

1	In re the Matter of:	) Case No.: 11-001
		)
2	State of New Hampshire Banking	)
		)
3	Department,	)
		)
4	Petitioner,	) Amended Order to Show Cause
		)
5	and	)
		)
6	Inofin Incorporated, Michael Joseph	)
		)
7	Cuomo, Kevin J. Mann, Sr., Donald K.	)
		)
8	Heap, and Melissa M. George,	)
		)
9	Respondents	)

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10                    NOTICE OF AMENDED ORDER TO SHOW CAUSE ("AMENDED ORDER")

11 1. This Amended Order (pursuant to RSA 361-A:5,IV) amends the Order to  
12 Show Cause and Cease and Desist dated January 6, 2011. The adjudicative  
13 proceeding under the provisions of RSA Chapter 361-A and RSA Chapter 541-A  
14 that began on January 6, 2011 remains. The Order to Cease and Desist issued  
15 on January 6, 2011 remains in full force and effect. Respondent Donald K.  
16 Heap defaulted on the original January 6, 2011 Order to Show Cause and Cease  
17 and Desist and continues to remain in default under that order.

18 2. The Commissioner may impose administrative fines of up to \$2,500.00  
19 for each violation. RSA 361-A:11.

20                    RESPONDENTS

21 3. Inofin Incorporated ("Respondent Inofin") is a corporation formed in  
22 Massachusetts on March 1, 1994 and registered in New Hampshire on June 8,  
23 1999 with its principal office location in Rockland, Massachusetts.  
24 Respondent Inofin is a "Person" (RSA 361-A:1,VIII).

1 4. Respondent Inofin has been licensed as a Sales Finance Company with  
2 the New Hampshire Banking Department ("Department") since July 6, 2001.  
3 Respondent Inofin's Motor Vehicle Sales Finance Company license in  
4 Massachusetts expired on October 31, 2010.

5 5. Michael Joseph Cuomo ("Respondent Cuomo") is the 43% owner, President,  
6 Director and control person of Respondent Inofin. Respondent Cuomo is a  
7 Control person (RSA 361-A:1,III-b), Direct Owner (RSA 361-A:1,III-d), a  
8 Person (RSA 361-A:1,VIII) and a Principal (RSA 361-A:1,VIII-a).

9 6. Kevin J. Mann, Sr. ("Respondent Mann") is the 43% owner, Chief  
10 Executive Officer, Director and control person of Respondent Inofin.  
11 Respondent Mann is a Control person (RSA 361-A:1,III-b), