

1 In re the Matter of: ) Case No.: 08-207  
 )  
 2 State of New Hampshire Banking )  
 )  
 3 Department, )  
 )  
 4 Petitioner, ) Order to Show Cause and Cease and  
 ) Desist  
 5 and )  
 )  
 6 Capital City Automotive, LLC, Paul J. )  
 )  
 7 Morandi, and Frank M. Fowle, )  
 )  
 8 Respondents )

9 NOTICE OF ORDER TO SHOW CAUSE AND CEASE AND DESIST ("ORDER")

10 1. This Order commences an adjudicative proceeding under the provisions  
 11 of RSA Chapter 361-A (including RSA 361-A:3,I, RSA 361-A:3,I-a, RSA 361-A:3-  
 12 a,I and RSA 361-A:5,IV) and RSA Chapter 541-A.

13 2. The Commissioner may impose administrative fines of up to a maximum of  
 14 \$2,500.00 for each violation. RSA 361-A:11, VII and VIII.

15 RESPONDENTS

16 3. Capital City Automotive, LLC ("Respondent Capital City Automotive") is  
 17 a limited liability company registered with the New Hampshire Secretary of  
 18 State on April 17, 2006 with a principal office location of 88 Manchester  
 19 Street in Concord, New Hampshire 03301. Respondent is a Person (RSA 361-  
 20 A:1,VIII).

21 4. Respondent Capital City Automotive was validly licensed as a Retail  
 22 Seller with the New Hampshire Banking Department ("Department") from June  
 23 28, 2008 with Paul M. Morandi as owner until Paul J. Morandi transferred  
 24 ownership of Respondent Capital City Automotive to Frank M. Fowle on January  
 25 23, 2009.

1 5. Paul J. Morandi ("Respondent Morandi") was the 100% owner and Manager  
2 of Respondent Capital City Automotive until January 23, 2009. Respondent  
3 Morandi is a Principal (RSA 361-A:1,VIII-a), a Person (RSA 361-A:1,VIII) and  
4 a Control person (RSA 361-A:1,III-b).

5 6. Frank M. Fowle ("Respondent Fowle") is the current 100% owner and  
6 Managing Member of Respondent Capital City Automotive. Respondent Fowle is  
7 a Direct Owner (RSA 361-A:1,III-d), a Principal (RSA 361-A:1,VIII-a), a  
8 Person (RSA 361-A:1,VIII) and a Control person (RSA 361-A:1,III-b).

9 7. The above named Respondents are hereby collectively known as  
10 "Respondents".

11 **RIGHT TO REQUEST A HEARING**

12 8. Respondents have a right to request a hearing on this Order. A hearing  
13 shall be scheduled not later than ten (10) days after the Commissioner  
14 receives the Respondents' written request for a hearing. Respondents may  
15 request a hearing and waive the ten (10) day hearing requirement. The  
16 hearing shall comply with RSA Chapter 541-A, RSA 361-A:3 and RSA 361-A:3-a.

17 9. If any person fails to request a hearing within thirty (30) days of  
18 receiving this Order, then such person shall be deemed in default, and the  
19 Order shall, on the thirty-first (31<sup>st</sup>) day, become permanent, all  
20 allegations may be deemed true, and shall remain in full force and effect  
21 until modified or vacated by the Commissioner for good cause shown. RSA 361-  
22 A:3 and RSA 361-A:3-a

23 10. A default may result in administrative fines as described in Paragraph  
24 2 above.

STATEMENT OF ALLEGATIONS

1  
2 11. On January 23, 2009, Respondent Morandi transferred ownership in  
3 Respondent Capital City Automotive to Respondent Fowle, and notified the  
4 Department of the transfer on January 27, 2009.

5 12. On January 27, 2009, Respondent Fowle submitted his Individual  
6 Disclosure Form to the Department with authorization for a background check.  
7 After doing the necessary due diligence, the Department had questions  
8 regarding Respondent Fowle's application.

