218(a)(13).

Red Flag Rules of Identity Theft

8. During the examinations, the examiner found that Wiest failed to develop a written anti-identity theft program and did not receive any Red Flag Act training in accordance with the Red Flag Rules of Identity Theft Prevention as required by the Federal Trade Commission's Fair and Accurate Credit Transactions Act ("FACT Act").

9. By not complying with the FACT Act, Wiest was in violation of 12 Pa. C.S. § 6218(a)(13).

Authority of the Department

10. 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).

11. 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).

12. 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

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

14. Wiest violated the Federal Fair and Accurate Credit Transaction Act when it failed to develop a written anti identity theft program and did not receive any Red Flag Act training in accordance with the Red Flag Rules of Identity Theft Prevention.

RELIEF

15. Fine. Wiest agrees to pay a fine of one thousand dollars (\$1,000). Payment is due within thirty (30) days of the Effective Date of the Order as defined in paragraph 23 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.

16. Corrective Action. Upon the Effective Date of this Order, Wiest shall screen consumers against the Office of Foreign Assets Control list and develop and maintain a written anti identity theft program along with receiving the necessary training in accordance with the Red Flag Rules of Identity Theft Prevention.

FURTHER PROVISIONS

17. Consent. Wiest 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. Wiest, 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.

18. 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.)

19. 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).

20. 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 Wiest.

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

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

23. Effectiveness. Wiest hereby stipulates and agrees that the Order shall become effective on the date that the Office executes this Order ("Effective Date").

24. 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 Wiest in the future regarding all matters not resolved by this Order.

b. Wiest 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.

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

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

27. 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 Wiest Enterprises, Inc 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 WIEST ENTERPRISES, INC.

Redacted _____

Redacted _____
(Officer Signature)

John Talalai, Administrator
Compliance Office
Department of Banking and Securities

NEIL F WIEST

(Print Officer Name)

Date: 7/25/17

President

(Title)

Date: 7/21/17

