

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

CANDOR, INC d/b/a Candor Auto Sales; and
ELOISE ECKERT.;

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FINAL ORDER

TO: Candor, Inc
1745 Route 37 East
Toms River, NJ 08753

Eloise Eckert
3 Gilford Avenue
Toms River, NJ 08753

THIS MATTER having been opened by the Commissioner of the New Jersey Department of Banking and Insurance (“Commissioner”), upon information that Candor, Inc. d/b/a Candor Auto Sales (“Candor”) and Eloise Eckert (collectively, “Respondents”), may have violated various provisions of the Retail Installment Sales Act, N.J.S.A. 17:16C-1 to -60 (the “Act” or “RISA”); and

WHEREAS, Candor is a New Jersey Motor Vehicle Installment Seller Licensee domiciled and doing business at 1745 Route 37 East, Toms River, New Jersey 08753; and

WHEREAS, Eloise Eckert is the President and owner of Candor; and

WHEREAS, Respondents are subject to the provisions of the Act; and

WHEREAS, Respondents sell new/used vehicles utilizing installment sales contracts in its business operations; and

WHEREAS, Respondents first obtained a license under RISA in 2005; and

WHEREAS, Respondents' license lapsed from July 1, 2017 until July 17, 2018; and

WHEREAS, Respondent Eckert knew of the lapsed license; and

WHEREAS, Respondent Candor conducted twelve (12) separate transactions subject to the Act for the period of July 1, 2017 through July 17, 2018 without a license; and

WHEREAS, Respondent Eckert knew of and/or directed the twelve transactions Respondent Candor conducted without a license; and

WHEREAS, pursuant to N.J.S.A. 17:16C-2, no person shall engage in the business of a motor vehicle installment seller without obtaining a license under RISA from the Commissioner; and

WHEREAS, pursuant to N.J.S.A. 17:16C-55, any person, director, officer, employee, agent or representative thereof who or which engages in business as a motor vehicle installment seller without having first obtained a license under RISA as required by N.J.S.A. 17:16C-2 shall be liable for a penalty of not more than \$1,000.00 for each violation; and

WHEREAS, pursuant to N.J.S.A. 17:16C-55, each motor vehicle sales contract entered into by Respondents without a license under RISA shall constitute a separate violation; and

WHEREAS, the Commissioner issued Order to Show Cause OCF22-05 on March 10, 2022, alleging violations of the Act by Respondents as follows:

COUNT 1

IT APPEARING that Candor is a New Jersey incorporated company doing business out of 1745 Route 37 East Toms River, NJ 08753 ; and

IT APPEARING that Eloise Eckert is the owner and principal of Candor; and

IT FURTHER APPEARING that Respondents operate a motor vehicle dealership at 1745 Route 37 East Toms River, New Jersey selling used and/or new automobiles to the general public; and

IT FURTHER APPEARING that Respondents first obtained a license under RISA on or about November 9, 2005; and

IT FURTHER APPEARING that Respondents license under RISA lapsed from July 1, 2017 until July 17, 2017 (“Lapsed Period”); and

IT FURTHER APPEARING that in June 2019, the Office of Consumer Finance of the Department of Banking and Insurance (“OCF”) received an enforcement referral alleging Respondents’ unlicensed RISA activity by Respondents; and

IT FURTHER APPEARING that on or about June 27, 2019, an OCF investigator issued a demand for information concerning motor vehicle installment sales contracts entered into by Respondents during the Lapsed Period; and

IT FURTHER APPEARING that on or about August 1, 2019, OCF received a response from Respondents with copies of 12 contracts entered into by Respondents during the Lapsed Period; and

IT FURTHER APPEARING that Candor is a small automobile sales dealership, Eloise Eckert knew of and/or directed the sales activity of Candor alleged herein; and

IT FURTHER APPEARING that by entering into motor vehicle installment contracts without a license under RISA, Respondents violated N.J.S.A. 17:16C-55; and

IT FURTHER APPEARING that each motor vehicle installment contract entered into by Respondents without a license under RISA constitutes a separate violation of the Act; and

WHEREAS, the Order to Show Cause contained a typographical error where it stated the Lapsed Period was July 1, 2017 until July 17, 2017, where the correct dates were July 1, 2017 until July 17, 2018, but the Order to Show Cause correctly charges Respondents with entering into 12 contracts while unlicensed; and

WHEREAS, as set forth in the certification of service of Nicholas Kant, Assistant Section Chief/Deputy Attorney General, attached hereto as Exhibit 1, Respondents were given notice of the aforesaid charges and an opportunity to contest the charges at a hearing pursuant to the Order

to Show Cause, which was duly served upon Respondents by certified and regular mail to their last known mailing addresses; and

WHEREAS, Respondents failed to provide written responses to the charges contained in the Order to Show Cause, and therefore Respondents have waived their right to a hearing to contest these charges and the charges are deemed admitted; and

WHEREAS, the Commissioner has reviewed the civil penalty factors under Kimmelman v. Henkels & McCoy, Inc., 108 N.J. 123, 137-139 (1987), and finds that Respondents showed bad faith by engaging in business as a motor vehicle installer seller without having first obtained a license, and entering into 12 motor vehicle sales contracts without a license; and

NOW, THEREFORE, IT IS on this 29 day of September 2023,

ORDERED, that the charges contained in Count One of the Order to Show Cause are deemed admitted by Respondents; and

IT IS FURTHER ORDERED that pursuant to N.J.S.A. 17:16C-55 Respondents shall be jointly and severally liable for not more than \$1,000 for each violation of the Act; and

IT IS FURTHER ORDERED that, based on the Kimmelman analysis above, Respondents are assessed and shall pay a civil penalty of \$12,000.00, jointly and severally, to the Commissioner for twelve violations of the Act, pursuant to N.J.S.A. 17:11C-70(b)(4); and

IT IS FURTHER ORDERED, that Respondents shall remit the payment of \$12,000.00 to the Commissioner of Banking and Insurance, State of New Jersey, P.O. Box 040, Trenton, New Jersey 08625, Attention: Paulette Sibblies-Flagg, OCF Enforcement Unit, by certified check, cashier's check or money order made payable to the "State of New Jersey, General Treasury," within ten days from the date of service of this Order; and

IT IS FURTHER ORDERED, that in the event full payment of the penalty and costs is not made, the Commissioner may exercise any and all remedies available by law, including but not limited to recovery of any unpaid penalties, in accordance with the Penalty Enforcement Law, N.J.S.A. 2A:58-10 to -12; and

IT IS FURTHER ORDERED, that the civil penalty in this Final Order is imposed pursuant to the police powers of the State of New Jersey for the enforcement of the law and the protection of the public health, safety and welfare, and is not intended to constitute debts which may be limited or discharged in a bankruptcy proceeding; and

IT IS FURTHER ORDERED, that the provisions of this Final Order represent a final agency decision and constitute a final resolution of the allegations contained in the Order to Show Cause.

A handwritten signature in black ink, reading "Justin Zimmerman", is positioned above a horizontal line. The signature is written in a cursive, flowing style.

Justin Zimmerman
Acting Commissioner