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PA DEPARTMENT OF  
BANKING AND SECURITIES

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING AND SECURITIES

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING AND  
SECURITIES, COMPLIANCE OFFICE

v.

AUTOMOTIVE FLEET SALES

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: Docket No.: 180103 (BNK-CAO)  
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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 Automotive Fleet Sales ("AFS") and its officers, employees, and directors. Based on the results of its review, the Office concludes that AFS operated in violation of the Consumer Credit Code ("CCC") as related to motor vehicle sales finance, 12 Pa.C.S. § 6201 *et seq.* The parties to the above-captioned matter, in lieu of litigation, hereby stipulate 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. AFS's principal place of business is located at 900 Market St., Lemoyne, PA 17043-1410.
3. AFS was issued installment seller license number 15632 on February 27, 2006.
4. AFS's installment seller license number 15632 expired on October 1, 2018, when AFS failed to renew the license.

5. On November 7, 2018, the Compliance Office spoke to David Mertz of AFS to confirm the intention of failing to renew the installment seller license.

6. Mr. Mertz stated that AFS did not intentionally fail to renew the installment seller license, and that the company would apply for a new license.

7. Mr. Mertz also stated that AFS did enter into installment seller contracts during the period that the license was expired.

#### Unlicensed Activity

8. Anyone engaging in the business of an installment seller of motor vehicles under installment sales contracts needs a license issued by the Department. 12 Pa.C.S. § 6211(a)(1).

9. The CCC prohibits AFS from engaging in the Commonwealth as an installment seller without first obtaining an installment seller license from the Department. 12 Pa.C.S. § 6211(a)(1).

#### 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 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**

12. AFS violated Section 6211(a)(1) of the CCC when it engaged in the business of an installment seller while unlicensed. 12 Pa C.S. § 6211(a)(1).

**RELIEF**

13. Fine. AFS agrees to pay a fine of five hundred dollars (\$500). The fine payment is due within thirty (30) days of the Effective Date of the Order as defined in paragraph 20 below. Payment shall be made by ACH or wire transfer or, if ACH or wire transfer is unavailable, by certified check, cashier's check, teller's check or money order made payable to "The Department of Banking and Securities" and shall be mailed or delivered in person to the Compliance Office located at 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

**FURTHER PROVISIONS**

14. Consent. AFS 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. AFS, 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.

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

16. 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).

17. 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 AFS.

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

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

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

21. 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 AFS in the future regarding all matters not resolved by this Order.

b. AFS 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.

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

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

24. 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.

25. Review. This Order is subject to review by the Department's Legal Office.

WHEREFORE, in consideration of the foregoing, including the recital paragraphs, the Department of Banking and Securities, Compliance Office and Automotive Fleet Sales 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 AUTOMOTIVE FLEET SALES

Redacted

Redacted

James Keiser, Chief  
Compliance Office  
Department of Banking and Securities

(Officer Signature)

DAVID A. MERTZ

Date: Nov. 21, 2018 ~~11/20/18~~

(Print Officer Name)

Gen Manager

(Title)

Date: 11/20/18

