

STATE OF NEW JERSEY  
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:	)	<b>CONSENT ORDER</b>
Payless Auto Wholesale Auto, Inc.,	)	AR17-1300519
Reference No. 1300519	)	AR18-1300519

TO: Payless Auto Wholesale, Inc.  
601 River Drive  
Garfield, NJ 07026

THIS MATTER, having been opened by the Office of Consumer Finance within the Division of Banking of the Department of Banking and Insurance ("Department"), State of New Jersey, upon information that Payless Auto Wholesale Auto, Inc. ("Respondent") licensed as a motor vehicle installment seller pursuant to N.J.S.A. 17:16C-1 to -103 ("Act"), may have violated certain provisions of the Act and other applicable law; and

WHEREAS, pursuant to N.J.S.A. 17:1C-33, the Legislature found and declared that the Division of Banking has a statutory obligation to protect the interests of New Jersey consumers and to oversee the financial industry that it licenses, and in order to maintain adequate oversight and performance of its regulatory responsibilities, it is necessary to establish a dedicated funding mechanism; and

WHEREAS, pursuant to N.J.S.A. 17:1C-35a, on or before August 15<sup>th</sup> in each year, the Director of the Division of Budget and Accounting shall ascertain and certify to the Commissioner of the

Department ("Commissioner") the total amount of expenses incurred with respect to the special functions of the Division of Banking relative to financial regulation in the preceding fiscal year; and

WHEREAS, pursuant to N.J.S.A. 17:1C-35(b)(1), no later than September 1<sup>st</sup> of each year, the Commissioner shall issue the assessment for the amount of expenses incurred; and

WHEREAS, pursuant to N.J.S.A. 17:1C-35(b)(2) and -46, assessments shall be distributed among all regulated entities in accordance with regulations promulgated by the Commissioner; and

WHEREAS, pursuant to N.J.A.C. 3:1-7.6(a), individuals or entities licensed by the Department as motor vehicle installment sellers are required to file an annual report for the preceding year on or before April 1 of each year; and

WHEREAS, as a matter of administrative accommodation, the Department requires annual reports to be filed by May 1 of each year; and

WHEREAS, pursuant to N.J.S.A. 17:16C-10 and -19, and N.J.A.C. 3:1-7.6, the Commissioner is authorized to take action on the license of a licensee who fails to file an annual report, and impose a fine of not more than \$100 per day for each day the annual report is not filed; and

IT APPEARING that, by letter dated January 31, 2017, the Department reminded Respondent that it was required to file its 2016 annual report by May 1, 2017; and

IT FURTHER APPEARING that the Department sent five e-mail notices to Respondent, dated February 17, March 21, April 6, April 13, and April 24, 2017, advising that the 2016 annual report had not yet been filed, and that it must be submitted by May 1, 2017 to avoid liability for penalties for late filing; and

IT FURTHER APPEARING that Respondent failed to file an annual report by May 1, 2017; and

IT FURTHER APPEARING that the Department sent an e-mail notice to Respondent dated May 2, 2017, advising that the 2016 annual report was not filed by May 1, and that it must be submitted immediately to avoid liability for penalties; and

IT FURTHER APPEARING that, on June 7, 2017, the Commissioner issued a Notice of Violation to Respondent No. AR17-1300519 ("2017 Notice of Violation"); and

IT FURTHER APPEARING that, on June 29, 2017, Respondent filed the 2016 annual report; and

IT FURTHER APPEARING that, on June 30, 2017, Respondent submitted a response to the 2017 Notice of Violation and requested a hearing; and

IT FURTHER APPEARING that the matter arising out of the 2017 Notice of Violation was transmitted to the Office of Administrative Law ("OAL"); and

IT APPEARING that, by letter dated January 31, 2018, the Department reminded Respondent that it was required to file its 2017 annual report by May 1, 2018; and

IT FURTHER APPEARING that the Department sent five e-mail notices to Respondent, dated February 21, March 20, April 3, April 16, and April 23, 2018, advising that the 2017 annual report had not yet been filed, and that it must be submitted by May 1, 2018 to avoid liability for penalties for late filing; and

