

State of New Hampshire Banking Department

In re the Matter of:	)Case No.: 09-112
	)
State of New Hampshire Banking	)
Department,	)
	)Consent Order
Petitioner,	)
	)
and	)
	)
Joseph Bates (d/b/a Joe Bates'	)
Citgo, d/b/a Bates/Gendron Used	)
Cars, d/b/a Joe's Texaco, d/b/a	)
Joes Citgo),	)
	)
Respondent	)

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CONSENT ORDER

The State of New Hampshire Banking Department (the "Department") finds and Orders as follows:

**Respondent**

1. Joseph Bates (d/b/a Joe Bates' Citgo) ("Bates") is a sole proprietorship that registered the trade name of Joe Bates' Citgo with the New Hampshire Secretary of State on May 23, 1995 with a principal office location in Alstead, New Hampshire. Bates was not previously licensed by the Department as a Sales Finance Company and Bates' New Hampshire Sales Finance Company license application has been denied. This Consent Order concerns only unlicensed sales finance activity and future Department licensing applications.

### **Jurisdiction**

2. The Department is authorized to regulate sales finance companies pursuant to RSA Chapter 361-A. *RSA 361-A:2.*
3. The Commissioner has jurisdiction to issue orders to cease and desist from violations under RSA Chapter 361-A, to deny, suspend or revoke licenses issued or to be issued under RSA Chapter 361-A, and to assess penalties pursuant to RSA Chapter 361-A. *RSA 361-A:3,I, RSA 361-A:3,I-a, RSA 361-A:3-a and RSA 361-A:11.*
4. Bates may be assessed an administrative fine not to exceed \$2,500.00 for each violation of RSA Chapter 361-A. *RSA 361-A:11,VII and VIII.*

### **Facts**

5. From 2005, Bates has conducted sales finance company activity in New Hampshire without a valid Sales Finance Company license issued by the Department.
6. According to the New Hampshire Department of Safety's lien holder records, Bates is listed as the lien holder on numerous New Hampshire motor vehicle title registrations.
7. During the request for information, Bates cooperated and provided the information to the Department to show it did conduct business in New Hampshire without a Department Sales Finance Company license, a fact that

Bates concedes.

**Violation(s) of Law and Penalties**

8. Bates admits conducting unlicensed sales finance company activity in New Hampshire, in violation of RSA 361-A:2,I.

**Respondent's Consent**

9. Bates hereby acknowledges that were an administrative hearing to be held in this matter, the Department would introduce evidence demonstrating that Bates violated RSA Chapter 361-A.
10. Bates has voluntarily entered into this Consent Order without reliance upon any discussions between the Department and Bates, without promise of a benefit of any kind (other than agreements contained in this Consent Order), and without threats, force, intimidation, or coercion of any kind. Bates further acknowledges his understanding of the nature of the allegations set forth in this action, including the potential penalties provided by law.
11. Bates hereby acknowledges, understands, and agrees that he has the right to notice, hearing, and/or a civil action and hereby waives said rights.

**Order**

12. **Whereas pursuant to RSA 361-A:5,VI finding this Consent Order necessary, appropriate and in the public**

interest and consistent with the intent and purposes of New Hampshire banking laws, the Department Orders as follows:

- a. Bates shall return all titles in Bates' name for which Bates financed the purchase of motor vehicles back to the owners of the motor vehicles without further claim and release said liens by filing the appropriate documentation with the New Hampshire Department of Safety, Title Bureau; and
- b. Bates avers he has no longer collecting monies owed on outstanding retail installment contracts and shall not collect such monies; and
- c. Bates has voluntarily undertaken to release said liens in Paragraph 12a. above before entering into this Consent Order. Bates avers he has made a good faith effort to release all such liens. However, to the extent that any lien is not released for reasons that it had been overlooked or by mistake it had not been discovered, Bates hereby agrees to release said lien immediately upon learning he must release such lien, if any.
- d. Bates shall pay to the Department \$20,000.00 in administrative fines, \$10,000.00 of which shall be payable contemporaneously with Bates' signing of this Consent Order. The check shall be bank

check or guaranteed funds and made payable to "State of New Hampshire." The balance of \$10,000.00 shall be paid to the Department on or before July 31, 2013 via bank check or guaranteed funds and made payable to "State of New Hampshire."

- e. Bates hereby agrees that should Bates wish to reapply for a New Hampshire Sales Finance Company license, in addition to filing a completed application, Bates shall also provide, with its application to the Department, two (2) years of unqualified audit reports from a Certified Public Accountant (CPA) regarding Joe Bates' Citgo and his other holdings. Such unqualified audit reports shall include the CPA's opinion and full note disclosures for the full two (2) fiscal years immediately preceding the date of application. The two (2) years of unqualified audit reports shall be for the two (2) years most recently preceding the year in which Bates files such New Hampshire Sales Finance Company license application. If Bates should form another business(es) to conduct sales finance company activity or related activity, Bates shall none-the-less file the unqualified audit reports for

Bates as a sole proprietor as it existed during the period of its unlicensed activity and as it was prior to any such organization formation. Further, Bates shall file unqualified audit reports for any other entity formed at the time of application to the Department.

(1). The Department may approve such New Hampshire Sales Finance Company license application only if Bates demonstrates that Bates' financial resources and responsibility, experience, personnel, and record of past or proposed conduct warrant the public's confidence and that the business will be operated lawfully, honestly, and fairly within the purposes of RSA Chapter 361-A.

13. This Consent Order may be revoked and the Department may pursue any and all remedies available under law, if the Department later finds that Bates knowingly or willfully withheld information used and relied upon in this Consent Order or violate this Consent Order.
14. This Consent Order is binding on all heirs, assigns, and/or successors in interest.
15. This Consent Order shall become effective upon the date the Commissioner signs this Consent Order, providing the Department has confirmed the receipt of

