

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

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

v. :

Docket No.: 23 0002 (BNK-C&D)

REAL MCKOY AUTO SALES LLC :

NOTICE TO ANSWER AND REQUEST A HEARING

You, Real McKoy Auto Sales LLC, have the right to a hearing to challenge the attached Suspension Order. See 12 Pa.C.S. § 6218(b) and 2 Pa.C.S. § 504. To request a hearing, you must submit the request in writing to the Docket Clerk within 30 days of the date of this Order. **If the Docket Clerk does not receive your written request, then you will waive your right to a hearing and the Order will be deemed final. Final orders of the Department may be appealed to the Pennsylvania Commonwealth Court. See 12 Pa.C.S. § 6205; 2 Pa.C.S. § 702; and 42 Pa.C.S. § 763.**

The hearing request and all other documents relating to this matter 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 hearing request on the person who signed the attached Order by providing a copy to their counsel indicated below:

Veronica Hoof
Office of Chief Counsel
Department of Banking and Securities
17 N. Second Street, Suite 1300
Harrisburg, PA 17101
RA-BNCHIEFCOUNSEL@pa.gov

Once you file your hearing request, 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.

**COMMONWEALTH OF PENNSYLVANIA
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SECURITIES, COMPLIANCE OFFICE	:	
	:	
v.	:	
	:	
REAL MCKOY AUTO SALES LLC	:	Docket No. : 23 0002 (BNK-ORD)
	:	

SUSPENSION ORDER

Through this Order, the Department of Banking and Securities (“Department”), Compliance Office (“Office”), hereby notifies Real McKoy Auto Sales LLC (“Real McKoy”) 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. Real McKoy is currently licensed as an Installment Seller, license no. 96590.
4. Real McKoy was, at all times material herein, a Pennsylvania Limited Liability Company with a principal place of business at 6350 Baltimore Avenue Lansdown, PA 19050.

BACKGROUND

5. The Department conducted an examination of Real McKoy on 10/28/2020.
6. The Department billed Real McKoy for costs incurred for the examination with invoice 1802555895 in the amount of \$508.00 on November 17, 2020.
7. The Real McKoy failed to pay invoice 1802555895, resulting in the Department sending the first collection notice (“Dunning Notice”) on January 26, 2021, in the amount of \$150.00; invoice 1802579187.
8. The Department sent the second Dunning Notice on February 23, 2021, in the amount of \$150.00; invoice 1802589433.
9. The Department sent the third Dunning Notice in the amount of \$150.00 on March 23, 2021.
10. The total amount owed for examination invoice 1802555895 is \$958.00, which includes the initial examination and penalty fees from January, February, and March.
11. The Department received a partial payment in the amount of \$500.00 on March 26, 2021.
12. Lori Tress, Fiscal Technician, emailed Ervin McKoy III, owner of Real McKoy, and confirmed that check number 413 in the amount of \$500 was received on March 26, 2021, and communicated to him that the company still owed \$8.00 from the original invoice, as well as \$450.00 for three penalty fees.
13. On April 19, 2021, and April 27, 2021, Examiner McCoy emailed Ervin McKoy III advising of the delinquent balance of \$458.00 from Examination Invoice 1802555895.
14. On May 04, 2021, Examiner McCoy emailed Ervin McKoy III inquiring if Ervin McKoy III had been receiving Examiner McCoy’s emails and to advise when a payment in the

amount of \$458.00 would be forthcoming. Ervin McKoy emailed Examiner McCoy advising a check was sent weeks prior. Examiner McCoy emailed Ervin McKoy III advising as of April 30, 2021, the Department does have a record of receiving a payment from Real McKoy in the amount of \$458.00.

15. On May 12, 17, and 24, 2021, Examiner McCoy emailed Ervin McKoy III advising a payment had not been received.

16. On June 2, 7, 15, 22, and 29, 2021, Examiner McCoy emailed Ervin McKoy III advising a payment had not been received. On June 29, 2021, Ervin McKoy III emailed Examiner McCoy advising a payment had just been forwarded via United States Postal Mail. Examiner McCoy emailed Ervin McKoy III to confirm the date on the check as well as the check number.

