

State of New Hampshire

In re the Matter of:

Docket # 08-184

State of New Hampshire
Banking Department

v.

Consent Order

David J. Albert (d/b/a Priceline Auto 1,
Priceline Auto Sales & Service,
PriceLine Auto Sales – 2, and Priceline 3
Auto Sales & Service),
Now Known As
Price Automotive Service & Sales

Respondent

CONSENT ORDER

1. Pursuant to authority granted under RSA 361-A (including RSA 361-A:1, XII, RSA 361-A:2, I, RSA 361-A:5, V & VI, and RSA 361-A:11,VI) and RSA 541-A, the State of New Hampshire Banking Department (“the Department”) finds and orders as follows:

Respondent

2. David J. Albert (“Respondent Albert”) is a sole proprietor operating under the trade names Priceline Auto 1, Priceline Auto Sales & Service; PriceLine Auto Sales – 2; and Priceline 3 Auto Sales & Service, with a principal office location at 290 North State Street, Concord, NH 03301 and branch offices at 126 Manchester Street, Concord, NH 03301 and 349 Dover Road, Chichester, NH 03258. Respondent Albert is a “Person.” RSA 361-A:1, VIII.
3. Respondent Albert holds a retail seller license issued by the Department, pursuant to RSA 361-A:2, I, for a single branch located at 290 North State Street, Concord, NH 03301.

Facts

4. On October 5, 2007, the Department received information alleging that Respondent Albert was engaged in unlicensed motor vehicle retail seller activity within the State of New Hampshire.
5. On May 15, 2008, the Department contacted Respondent Albert and informed him of the Department's requirement for licensure as a motor vehicle retail seller.
6. Respondent subsequently applied for and received licensure on December 4, 2008 under the name "David J. Albert d/b/a 'PriceLine Auto Sales' and 'Priceline Auto Sales – 2'" for a principal office located at 290 North State Street, Concord, NH.
7. On December 8, 2008, the Department sent a letter via U.S. Certified Mail return receipt requested to Respondent Albert at his principal office address, informing him that an additional branch location at 126 Manchester Street, Concord, NH, also needed to be licensed. Respondent Albert received this letter on December 10, 2008.
8. Respondent failed to apply for licensure for the 126 Manchester Street branch.
9. On October 5, 2009, the Department sent a letter via U.S. Certified Mail Return Receipt requested to Respondent Albert at his principal office address regarding the 126 Manchester Street branch. Respondent Albert received this letter on October 7, 2009.
10. Respondent failed to apply for licensure for the 126 Manchester Street branch.
11. The Department discovered that Respondent was now operating a third branch location at 349 Dover Road, Chichester, NH.
12. The names of each of the three branches are displayed via signage at each site as follows:

<u>Branch Address</u>	<u>Name on Signage</u>
290 North State St., Concord	PRICELINE Auto Sales & Service, PRICELINE AUTO 1
126 Manchester St., Concord	PRICELINE AUTO SALES 2

13. On January 8, 2011, the Department sent a letter via U.S. First Class Mail to Respondent Albert at his principal office address, informing him that the 126 Manchester Street branch, along with the additional branch located at 349 Dover Road, Chichester, NH, needed to be licensed as a retail seller.
14. Respondent Albert contacted the Department by telephone after receiving the January 8, 2011 letter. During this conversation, the Department clarified the licensure requirements and Respondent Albert was informed that none of the names of his branches corresponded with the names licensed by the Department.
15. On January 24, 2011, the Department sent a letter via U.S. First Class Mail to Respondent Albert at his principal office address, confirming that Respondent's signage did not match the names in the Department's licensing database.
16. On March 22, 2011, Respondent Albert submitted to the Department applications for licensure of the two (2) unlicensed branches and a name change for the principal office.
17. On March 22, 2011, the Department approved the name change for Respondent's principal office.
18. The Department is currently holding approval of the branch office applications pending execution of this Consent Order.
19. Mitigating facts in this matter include but are not limited to:
 - a. Respondents have cooperated with requests of the Department during its investigation;
 - b. To date, no consumer complaints have been filed with the Department against Respondent; and
 - c. No evidence of consumer harm has been presented to the Department.

Violations of Law and Penalties

20. Any unlicensed retail seller transactions conducted by Respondent may be assessed an administrative fine not to exceed \$2,500.00 as to each transaction. RSA 361-A:11, VI.

Respondent's Consent

21. Respondent does not deny the facts, statements or violations contained herein.

22. Respondent hereby acknowledges, understands, and agrees that it has the right to notice, hearing, and/or a civil action and hereby waives said rights.

Order

23. Whereas, pursuant to RSA 361-A:5, VI this Consent Order being necessary, appropriate, in the public interest and consistent with the intent and purposes of New Hampshire banking laws, the Department hereby orders as follows:

a. Respondent shall immediately Cease and Desist from engaging in motor vehicle retail seller activity without the appropriate licensure. RSA 361-A:2, I;

b. Respondent shall pay to the Department \$1,000.00 in administrative fines. RSA 361-A:6-a, VI; RSA 361-A:11.

24. All payments shall be made by bank check or other guaranteed funds, payable to "State of New Hampshire". All payments shall be made contemporaneously with Respondent's execution of this Consent Order.

25. This Consent Order may be revoked and the Department may pursue any and all remedies available under law, if the Department later finds that Respondent knowingly or willfully withheld information used and relied upon in this Consent Order. RSA 361-A:5, IV.

26. This Consent Order is binding on all heirs, assigns, and/or successors in interest. RSA 361-A:5.

27. This Consent Order shall become effective upon the date it is signed by the Commissioner.

28. Once this Consent Order is effective, the Department agrees not to seek further reimbursement, refunds, penalties, fines, costs, or fees regarding the facts, allegations, or findings of violations contained herein.

WHEREFORE, based on the foregoing, we have set our hands to this Consent Order, with it taking effect upon the signature of Robert A. Fleury, Deputy Bank Commissioner.

Recommended this 2nd day of May, 2011 by

/s/

Raef J. Granger, Hearings Examiner, Banking Department

Executed this 10th day of May, 2011 by

/s/

David J. Albert

SO ORDERED,

Entered this 10th day of May, 2011.

/s/

Robert A. Fleury,
Deputy Bank Commissioner
New Hampshire Banking Department