

COMMISSIONER OF BANKING

STATE OF WEST VIRGINIA

In the Matter of:

REQUEST FOR AUTHORIZATION TO
ENGAGE IN SUBSIDIARY BUSINESS BY
A SUPERVISED LENDER
filed on behalf of
KENTUCKY FINANCE COMPANY, INC.
(Re: Auto Club Memberships)

DECISION ON AUTHORIZATION REQUEST

On April 18, 1994 Kentucky Finance Company, Inc., by letter of its parent company, Associates Corporation of North America, requested of the West Virginia Commissioner of Banking a DECISION ON AUTHORIZATION pursuant to W. Va. Code § 46A-4-110 in regards to the marketing and selling of an auto club membership plan of Continental Car Club, Inc. in the same office, room, or place of business in which the above-named supervised lender licensee conducts the business of making supervised loans.

Upon review of this request, the Commissioner of Banking has determined that a similar product has previously been given tentative approval and is presently offered at Associates' supervised lender offices in West Virginia; that the nature and character of marketing and selling such product will not per se facilitate evasions or contradictions of Article 4, Chapter 46A of the West Virginia Code or the rules issued thereunder; that no complaints have yet been filed in connection with the sale of such types of products by other supervised lenders; and that the marketing and selling of auto club memberships together with supervised loans will not be

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detrimental to the consumers of this state-- Provided certain consumer rights are afforded as set forth herein.

Based upon these determinations and findings the Commissioner of Banking IS OF THE OPINION that a supervised lender licensee may, upon written request and review, be granted by the Commissioner of Banking the authority to conduct the business of making supervised loans in the same office, room, or place of business in which auto club memberships are marketed and sold. Any grant of such authority will be made in the discretion of the Commissioner of Banking and shall be subject to the following limitations and restrictions:

It shall be required of any supervised lender wishing to avail itself of this authority to first secure written authorization from the Commissioner of Banking for each of its licensees before that licensee engages in the business of making loans in the same office, room, or place of business where auto club memberships are to be marketed and sold. Requests for this type of authorization will be considered on a case-by-case basis. Further, any supervised lender licensee which, prior to receiving written authorization from the Commissioner of Banking, conducts the business of making loans in locations where auto club memberships are being marketed or sold may have its supervised lender license revoked.

The decision to grant this type of authority is tempered with concern for the economic well-being of the consumer and conformity with the restrictions placed on supervised lenders by W. Va. Code § 46A-4-110 and on additional charges to consumer loans by W. Va. Code § 46A-3-109. To ensure compliance and prevent economic coercion and unlawful tie-in sales the following operational guidelines must be adopted and adhered to by the supervised lender licensee:

- (1) The purchase of an auto club membership may not be required as a condition to the making of any loan or extension of credit by the lender licensee;
- (2) No loan application form of the licensee may be preprinted to offer or provide financing for the purchase of auto club memberships. Any agreement to purchase the auto club membership shall be separate from any loan agreement, and must provide a disclosure which is either signed or initialed by the consumer acknowledging that he/she understands

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that the purchase of the auto club membership was in no way a condition or requirement for obtaining any loan or extension of credit from the licensee.

(3) Where the purchase of the auto club membership is financed by the licensee as part of another loan, the charge for purchasing the product shall not exceed more than fifteen percent (15%) of the total amount financed;

(4) Where the purchase of the auto club membership is financed by the licensee as a separate transaction, a supervised lender is hereby specifically authorized to provided financing so long as the finance charge for the loan does not exceed that allowed generally to retail merchants (i.e. presently 18% APR).

Any deviation from the above-stated guidelines will result in the revocation of the written authorization of a particular supervised lender licensee to engage in the business of making loans in the same office, room or place of business in which auto club memberships were marketed or sold. Subject to the terms and conditions set forth herein: AUTHORIZATION IS HEREBY GRANTED.

SGB

Sharon G. Bias
Commissioner of Banking

Date: 5/16/94