

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

FILED

2017 JUL 28 PM 1:19

COMMONWEALTH OF PENNSYLVANIA :
DEPARTMENT OF BANKING AND :
SECURITIES, COMPLIANCE OFFICE :

v. :

RALLY MOTORS AUTOMOTIVE, INC. :

Docket No. : 170048(BNK-C&D)

PA DEPARTMENT OF
BANKING AND SECURITIES

NOTICE OF RIGHT TO APPEAL AND HEARING

You have the right to appeal the attached Order within **30 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 30 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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RALLY MOTORS AUTOMOTOIVE, INC.

Docket No. : 170048 (BNK-C&D)

CEASE AND DESIST ORDER

Through this Order, the Department of Banking and Securities (“Department”), Compliance Office, hereby suspends the installment seller license of Rally Motors Automotive, Inc. (“Rally”). Rally 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 (“CCC”), 12 Pa. C.S. § 6201 *et seq.*

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

3. Rally is currently licensed as an Installment Seller, license no. 17234, under the CCC.

4. Rally maintains its principal place of business at 6701 Rising Sun Ave., Philadelphia, PA 19111-4628.

VIOLATIONS

5. On August 11, 2016, the Department conducted an examination of Rally at its principal place of business.

6. On September 7, 2016, the Department issued invoice number 1801912866 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. Rally did not pay invoice 1801912866 within 60 days from the date the invoice was issued

9. The Department sent the first dunning notice via U.S. Mail to Rally on November 18, 2016, notifying them that invoice 1801912866 was past due. The first dunning notice also included administrative fee invoice, 1801937881, in the amount of \$150.00

10. The Department sent a second dunning notice via U.S. Mail to Rally on December 18, 2016, notifying them that invoice 1801912866 and administrative fee invoice 1801937881 were past due. The second dunning notice also included a second administrative fee invoice, 1801950130, in the amount of \$150.00.

11. The Department sent a third dunning notice via U.S. Mail to Rally on January 18, 2017, notifying them that invoice 1801912866 and administrative fee invoices 1801937881 and 1801950130 were past due. The third dunning notice also included a third administrative fee invoice, 1801978595, in the amount of \$150.00.

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

13. On March 1, 2017, Andrew Bohr of the Compliance Office, spoke with Jonathan, no last name was obtained, who stated that the full amount of the invoice was sent the previous day.

14. On March 17, 2017, it was confirmed that the payment was received by the Comptroller's Office, and the invoice appeared to be paid in full.

15. On April 13, 2017, Compliance Office was notified by the Comptroller's Office that the payment was returned for Not Sufficient Funds ("NSF"). A new invoice was issued to Rally by the Fiscal and Support Services Office.

16. On May 19, 2017, Andrew Bohr spoke with Jill Feldman, the title clerk for Rally. She stated that Jonathan no longer works for the company and that the owner, Rogerio Santos, is in Portugal for at least the next month to deal with family issues. She asked that the invoice be forwarded to her so that she can attempt to pay them

17. On July 5, 2017, Andrew Bohr left a voicemail for Ms. Feldman regarding a replacement payment.

18. On July 14, 2017, a letter was sent by certified mail to Rally requesting a replacement payment for the overdue invoices.

19. Section 6203(d) of the CCC provides that the costs of the examination may be assessed by the Department. 12 Pa.C.S. § 6203(d)

20. By failing to pay examination invoice 1801912866, and administrative fee invoices 1801937881, 1801950130, and 1801978595, Rally is in violation of Section 6203(d) of the CCC.

AUTHORITY

21. Section 6218(a)(2) of the CCC authorizes the Department to suspend or revoke a license if the licensee has "Violated a provision of this chapter." 12 Pa.C.S. § 6218(a)(2).

22 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. 12 Pa.C.S. §§ 6203 and 6218.

23. 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.” 71 P.S. § 733-204.B.

RELIEF

24. Examination Invoice. Rally will pay in full the balance of \$958 for examination invoice 1801912866, and administrative fee invoices 1801937881 issued on November 18, 2016; 1801950130 issued on December 18, 2016; and 1801978595 issued on January 18, 2017.

25. 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

26. Since Rally has failed to pay examination invoice 1801912866, and administrative fee invoices 1801937881, 1801950130, and 1801978595, the Compliance Office, pursuant to its authority referenced above, hereby imposes the following Order:

27. On the effective date of the Order, Rally’s installment seller license shall be **SUSPENDED**, meaning that Rally 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 lifts the suspension.

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

July 28, 2017
(Date)

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing *Cease and Desist 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

Rally Motors Automotive, Inc.
6701 Rising Sun Ave.
Philadelphia, PA 19111-4628

Dated this 28th day of July 2017.

Redacted

David Murren
Assistant Counsel
Attorney ID #: 323692
FOR: Commonwealth of Pennsylvania
Department of Banking and Securities
17 N. Second St., Ste. 1300
Harrisburg, PA 17101