

COMMONWEALTH OF MASSACHUSETTS

Suffolk, SS.

COMMISSIONER OF BANKS

MOTOR VEHICLE SALES FINANCE
COMPANY LICENSING and
RETAIL INSTALLMENT SALES
FINANCE COMPANY LICENSING

Docket No. 2020-006

In the Matter of)	
RALPH CERUNDOLO)	
d/b/a RECREATIONAL FINANCE COMPANY)	
Beverly, Massachusetts)	CONSENT ORDER
)	
Motor Vehicle Sales Finance Company License No. MV0044)	
Retail Installment Sales)	
Finance Company License No. RI0538)	

WHEREAS, RALPH CERUNDOLO d/b/a RECREATIONAL FINANCE COMPANY, Beverly, Massachusetts (Recreational Finance or the Company), a licensed motor vehicle sales finance company under Massachusetts General Laws chapter 255B, section 2 and 209 CMR 20.00 *et seq.* and a licensed retail installment sales and services finance company under Massachusetts General Laws chapter 255D, section 2 and 209 CMR 20.00 *et seq.* has entered into a STIPULATION AND CONSENT TO THE ISSUANCE OF A CONSENT ORDER (Consent Agreement) with representatives of the Division of Banks (Division) dated September 2, 2020, whereby, solely for the purpose of settling this matter, and without admitting any allegations or implications of fact or the existence of any violation of state or federal laws and regulations governing the conduct and operation of a motor vehicle sales finance company or a retail

installment sales finance company, Recreational Finance agrees to the issuance of this CONSENT ORDER (Consent Order) by the Commissioner of Banks (Commissioner);

WHEREAS, on October 8, 2014 as a result of the findings from an examination conducted by the Division as of December 3, 2012 and continuing through July 17, 2013, Recreational Finance and the Commissioner entered into a Stipulation and Consent to the Issuance of a Consent Order whereby the Company agreed to the issuance of a Consent Order (2014 Consent Order);

WHEREAS, an examination of Recreational Finance was conducted pursuant to General Laws chapter 255B, section 3 and chapter 255D, section 3 as of March 5, 2018 to assess the Company's level of compliance with applicable Massachusetts and federal statutes and regulations governing the conduct of those engaged in the business of a motor vehicle sales finance company and a retail installment sales and services finance company in the Commonwealth, as well as to assess the Company's compliance with the 2014 Consent Order;

WHEREAS, the Division determined that the Company failed to fully comply with the provisions of the 2014 Consent Order;

WHEREAS, the Report of Examination (the Report) issued pursuant to the Division's examination of Recreational Finance as of March 5, 2018 alleged substantial non-compliance with applicable state and federal statutes, rules, and regulations governing the conduct of those engaged in the business of a motor vehicle sales finance company and a retail installment sales finance company in Massachusetts;

WHEREAS, by letter dated May 14, 2020, Recreational Finance has indicated its intention to cease conducting motor vehicle sales finance and retail installment sales finance activities in

Massachusetts; and has stated it will surrender its Massachusetts motor vehicle sales finance company and retail installment sales finance company licenses;

WHEREAS, the parties now seek to resolve by mutual agreement, the matters identified in the Report; and

WHEREAS, by mutual agreement of the Company and the Division, the 2014 Consent Order is hereby superseded and replaced by this Consent Order.

ORDER

NOW COME the parties in the above-captioned matter, the Division and Recreational Finance, and stipulate and agree as follows:

1. Recreational Finance shall immediately cease from engaging in the business of a motor vehicle sales finance company and a retail installment sales finance company, as those terms are defined in section 1 of M.G.L. chapter 255B and section 1 of M.G.L. chapter 255D.

2. Recreational Finance shall refrain from requesting renewal of its Massachusetts motor vehicle sales finance company and retail installment sales finance company licenses for 2021. It is understood that, while such licenses will remain active until they expire on January 1, 2021, Recreational Finance shall nevertheless refrain from purchasing additional motor vehicle retail installment contracts and retail installment sales agreements during the remainder of 2020, in compliance with Paragraph 1 of this Consent Order.

3. Within ninety (90) days from the execution of this Consent Order, Recreational Finance shall complete a review of all Massachusetts contracts and agreements acquired since

December 3, 2012, to identify all contracts or agreements with GAP coverage to determine if the inclusion of the GAP premium as a finance charge would result in an effective APR that exceeded the 21% maximum allowable APR. For all contracts and agreements that exceed the maximum allowable rate, the Company shall issue refunds, or apply credits to affected consumer's accounts for the full amount of the GAP premium.

4. Within ninety (90) days from the execution of this Consent Order, Recreational Finance shall complete a portfolio review of all Massachusetts repossession and paid accounts, dating back to March 5, 2014, to determine which such accounts were eligible for a rebate of unearned ancillary product premiums, but that did not receive the appropriate refund. The Company shall make a credit adjustment on affected accounts, or issue refund checks to impacted borrowers, as appropriate.

5. Within ninety (90) days from the execution of this Consent Order, Recreational Finance shall complete a portfolio review of all Massachusetts repossession and paid accounts, dating back to March 5, 2014, to identify accounts that were assessed late fees and/or repossession expenses, and shall determine the total amount of interest accrued on each account that was attributable to late fees and/or repossession costs and included in the "interest balance." The Company shall reimburse affected borrowers for the full amount of the interest that was assessed on the late fees and/or repossession expenses by making a credit adjustment on affected accounts, or issuing refund checks to impacted borrowers, as appropriate.

6. Within ninety (90) days from the execution of this Consent Order, Recreational Finance shall complete a portfolio review of all Massachusetts accounts, dating back to December 3, 2012, to determine which accounts were assessed repossession fees when the collateral was not

repossessed. The Company shall make a credit adjustment on affected accounts, or issue refund checks to impacted borrowers, as appropriate.

7. Within ninety (90) days from the execution of this Consent Order, Recreational Finance shall complete a portfolio review of all Massachusetts accounts, dating back to March 5, 2014, to determine which accounts had been assessed interest or late fees after repossession or total loss. The Company shall reimburse the consumer for the full amount of interest or late fees collected following the date of repossession or total loss.

8. Within ninety (90) days from the execution of this Consent Order, Recreational Finance shall submit to the Division documentation of the portfolio reviews and consumer reimbursements issued pursuant to this Consent Order in accordance with instructions set forth in the Report.

- (a) Recreational Finance shall certify that it has made a reasonable good faith effort to identify the current address of all consumers who are entitled to refund checks. In all cases where consumers cannot be located, the Company shall comply with Massachusetts General Laws chapter 200A regarding the disposition of unclaimed property.

9. It is understood that if Recreational Finance continues to be a “holder” of the motor vehicle retail installment contracts or retail installment contracts, as defined under section 1 of M.G.L. chapters 255B and 255D, it remains subject to applicable consumer protection provisions of chapters 255B and 255D. It is also understood that the Commissioner has the power to conduct

investigations and enforce the relevant statutory requirements pursuant to M.G.L. c. 255B, section 6 and M.G.L. c. 255D, section 6.

10. Nothing in this Consent Order shall be construed as permitting Recreational Finance to violate any law, rule, regulation, or regulatory bulletin to which the Company is subject.

11. This Consent Order will become effective immediately upon the date of its issuance.

12. The provisions of this Consent Order are binding upon Recreational Finance and its owner and officers and/or directors, and their successors or assigns.

13. The provisions of this Consent Order will remain effective and enforceable except to the extent that, and until such time as, any provisions of this Consent Order will have been modified, terminated, suspended, or set aside by the Commissioner or upon an Consent Order of a court of competent jurisdiction.

14. This Consent Order and the Consent Agreement are the complete documents representing the resolution of this matter and shall supersede and replace all previous agreements between the Division and Recreational Finance. There are no other agreements in force between the Division and Recreational Finance.

BY ORDER AND DIRECTION OF THE COMMISSIONER OF BANKS:

Dated at Boston, Massachusetts, this 2nd day of September, 2020.

By:
Mary L. Gallagher
Commissioner of Banks
Commonwealth of Massachusetts