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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING AND SECURITIES

PA DEPARTMENT OF  
BANKING AND SECURITIES

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING AND  
SECURITIES, COMPLIANCE OFFICE

v.

Docket No. 17 0054 (BNK-CAO)

MARTIN 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 Martin Auto Sales, Inc. ("Martin Auto"), and its officers, employees and directors. Based on the results of its review, the Office concludes that Martin Auto 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. Martin Auto is licensed as an Installment Seller, license number 6094, under the CCC.
4. Martin Auto's principal place of business is located at 2041 W Liberty Ave, Pittsburgh, PA 15226-1350.

5. On May 09, 2017, an examiner from the Department commenced a routine examination of Martin Auto at its principal place of business.

Separate Incidental Product Worksheet Not Properly Completed

6. During the examination, the examiner found that Martin Auto was not providing the separate incidental product disclosure, or not fully completing the disclosure if it was provided to the consumer when the consumer purchased an extended warranty for the vehicle.

7. Martin Auto acknowledged the finding.

Red Flag Rules of Identity Theft

8. During the examination, the examiner found that Martin Auto 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. Martin Auto acknowledged the findings.

Privacy Notice Exception

10. During the examination, the examiner found that Martin Auto failed to provide a privacy notice to consumers about their information-collection and information sharing practices as required by 15 U.S.C. § 6218(a)(13).

11. Martin Auto Acknowledged the findings.

Privacy Notice Disclosure

12. During the examination, the examiner found that Martin Auto failed to develop a written information security plan that describes how consumer information is protected as required by 15 U.S.C. § 6801(b).
13. Martin Auto acknowledged the finding.

Risk Based Pricing Disclosure

14. During the examination, the examiner found that Martin Auto was not providing Risk Based Pricing notices to its consumers who receive credit terms less favorable than those granted to other consumers as required by the Federal Trade Commission's Risk Based Pricing Rule.
15. Martin Auto Acknowledged the findings

Authority of the Department

16. 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).
17. 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).
18. 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

19. Martin Auto violated 31 CFR 500 when it failed to provide the separate incidental product disclosure, or not fully completing the disclosure if it was provided to the consumer when the consumer purchased an extended warranty for the vehicle

20. Martin Auto 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.

21. Martin Auto violated 31 CFR 313.1 et seq. when it failed to provide a privacy notice to their consumers about their information-collection and information sharing practices

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

23. Martin Auto violated the Federal Trade Commission's Risk Based Pricing Rule when it was not providing Risk Based Pricing notices to consumers who receive credit terms less favorable than those granted to other consumers.

### RELIEF

24. Fine. Martin Auto agrees to pay a fine of two thousand dollars (\$2,500). Payment is due within thirty (30) days of the Effective Date of the Order as defined in paragraph 32 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

25. Corrective Action. Upon the Effective Date of this Order, Martin Auto shall provide the separate incidental product disclosure to consumers when consumers purchase an extended warranty for a vehicle, 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, provide a privacy notice to consumers about their information collection and information sharing practices and provide Risk Based Pricing notices to consumers who receive credit terms less favorable than those granted to other consumers.

#### FURTHER PROVISIONS

26. Consent. Martin Auto 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. Martin Auto, 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.

27. 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.)

28. 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).

29. 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 Martin Auto

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

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

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

33. 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 Martin Auto in the future regarding all matters not resolved by this Order

b. Martin Auto 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

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

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

36. 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 Martin 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**

Redacted

John Talalai, Administrator  
Compliance Office  
Department of Banking and Securities

Date: 8-7-2017



**FOR MARTIN AUTO SALES, INC.**

Redacted  
(Officer Signature)

MICHAEL A JOSEPH  
(Print Officer Name)

VICE PRESIDENT  
(Title)

Date: 8/4/16