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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. 24 0006 (BNK-CAO)

M & S SALES & SERVICE, 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 M & S Sales & Service, Inc. ("M & S") and its officers, employees, and directors. Based on the results of its review, the Office concludes that M & S operated in violation of the Consumer Credit Code ("CCC") as it relates 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 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 Chapter 62 of the CCC, 12 Pa.C.S. § 6201 *et seq.*
2. The Office is primarily responsible for administering and enforcing the CCC for the Department.
3. M & S is licensed as an Installment Seller #0988 under the CCC.
4. M & S is located at 3385 Division Hwy., New Holland, PA 17557.

5. On November 1, 2023, an examiner from the Department commenced a routine examination of M & S at its principal place of business.

Identity Theft Prevention Program

6. Pursuant to 16 CFR Part 681, M & S is required to develop and implement a written identity theft prevention program to identify, prevent, and mitigate identity theft.

7. From in or about March 4, 2020, until December 27, 2023, M & S failed to create an identity theft prevention program as required by 16 CFR Part 681.

Authority of the Department

8. 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).

9. Section 6218(a)(13) of the CCC states that the Department may revoke or suspend any license when the licensee engaged in an illegal practice or conduct. 12 Pa.C.S. § 6218(a)(13).

10. 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.

VIOLATION

11. M & S violated 16 CFR Part 681 when it failed to have a written identity theft prevention program to identify, protect, and mitigate identity theft.

RELIEF

12. Fine. M & S agrees to pay a fine of five hundred dollars (\$500). Payment is due within thirty (30) days of the Effective Date of the Order as defined in paragraph 20 below. The fine payment shall be made through the Department portal at <https://www.portal.dobs.pa.gov>.

13. Corrective Action.

- a. Upon the Effective Date of this Order, M & S shall maintain a written identity theft prevention program at all times.
- b. M & S shall comply with the CCC at all times.

FURTHER PROVISIONS

14. Consent. M & S 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. M & S, 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 any consumer's rights under CCC, 12 Pa.C.S. § 6236.

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 M & S.

18. Binding Nature. The Department, M & S, and all officers, owners, directors, employees, heirs and assigns of M & S 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. M & S 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 M & S in the future regarding all matters not resolved by this Order
- b. M & S 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 format.

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.

WHEREFORE, in consideration of the foregoing, including the recital paragraphs, the Department of Banking and Securities, Compliance Office and M & S Sales & Service, 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, Director
Compliance Office
Pennsylvania Department of Banking and
Securities

Date: 01/30/2024

FORM & S SALES & SERVICE, INC.

Redacted

(Officer Signature)

Dennis M Burkholder

(Print Officer Name)

President

(Title)

Date: 01-25-2024

