

FILED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

2022 DEC 29 AM 11:35

PA DEPARTMENT OF
BANKING AND SECURITIES

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

v. :

Docket No.: 22 0057(BNK-C&D)

BERKAL LLC :
:
:

NOTICE TO ANSWER AND REQUEST A HEARING

You, Berkal LLC, have the right to challenge the attached Order by filing an Answer, in writing, with the Docket Clerk **within 30 days** of the date of this Order as required by 1 Pa. Code § 35.37. **If you do not file an Answer within 30 days, then you will waive your right to a hearing and the Banking and Securities Commission (“Commission”) may enter a final order against you.**

Your Answer must be in writing. Your Answer must specifically admit or deny the allegations in the Order, set forth the facts you rely upon and state concisely the law you rely upon. General denials of the allegations set forth in the Order are not sufficient; you must support your denials with specific facts. Failure to support your denials with specific facts may cause the Commission to deem the facts in the Order as admitted and to enter a final order against you, without a hearing.

The Answer and any other documents must be filed via first-class mail and electronic mail with the Docket Clerk:

Eileen Smith, Docket Clerk
Department of Banking and Securities
17 N. Second Street, Suite 1300
Harrisburg, PA 17101
Email: RA-BNDOCKETCLERK@pa.gov

Further, you must serve a copy of the Answer and any other documents on the person who signed the Order by providing a hard and electronic copy to his or her counsel indicated below:

Charles D. Vance, Jr., Esquire
Department of Banking and Securities
17 N. Second Street, Suite 1300
Harrisburg, PA 17101
chvance@pa.gov

Once you file your Answer, you will be notified of pertinent information such as the name of the presiding officer designated by the 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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BERKAL LLC

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Docket No. : 22 0057 (BNK-ORD)

SUSPENSION ORDER

Through this Order, the Department of Banking and Securities (“Department”), Compliance Office (“Office”), hereby notifies Berkal LLC (“Berkal”) that its Installment Seller license will be suspended within 30 days and this Order will become final. In support of its Order, the Office states the following:

PARTIES

1. The Department is the Commonwealth of Pennsylvania’s administrative agency authorized and empowered to administer and enforce the Consumer Credit Code (“CCC”) as related to motor vehicle sales finance, 12 Pa. C.S. § 6201 *et seq.*

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

3. Berkal is currently licensed as an Installment Seller, license no. 67331.

4. Berkal was, at all times material herein, a Pennsylvania Limited Liability Company with a principal place of business at 7103 Bristol Pike Levittown, PA 19057.

BACKGROUND

5. Section 6203 of the CCC states in pertinent part, “Authority of department. (a) Powers.--The department has the authority to do any of the following: (1) Investigate the business activities of a licensee and person engaged in a business contemplated by this chapter by the following means: (i) Examining the records of the licensee and person ... (2) Examine the records, safes and vaults of a person described under subsection (b)(2) for the purpose of discovering violations of this chapter.” 12 Pa. C.S. § 6203(a).

6. Section 6204(d) of the CCC states in pertinent part, “Records (d) Preservation. -- Records of a licensee shall be preserved and available for examination by the department for at least two years after making the final entry therein.” 12 Pa. C.S. § 6204(d).

7. The Department setup an examination to be conducted of Berkal on August 15, 2022.

8. On July 11, 2022, Examiner Sandy attempted to contact Mustafa Ekermen, owner of Berkal, at (215) 706-0185 and left voicemails requesting contact regarding the upcoming examination. Examiner Sandy sent an email to Mustafa Ekermen at mekerman@gmail.com requesting contact regarding the upcoming examination. The aforementioned telephone number and e-mail address were registered, by Berkal, with the Department.

9. On July 19, 2022, Examiner Sandy attempted to contact Mustafa Ekermen at (215) 706-0185 and left voicemails requesting contact regarding the upcoming examination. Examiner Sandy also sent an email to Mustafa Ekermen at autopikemustafa@gmail.com requesting contact regarding the upcoming examination. The above-mentioned e-mail address, i.e., autopikemustafa@gmail.com, was also registered, by Berkal, with the Department.

10. On July 21, 2022, Examiner Sandy attempted to contact Mustafa Ekermen at (215) 706-0185, and (215) 704-0185 and left voicemails requesting contact regarding the upcoming examination. Examiner Sandy attempted to contact Mustafa Ekermen at (215) 704-0185 and spoke to Mustafa Ekermen who stated he was expecting to receive information in the Department's Portal with a full document request list. The "Portal" is a web site maintained by the Department for the exchange of information between licensees and the Department. Examiner Sandy sent the full document request list to the Portal. The second telephone number listed above, i.e., (215) 704-0185, was registered, by Berkal, with the Department.

11. On July 29, 2022, Examiner Sandy received an email from Mustafa Ekermen that he was having problems logging into the Portal. Examiner Sandy called Mustafa Ekermen at (215) 704-0185 to offer assistance. Mustafa Ekermen stated he had previously received help from Examinations Director, Ryan Walsh, and he would reach out to Ryan Walsh for additional assistance.

12. On August 22, 2022, Examiner Sandy attempted to contact Mustafa Ekermen at (215) 704-0185 and left a voicemail to return the call.

13. On August 23, 2022, Examiner Sandy sent an email to Mustafa Ekermen at autopikemustafa@gmail.com to inquire if he still needed Portal assistance.

14. On September 1, 2022, Examiner Sandy attempted to contact Mustafa Ekermen at (215) 704-0185 and spoke with Mustafa Ekermen. Mustafa Ekermen advised he would work to free up time to contact Ryan Walsh about Portal access.

15. On September 8, 2022; September 16, 2022; September 19, 2022; and September 22, 2022 Examiner Sandy attempted to contact Mustafa Ekermen at (215) 704-0185 and attempted to leave a voicemail for a return call, but the voice mailbox was full.

16. Accordingly, on September 22, 2022, Examiner Sandy sent a message on “Carlenders Auto Sales” Facebook page for Mustafa Ekermen to contact Examiner Sandy at (717) 329-8374.

17. On September 23, 2022, Examiner Sandy attempted to contact Mustafa Ekermen at (215) 704-0185 but the voice mailbox was full. Examiner Sandy sent Mustafa Ekermen an email at autopikemustafa@gmail.com asking that he contact her.

18. On September 30, 2022, Examiner Sandy attempted to contact Mustafa Ekermen at (215) 704-0185 and left a voicemail to return her call.

19. Examiner Sandy did not receive a response from Berkal or Mustafa Ekermen.

20. On October 4, 2022, Examinations Director Ryan Walsh attempted to contact Mustafa Ekermen at (215) 704-0185, but the voice mail box was full. Ryan Walsh sent Mustafa Ekermen an email at autopikemustafa@gmail.com advising Mustafa Ekermen that he had until October 7, 2022 to contact Examiner Sandy and Examiner Corcoran regarding examinations for both Berkal LLC and ADA Cars LLC or the licensees may face suspension.

21. Neither Examinations Director Walsh, nor Examiner Sandy, nor Examiner Corcoran received a response from Berkal or Mustafa Ekermen.

22. On October 19, 2022, Examiner McCoy sent Mustafa Ekermen an email at mekermen@gmail.com to contact her immediately regarding providing requested examination materials.

23. On October 24, 2022; October 31, 2022; and November 7, 2022 Examiner McCoy attempted to call Mustafa Ekermen at (215) 704-0185, but the voice mailbox was full. Accordingly, Examiner McCoy sent Mustafa Ekermen an email at mekermen@gmail.com and

autopikemustafa@gmail.com to contact her immediately regarding providing requested examination materials.

24. Examiner McCoy did not receive a response from Berkal or Mustafa Ekermen.

25. As of the date of this Order, the Department has not received all requested examination materials.

AUTHORITY

26. “The department has the authority to do any of the following: (1) Investigate the business activities of a licensee and person engaged in a business contemplated by this chapter by the following means: (i) Examining the records of the licensee and person. (ii) Accessing the offices and places of business of the licensee and person and the records of the licensee and person. (2) Examine the records, safes and vaults of a person described under subsection (b) (2) for the purpose of discovering violations of this chapter. ... (4) Prescribe the minimum information to be shown in the records of a licensee so as to enable the department to determine compliance with the provisions of this chapter. (5) Promulgate regulations and issue orders, statements of policy and written interpretations as necessary or appropriate for the interpretation or enforcement of this chapter.” 12 Pa. C.S. § 6203(a).

27. Section 6218(a) of the CCC authorizes the Department “upon notice under subsection (b),... to revoke or suspend a license if it discovers a fact or condition that, had it existed or been discovered at the time of filing of any license application, would have warranted disapproval of the application or if it finds that the licensee has engaged in any of the following:...(2) Violated a provision of [the CCC]. (3) Violated an order or regulation issued by

the department under and within the authority of [the CCC]. (4) Failed to comply with a demand, order or regulation of the department lawfully made by the Department under and within the authority of [the CCC]. (5) Refused or refuses to permit the department to make examinations authorized by [the CCC]. (7) Failed to maintain satisfactory records required by [the CCC] or prescribed by the department.” 12 Pa. C.S. § 6218(a)(2,3,4,5, and 7).

28. The Department has the authority to issue enforcement orders including the authority to suspend any license issued pursuant to the CCC if a license has failed to comply with or violated any provision of the CCC. 12 Pa. C.S. § § 6203, 6218.

VIOLATIONS

29. By failing to maintain and present to the Department requested records relating to Berkal’s business activities for purposes of a lawful examination, Berkal is in violation of 12 Pa. C.S. §§ 6203(a), 6204(d), and 6218(a)(5). Further, in failing to comply with repeated demands by the Department lawfully made, Berkal is in violation of 12 Pa. C.S. § 6218 (a)(4).

RELIEF

AND NOW THEREFORE, since Berkal has failed to provide Department requested records relating to Berkal’s business activities and has failed to comply with a demand by the Department, the Office, pursuant to the authority referenced above, hereby issues the following Order:

30. No later than the effective date of this Order, Berkal’s Installment Seller license shall be **SUSPENDED**, meaning that Berkal 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 Office lifts the suspension.

31. The suspension will not be lifted until Berkal provides the requested records necessary for the Department to conduct an examination, an examination has been conducted, any and all violations from the examination have been rectified, and the expenses incurred and assessed in connection with the examination pursuant to Section 6203(d) of the CCC have been paid. The requested records shall be remitted through the Department's Portal at <https://www.portal.dobs.pa.gov>.

32. Nothing in this Order shall prevent the Office from taking any further administrative action as deemed necessary.

33. The effective date of this Order shall be 30 days after the date this Order is signed below.

IT IS SO ORDERED.

Redacted

John Talalai, Director
Compliance Office
Department of Banking and Securities

12/29/2022
(Date)



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DEPARTMENT OF BANKING AND SECURITIES

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing Suspension 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

Berkal LLC
7103 Bristol Pike
Levittown, PA 19057

Dated this 3rd day of January 2023.

Redacted

Timothy Kissinger, Legal Office Administrator
Office of Chief Counsel
FOR: Commonwealth of Pennsylvania
Department of Banking and Securities
17 North Second Street, Suite 1300
Harrisburg, PA 17101
(717) 787-1471