

1 State of New Hampshire Banking Department

2 In re the Matter of: )Case No.: 09-206  
 )  
 3 State of New Hampshire Banking )  
 )  
 4 Department, )  
 )  
 5 Petitioner, )Notice of Hearing - Order to Show  
 )Cause and Cease and Desist  
 )  
 6 and )  
 )  
 7 Frank Coffey (a/k/a Frank Coffey, Inc, )  
 )  
 8 and d/b/a Frank Coffey Auto & Truck )  
 )  
 9 Sales [a/k/a frankcoffeyauto.com]), )  
 )  
 10 Respondent )  
 )

11 NOTICE OF ORDER TO SHOW CAUSE AND CEASE AND DESIST HEARING

12 1. The Department issued to the above named Respondent an Order to Show  
 13 Cause and Cease and Desist on September 30, 2011. RSA Chapter 541-A and RSA  
 14 Chapter 361-A require the Department to schedule a hearing on such matter  
 15 within ten (10) calendar days of a written request for hearing unless  
 16 otherwise waived by the Respondents. Respondent filed a timely request for  
 17 hearing and waived his right to a ten (10) day hearing on November 1, 2011.

18 IT IS HEREBY ORDERED that:

19 2. Respondent shall appear before the New Hampshire Banking Department on  
 20 **Thursday, January 5, 2012 at 10:00 am**, at the New Hampshire Banking  
 21 Department located at 53 Regional Drive, Suite 200, Concord, New Hampshire  
 22 03301, for the purpose of participating in an adjudicative proceeding, at  
 23 which time the Respondent will have the opportunity to demonstrate why the  
 24 relief sought in the Order to Show Cause and Cease and Desist  
 25 should not become permanent.

1 3. Pursuant to RSA 541-A:31,III(b), the legal authorities under which the  
2 hearing is to be held are: RSA 541-A:30,III, RSA 361-A:3,I and I-a, RSA  
3 361-A:3-a,I and II and RSA 361-A:11, VII and VIII.

4 4. The Department's alleged violations against the above named Respondent  
5 in the Order to Show Cause and Cease and Desist are as follows with the  
6 counts being the number of violations:

7 a. Respondent Coffey:

8 Violation #1: Unlicensed Sales Finance Company activity (RSA  
9 361-A:2,I) - 455 Counts.

10 5. The Department's alleged violations against Respondents also include:

11 a. An order to show cause why reimbursement to Consumers 1 through  
12 455 as described in the Order to Show Cause and Cease and Desist  
13 should not be made.

14 6. The facts as alleged in the Order to Show Cause and Cease and Desist are  
15 herein incorporated by reference.

16 7. An adjudicative proceeding shall be commenced pursuant to RSA 541-A:31  
17 and the JUS 800 Rules for the purpose of permitting the above named  
18 Respondent to show compliance with the stated violations.

19 8. Each party has the right to have an attorney present to represent the  
20 party at the party's expense, or may represent itself or himself. If the  
21 Respondent elects to be represented by Counsel, said Counsel shall file a  
22 notice of appearance at the earliest possible date.

23 9. Maryam Torben Desfosses, Hearings Examiner, New Hampshire Banking  
24 Department is designated as Hearings Examiner in this matter with authority  
25 to represent the public interest within the scope of the Department's

1 authority. The Hearings Examiner shall have the status of a party to this  
2 proceeding.

3 10. A Presiding Officer will be delegated to preside over this matter  
4 pursuant to RSA 383:7-a and see also RSA 541-A:1,XV.

5 11. Any proposed exhibits shall be pre-marked, for identification only, and  
6 filed with the Department and provided to the opposing party by **Wednesday,**  
7 **December 28, 2011.** The Hearings Examiner shall pre-mark the Department's  
8 exhibits with Arabic numbers. The Respondent shall pre-mark exhibits with  
9 capital letters. An index/list of exhibits providing a brief description of  
10 each exhibit with its corresponding pre-marked number or letter shall be  
11 filed by both parties simultaneous with the filing of exhibits.

12 12. The parties shall exchange a list of all exhibits and witnesses to be  
13 called at the hearing with a brief summary at the hearing, and shall at the  
14 same time file a copy of their respective lists with the Presiding Officer.

15 13. All periods referenced in this notice shall be calendar days. If the  
16 last day of the period so computed falls on a Saturday, Sunday, or legal  
17 holiday, then the time period shall be extended to include the first  
18 business day that is not a Saturday, Sunday, or legal holiday.

19 14. The Department shall have the burden of setting forth a *prima facie*  
20 case, then the Respondent shall have the burden of showing compliance with  
21 applicable law by a preponderance of the evidence.

22 15. Any Respondent's failure to appear at the time, date, and place  
23 specified may result in the hearing being held *in absentia* and/or default  
24 ruling in favor of the Department, without further notice or opportunity to  
25 be heard.

1 16. The entirety of all verbal proceedings shall be recorded verbatim by the  
2 Department. Upon request of any party, or upon the Presiding Officer's own  
3 initiative, such record shall be transcribed by a certified court reporter  
4 designated by the Presiding Officer, and that all costs shall be borne  
5 solely by the requesting party.

6 17. Each party has the right to have the Department provide a certified  
7 shorthand court reporter at the requesting party's expense. Any such request  
8 shall be submitted in writing to the Presiding Officer at least 10 days  
9 prior to the hearing.

10 18. All documents shall be filed with the Presiding Officer in the form of an  
11 original and one (1) copy and shall bear a certification that a copy is being  
12 delivered to Hearings Examiner and any other parties to this matter in  
13 accordance with applicable laws. All documents shall be filed by mailing or  
14 delivering them to the New Hampshire Banking Department, ATTN: Presiding  
15 Officer 09-206, 53 Regional Drive, Suite 200, Concord, NH 03301. Filing by  
16 facsimile or electronic transmission shall not be accepted.

17 19. The parties may submit Proposed Orders, which shall include findings of  
18 fact and conclusions of law, separately stated, no later than ten (10) days  
19 following conclusion of the hearing(s) in this matter.

20 20. Routine procedural inquiries may be made by telephoning Maryam Torben  
21 Desfosses, Hearings Examiner at (603)271-3561, but all other communications  
22 with the Presiding Officer and with the Department shall be in writing and  
23 shall be filed as provided above. *Ex parte* communications are forbidden by  
24 statute.

25 21. A copy of this Notice of Hearing shall be mailed to the named Respondent

1 by delivery to Respondent Frank Coffey and that a copy shall also be  
2 delivered to Maryam Torben Desfosses, Hearings Examiner, and to the  
3 Presiding Officer at the New Hampshire Banking Department.

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5  
6 **SO ORDERED,**

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8 /s/ Ronald A. Wilbur  
9 Bank Commissioner

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