IT FURTHER APPEARING that Respondent failed to file an annual report by May 1, 2018; and

IT FURTHER APPEARING that, on June 8, 2018, the Commissioner issued a Notice of Violation to Respondent No. AR17-1300519 ("2018 Notice of Violation"); and

IT FURTHER APPEARING that, on June 19, 2018, Respondent filed the 2017 annual report; and

IT FURTHER APPEARING that, on June 25, 2018, Respondent submitted a response to the 2018 Notice of Violation and requested a hearing; and

IT FURTHER APPEARING that the matter arising out of the 2018 Notice of Violation was transmitted to the OAL; and

IT FURTHER APPEARING that the matters pending in OAL arising out of the 2017 Notice of Violation and 2018 Notice of Violation were consolidated before Kimberly Moss, ALJ; and

IT FURTHER APPEARING that the consolidated matter was scheduled for a hearing before Kimberly Moss, ALJ, on February 20, 2020; and

IT FURTHER APPEARING that on February 20, 2020, the parties reached an amicable resolution of the consolidated matter; and

IT FURTHER APPEARING that Respondent acknowledges that it has been provided with notice that it would have had the opportunity for a plenary hearing before the Office of Administrative Law in connection with the 2017 Notice of Violation and the 2018 Notice of Violation, and that it knowingly and voluntarily waives its right to a plenary hearing in this consolidated matter; and

IT FURTHER APPEARING that this matter should be resolved upon the consent of the parties without resort to a formal hearing; and

IT FURTHER APPEARING, that good cause exists to enter into this Consent Order; and

**NOW, THEREFORE, IT IS on this 13 day of May , 2020,**

ORDERED AND AGREED, that Respondent admits and accepts responsibility for the actions described above in violation of N.J.S.A. 17:16C-10 and -19, and N.J.A.C. 3:1-7.6; and

IT IS FURTHER ORDERED AND AGREED that, pursuant to N.J.A.C. 3:1-7.6, Respondent shall pay an administrative penalty in the

amount of \$7,500.00 for the two violations admitted to herein;  
and

IT IS FURTHER ORDERED AND AGREED that Respondent shall pay the total settlement amount of \$7,500.00 on the following terms:

1. Respondent shall make an initial payment in the amount of \$2,500.00, by certified check, cashier's check or money order made payable to the "**Treasurer, State of New Jersey,**" due and payable immediately upon the execution of this Consent Order by Respondent.

2. The initial payment, together with a signed copy of this Consent Order, shall be sent to:


Garen Gazaryan, Deputy Attorney General  
State of New Jersey, Division of Law  
Banking and Insurance Section  
R.J. Hughes Justice Complex  
25 Market Street, Second Floor, West Wing  
P.O. Box 117  
Trenton, New Jersey 08625

3. Respondent shall make two subsequent monthly payments in the amount of \$2,500.00, by certified check, cashier's check or money order made payable to the "**Treasurer, State of New Jersey,**" due and payable on the first of each month, specifically, on April 1, 2020, and on May 1, 2020.


4. The monthly payments described in the preceding Paragraph 3 shall be sent to:

Rose V. McGill  
Collections Department  
New Jersey Department of Banking and Insurance  
20 West State Street, 10th Floor  
P.O. Box 325  
Trenton, New Jersey 08625

IT IS FURTHER ORDERED AND AGREED, that the provisions of this Consent Order represent a final agency decision and constitute final resolution of the violations contained in Order No. AR17-1300519 and in Order No. AR18-1300519.


  
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Marlene Caride  
Commissioner

**Consented to as to Form, Content and Entry:**

  
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Payless Auto Wholesale Auto, Inc.  
By: Leslie K. Ditchfield-Agboh

Date: 2/24/20

GURBIR S. GREWAL  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for the New Jersey  
Department of Banking and Insurance

  
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By: Garen Gazaryan  
Deputy Attorney General

Date: 3/5/20