17. On July 7, 2021, Examiner McCoy emailed Ervin McKoy III advising as of July 2, 2021, a payment had not yet been received. Ervin McKoy III emailed Examiner McCoy stating a payment was forward via United States Postal Mail. Examiner McCoy emailed Ervin McKoy III asking for confirmation on the date of the check as well as the check number.

18. On July 12 and 19, 2021, Examiner McCoy emailed Ervin McKoy III advising a payment had not been received.

19. On August 09, 2021, James Keiser, Chief of Compliance, called Ervin McKoy III at Redacted , the telephone number on record with the Department, and advised him of the delinquent examination invoice in the amount of \$458.00. Ervin McKoy III stated he was not engaging in financing activity and asked James Keiser to email him the information relating to the delinquent examination invoice.

20. On August 10, 2021, James Keiser emailed Ervin McKoy III stating the timeline of events relating to the examination and examination invoices. James Keiser also attached copies of the invoices to his email for reference.

21. On August 16, 2021, James Keiser attempted to call Ervin McKoy III at Redacted and left a voicemail message.

22. On August 18, 2021, James Keiser attempted to call Ervin McKoy III at Redacted but was unsuccessful. James Keiser attempted to call Ervin McKoy III at Redacted and spoke to Ervin McKoy III. Ervin McKoy III acknowledged receiving James Keiser's email and stated he would be sending a check in the amount of \$458.00.

23. On September 8, 2021, James Keiser called Ervin McKoy at Redacted when Ervin McKoy III stated he knew he had to pay the delinquent invoice and asked if the delinquent examination invoices could be sent via email again. James Keiser also advised Ervin McKoy III it was time to renew the Installment Seller license. Ervin McKoy III stated he has not financed a car in over a year and would not be renewing the license. James Keiser sent Ervin McKoy III an email with information relating to the delinquent examination invoices.

24. On October 01, 2021, Real McKoy's license status of license # 59694 was changed to "Terminated Failed to Renew." On November 1, 2021, Real McKoy's license status of license # 59694 was changed to "Terminated Expired."

25. On November 5, 2021, James Keiser called Ervin McKoy III at Redacted when Ervin McKoy III stated he would call James Keiser back as he was in a meeting.

26. On November 9, 2021, James Keiser referred the delinquent examination invoice to Fiscal Support Services to refer the outstanding balance to the Office of Attorney General for collection.

27. On November 16, 2021, Fiscal Support Services referred the delinquent examination invoice to the Office of Attorney General for collection.

28. On November 22, 2021, Ervin McKoy III called James Keiser and stated he wanted to pay the outstanding invoice so he could apply for a new Installment Seller license. James Keiser sent Ervin McKoy III an email containing instructions on where to send the payment for the delinquent examination invoice, as well as instructions on how to apply for a new Installment Seller license through the Department's Portal.

29. On November 23, 2021, Fiscal Support Services advised James Keiser they recently learned the Comptroller returned Real McKoy's \$500.00 payment, making the delinquent balance \$958.00. James Keiser emailed Ervin McKoy III stating the \$500 check from May 2021 was returned to the company and the entire amount owed is \$958.00.

30. On February 18, 2022, Real McKoy applied for and was granted an Installment Seller license, license # 96590.

31. On August 15, 2022, Examiner McCoy attempted to call Ervin McKoy III at but was unable to leave a voicemail as the mailbox was full. Examiner McCoy attempted to call Ervin McKoy III at Redacted and left a voicemail for Mr. McKoy to return Examiner McCoy's call. Examiner McCoy sent an email to Ervin McKoy III at Redacted, the email address on record with the Department, advising Mr. McKoy III the Installment Seller license for Real McKoy will not be renewed until payment is remitted for the delinquent examination invoice. Examiner McCoy received an email from Ervin McKoy III stating the examination invoice was already paid. Examiner McCoy emailed Ervin McKoy III notifying him as of August 15, 2022, there is an outstanding balance of \$958.00 and the Department will not

renew an Installment Seller license application for Real McKoy until the delinquent examination invoice is paid.

