

In re White Mountain Carriage Company, LLC,
d/b/a Suzuki of Manchester,
d/b/a Gold Street Autocenter,
Arrien L.C. Schiltkamp, Individually
and as Owner of White Mountain Carriage Company, LLC.

Case No. 15-126

ORDER TO SHOW CAUSE

Now comes the State of New Hampshire Banking Department (the “Department”) and the Bank Commissioner (the “Commissioner”) commencing an adjudicative proceeding under the provisions of RSA Chapter 361-A and RSA Chapter 541-A against Respondents, White Mountain Carriage Company, LLC d/b/a Suzuki of Manchester d/b/a Gold Street Autocenter (“White Mountain”) and Arrien L.C. Schiltkamp, individually and as owner of White Mountain.

RESPONDENTS

1. White Mountain is a limited liability company registered with the New Hampshire Secretary of State on April 5, 2000 with a principal office location on 766 Gold Street in Manchester, New Hampshire. White Mountain is licensed with the Department as a retail seller under RSA Chapter 361-A.
2. Mr. Schiltkamp is the 100% owner of White Mountain. Mr. Schiltkamp is presumed to control White Mountain under RSA 361-A:1, III-b.

JURISDICTION

The Department licenses and regulates persons “engag[ing] in the business of a sales finance company or a retail seller in this state.” RSA 361-A:2, I. “The commissioner may issue an order requiring a person to whom any license has been granted . . . to show cause why the

license should not be revoked or penalties should not be imposed, or both, for violations of this chapter.” RSA 361-A:3, I.

FACTS

In support of this Order, it is alleged that:

1. Besides owning White Mountain, Arrien Schiltkamp is the sole owner and president of Claremont Ford Lincoln, Inc. (“Claremont Ford”).

2. In April and May 2015, the Department received two consumer complaints indicating that Claremont Ford failed to pay off the outstanding liens on trade-in vehicles within twenty-one calendar days, as prescribed by RSA 361-A:10-c.

3. In response to the complaints, on May 13-14, 2015, the Department conducted an on-site examination of Claremont Ford and discovered that since January 2014, Claremont Ford failed to pay off the outstanding liens on approximately 106 trade-in vehicles within the timeframe prescribed by RSA 361-A:10-c. As of the date of the examination, twenty-eight of the liens remained unpaid and past due.

4. On May 21, 2015, the Department entered into a consent order with Claremont Ford and Mr. Schiltkamp. Under the terms of that consent order, Mr. Schiltkamp and Claremont Ford agreed, among other terms, to: “ inject sufficient cash into Respondent Claremont Ford to create a positive net worth within 30 days of the effective date of this Consent Order;” “provide a cash pledge for \$500,000.00 or a \$1,000,000.00 surety bond to the Department within 30 days of the effective date of this Consent Order;” and “immediately pay off any outstanding motor vehicle liens due . . . by May 28, 2015.” Consent Order, ¶¶ 3, 4, 7. However, Mr. Schiltkamp and Claremont Ford have not complied with terms of the consent order.

5. On May 29, 2015, after Mr. Schiltkamp and Claremont Ford failed to pay off the outstanding liens, the Department ordered an immediate suspension of Claremont Ford's retail seller license.

6. On June 3, 2015, the Department examined White Mountain. Employee of White Mountain provided the examiners with documents indicating there were no violations of the lien payoff statute, RSA 361-A:10-c.

7. However, on June 5, 2015, the examiners obtained further information demonstrating that since May 2014, White Mountain failed to pay off the outstanding liens on fifteen trade-in vehicles within the timeframe prescribed by RSA 361-A:10-c. As of that date, three liens remained unpaid and past due according to the timeframe prescribed by RSA 361-A:10-c. Those liens have since been paid.

8. Subsequently, on June 12, 2015, Mr. Schiltkamp and Claremont Ford were scheduled for a hearing on the immediate suspension of Claremont Ford's retail seller license.

9. On that date, prior to the hearing, Mr. Schiltkamp requested and was granted a continuance. Claremont Ford's suspension remains in effect.

10. Meanwhile, the Department has learned that Claremont Ford has not been paying its employees and is litigating Ford Motor Credit's attempt to seize the dealership's inventory.

11. In addition, Respondents have failed to comply with other terms of the Consent Order. Respondents have failed to inject sufficient cash to bring Claremont Ford back into a position of positive net worth and failed to provide a cash pledge or surety bond by June 22, 2015, as required by the consent order.

