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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

PA DEPARTMENT OF
BANKING AND SECURITIES

v.

Docket No. 17 0051 (BNK-CAO)

WEST END AUTO SALES, INC.

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 West End Auto Sales, Inc. ("West End"), and its officers, employees and directors. Based on the results of its review, the Office concludes that West End 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. West End is licensed as an Installment Seller, license number 8839, under the CCC.
4. West End's principal place of business is located at 2401 W Market Street, York, PA 17404.

5. On February 28, 2017, an examiner from the Department commenced a routine examination of West End at its principal place of business.

Office of Foreign Asset Control

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

7. West End acknowledged the finding.

Red Flag Rules of Identity Theft

8. During the examination, the examiner found that West End failed to develop their written anti-identity theft 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")

9. West End acknowledged the finding.

Privacy Notice Disclosure

10. During the examination, the examiner found that West End failed to develop a written information security plan that describes how consumer information is protected as required by 15 U.S.C. § 6801(b).

11. West End acknowledged the finding.

Records Not in Compliance with Statutes – Release of Liens

12. During the examination, the examiner found that West End was not returning original contracts and marking the contracts as "paid in full" to consumers.

13. By not providing consumers with the above materials, West End was in violation of 12 Pa.C.S. § 6232(a)(1) and (a)(2).

14. West End Acknowledged the findings.

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 licensee 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. West End violated 31 CFR Chapter V when it failed to screen consumers against the Office of Foreign Assets Control list.

19. West End violated the Federal Fair and Accurate Credit Transaction Act when it failed to develop and implement a written anti-identity theft program in accordance with the Red Flag Rules of Identity Theft Prevention.

20. West End violated 15 U.S.C. § 6801(b) when it failed to develop a written information security plan that describes how consumer information is protected.

21. West End violated Section 6232(a)(1) and (a)(2) of the CCC when it was not returning original contracts and marking the contracts as “paid in full” to consumers.

RELIEF

22. Fine. West End agrees to pay a fine of two thousand dollars (\$2,000). Payment is due within thirty (30) days of the Effective Date of the Order as defined in paragraph 30 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.

23. Corrective Action. Upon the Effective Date of this Order, West End shall screen consumers against the Office of Foreign Assets Control list, develop and implement a written anti-identity theft program in accordance with the Red Flag Rules of Identity Theft Prevention Program, develop a written information security plan that describes how consumer information is protected, and stamp and return installment sale contracts as "paid in full" to consumers after the final loan payments are made.

FURTHER PROVISIONS

24. Consent. West End 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. West End, 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.

25. 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.)

26. 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).

27. 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 West End.

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

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

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

31. 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 West End in the future regarding all matters not resolved by this Order.
- b. West End 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.

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

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

34. 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 West End Auto Sales, 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 WEST END AUTO SALES, INC.

Redacted

Redacted
(Officer Signature)

John Talalai, Administrator
Compliance Office
Department of Banking and Securities

KEVIN E. LAVER
(Print Officer Name)

Date: 8-2-2017

PRESIDENT
(Title)

Date: 8-2-17