32. On August 22, 2022, Examiner McCoy sent an email to Ervin McKoy III at Redacted advising Mr. McKoy III the Installment Seller license for Real McKoy will not be renewed until payment is remitted for the delinquent examination invoice.

33. On September 06, 2022, Examiner McCoy sent an email to Ervin McKoy III at Redacted advising Mr. McKoy III the Installment Seller license for Real McKoy will not be renewed until payment is remitted for the delinquent examination invoice. Ervin McKoy III emailed Examiner McCoy stating the invoice had been paid.

34. On September 19, and October 03, 2022, Examiner McCoy sent an email to Ervin McKoy III at Redacted advising Mr. McKoy III the Installment Seller license for Real McKoy will not be renewed until payment is remitted for the delinquent examination invoice.

35. On October 01, 2022, Real McKoy's Installment Seller license, license # 96590, status was changed to "Terminated Failed to Renew."

36. On October 17, 2022, Examiner McCoy sent an email to Ervin McKoy III at Redacted advising Mr. McKoy III the Installment Seller license for Real McKoy will not be renewed until payment is remitted for the delinquent examination invoice. Ervin McKoy III emailed Examiner McCoy inquiring about the address on the license. Examiner McCoy emailed Ervin McKoy III stating the address associated with the license is 6350 Baltimore Avenue Lansdown, PA 19050 and that the current status of the license is "Terminated/Failed to Renew" as of October 1, 2022. Examiner McCoy also stated if Mr. McKoy III wished to apply for a license reinstatement, it would not be granted until the examination invoice is paid.

37. On October 31, 2022, a license reinstatement for Real McKoy’s license, license # 96590, was approved by the Department in error.

AUTHORITY

38. “The expenses incurred by the Department in connection with an examination or investigation, including a proportionate part of the salary of an examiner or other employee of the Department...may be assessed by the Department upon the particular person examined or investigated.” 12 Pa. C.S. § 6203(d).

39. Pursuant to Section 204 of the Banking and Securities Code of 1933 (“Code”), “[i]f payment [of the assessment or expense] is not made by any institution or licensee within the sixty-day period, 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 or delinquency.” 71 P.S. § 733-204.

40. “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.

41. 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].” 12 Pa. C.S. §§ 6218(a)(2)-(4).

42. 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(a)(5) and 12 Pa. C.S. § 6218.

VIOLATIONS

43. By failing to pay the Examination Invoice, including penalty fees, and failing to comply with a demand by the Department lawfully made under the CCC and the Code, Real McKoy is in violation of Section 6203(d) and Section 6218(2) and (4) of the CCC.

RELIEF

AND NOW THEREFORE, since Real McKoy has failed to comply with a demand by the Department, the Office, pursuant to the authority referenced above, hereby issues the following Order:

44. No later than the effective date of this Order, Real McKoy’s Installment Seller license shall be **SUSPENDED**, meaning that Real McKoy 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.

45. The suspension will not be lifted until Real McKoy pays the outstanding amount of nine hundred fifty-eight dollars (\$958.00) for Examination Invoice 1802555895, as well as a fine in the amount of two thousand dollars (\$2,000.00) for failing to comply with a demand by the Department lawfully made under the CCC and Code. Payment shall be remitted through the Department’s Portal at <https://www.portal.dobs.pa.gov>.

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

47. 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



01/12/2023

(Date)

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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

Real McKoy Auto Sales LLC
6350 Baltimore Avenue
Lansdown, PA 19050

Dated this 19th day of January 2023.

Redacted

Eileen Smith, Legal Assistant
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