12. The consent order provides, "Any violation of this Consent Order shall be cause for immediate revocation of Claremont Ford's Retail Seller license." Consent Order, ¶ 2.

13. Consequently, Mr. Schiltkamp and Claremont Ford are subject to a similar show cause order, which is being filed concurrently with the instant order.

14. Both Claremont Ford and White Mountain are owned by the same individual, Arrien Schiltkamp, both businesses have been engaging in the same activities around failing to pay off trade-in liens and both are operating at significant losses. In light of the extensive nature of the violations, the apparent lack of candor during the examination process and the company's worsening financial position, the Commissioner finds that license revocation with penalties is warranted for the protection of consumers.

FINDINGS

Based on the above information, the Commissioner finds that this order to show cause why White Mountain's retail seller license should not be revoked, with penalties, is in the public interest.

The facts as alleged above, if true, show that the respondents violated the following provisions of RSA Chapter 361-A:

- a. RSA 361-A:10-c, I: Mr. Schiltkamp and White Mountain have repeatedly failed to pay off consumers' liens on trade-in vehicles within twenty-one calendar days of the date of sale, constituting fifteen violations of RSA 361-A:10-c, I since May 2015;
- b. RSA 361-A:11, VII: Such failure to pay off consumers' trade-in liens has been knowing;
- c. RSA 361-A:11, VIII: Mr. Schiltkamp, individually and as owner of White Mountain, has knowingly or negligently materially aided in the acts resulting in failure to pay off consumers' trade-in liens;

- d. RSA 361-A:3, I-a (h): Mr. Schiltkamp and White Mountain have engaged in dishonest or unethical practices in the conduct of making retail installment transactions;
- e. RSA 361-A:3, I-a (g): Mr. Schiltkamp and White Mountain are not qualified for licensure on the basis of financial integrity; and
- f. RSA 361-A:3, I-a (e): Mr. Schiltkamp, individually and as president of Claremont Ford, is the subject of the Department's May 29, 2015 Order for Immediate Suspension for the same activities constituting the violations that are the subject of this Order.

ORDER

THEREFORE, IT IS ORDERED that Respondents show cause why White Mountain's retail seller license should not be revoked for violating RSA 361-A:10-c, I, RSA 361-A:11, VII, RSA 361-A:11, VIII and RSA 361-A:3, I-a (e), (g) and (h); and

IT IS FURTHER ORDERED that White Mountain shall be liable for an administrative fine of \$37,500.00 for knowingly or negligently violating RSA 361-A:10-c, I and RSA 361-A:11, VII; and

IT IS FURTHER ORDERED that Mr. Schiltkamp shall be liable for an administrative fine of \$37,500.00 for knowingly or negligently violating RSA 361-A:10-c, I and RSA 361-A:11, VIII; and

IT IS FURTHER ORDERED that Respondents shall have the opportunity for a hearing on this Order by requesting, in writing, a hearing within thirty calendar days of receipt or valid delivery of this Order, pursuant to RSA 361-A:3, I; and

IT IS FURTHER ORDERED that, pursuant to RSA 361-A:3, I, if Respondents do not request a hearing as provided above, within thirty calendar days of receipt or valid delivery of this order, then Respondents shall be deemed in default, and this order shall, on the thirty-first day, become permanent, and shall remain in full force and effect until and unless later modified or vacated by the commissioner, for good cause shown.; and

IT IS FURTHER ORDERED that nothing herein shall prevent: 1) the Department from taking any further administrative and legal action as necessary under New Hampshire law; or 2) the New Hampshire Office of the Attorney General from bringing an action against the above named Respondents in any New Hampshire superior court, with or without prior administrative action by the Commissioner.

SO ORDERED:

06/26/15
Date

/s/
Ingrid E. White
Deputy Bank Commissioner
State of New Hampshire
Banking Department

CERTIFICATE OF SERVICE

I, Rosemary Wiant, hereby certify that on 06/26/15, a copy of this Order to Show Cause was sent to the following parties via U.S. Certified Mail First Class and electronic mail:

White Mountain Carriage Company, LLC
766 Gold Street
Manchester, NH 03103

Arrien L.C. Schiltkamp
766 Gold Street
Manchester, NH 03103

arrien@schiltkamp.com

_____/s/_____
Rosemary Wiant
Hearings Examiner
State of New Hampshire
Banking Department