9 13. On February 2, 2009, the Department requested details from Respondent  
10 Fowle and received a response on February 6, 2009.

11 14. On February 24, 2009 the Department submitted correspondence to  
12 Respondent Fowle requesting additional details. With no response, the  
13 Department sent another request on July 7, 2009.

14 15. On September 21, 2009, the Department received a change in contact  
15 information listing new owners as both Respondent Fowle and Anthony Colman.  
16 The change in contact information form was signed September 19, 2009.

17 16. On October 2, 2009, the Department sent a request for information  
18 regarding the change in ownership to Respondent Morandi.

19 17. On December 14, 2009, the Department received correspondence from  
20 Respondent Fowle in response to the Department's February 24, 2009 request  
21 for information. Respondent Fowle's response was insufficient.

22 18. Respondents Morandi and Capital City Automotive violated RSA 361-  
23 A:2,VIII(c) by transferring or assigning Respondent Capital City  
24 Automotive's Retail Seller license issued by the Department to Respondent  
25 Fowle.

1 19. Respondent Morandi violated RSA 361-A:2-a,I(a) by failing to surrender  
2 Respondent Capital City Automotive's Retail Seller license when Respondent  
3 Morandi transferred ownership during the license year of 2009.

4 20. As of January 23, 2009, Respondent Fowle and Respondent Capital City  
5 Automotive are in violation of RSA 361-A:2,I for operating as a retail  
6 seller without a Retail Seller license issued by the Department.

7 \_\_\_\_\_ /s/  
Maryam Torben Desfosses  
8 Hearings Examiner

\_\_\_\_\_ May 10, 2011  
Date

9 **ORDER**

10 **21. I hereby find as follows:**

11 a. Pursuant to RSA 361-A:3,I, the facts as alleged above, if true,  
12 show Respondents are operating or have operated in violation of RSA Chapter  
13 361-A and form the legal basis for this Order;

14 b. Pursuant to RSA 361-A:5,VI, this Order is necessary and  
15 appropriate to the public interest and for the protection of consumers and  
16 consistent with the purpose of New Hampshire banking laws;

17 c. Pursuant to RSA 361-A:3,I and RSA 361-A:3-a,I, reasonable cause  
18 exists to issue an order to cease and desist; and

19 d. Pursuant to RSA 361-A:3,I, if Respondents fail to respond to  
20 this Order and/or defaults then all facts as alleged herein are deemed as  
21 true.

22 **22. Accordingly, it is hereby ORDERED that:**

23 a. Respondents shall cease and desist from violating RSA Chapter  
24 361-A and rules or orders thereunder;

25 b. Respondents shall show cause why an administrative fine of up to

1 a maximum of \$2,500.00 per violation should not be imposed as follows:

2 (1). Respondent Capital City Automotive:

3 Violation #1: Transferring or assigning retail seller  
4 license (RSA 361-A:2,VIII(c)) (1 count);

5 Violation #2: Operating without a valid retail seller  
6 license (RSA 361-A:2,I) (1 count);

7 (2). Respondent Morandi (as principal and control person):

8 Violation #1: Transferring or assigning retail seller  
9 license (RSA 361-A:2,VIII(c)) (1 count);

10 Violation #2: Failure to properly surrender retail seller  
11 license (361-A:2-a,I(a)) (1 count);

12 (3). Respondent Fowle (as direct owner, principal and control  
13 person):

14 Violation #1: Operating without a valid retail seller  
15 license (RSA 361-A:2,I) (1 count);

16 c. Nothing in this Order:

17 (1). shall prevent the Department from taking any further  
18 administrative and legal action as necessary under New Hampshire law; and

19 (2). shall prevent the New Hampshire Office of the Attorney General  
20 from bringing an action against the above named Respondents in any New  
21 Hampshire superior court, with or without prior administrative action by the  
22 Commissioner.

23 **SO ORDERED.**

24 \_\_\_\_\_  
25 /s/  
Robert A. Fleury,  
Deputy Bank Commissioner

Dated: May 11, 2011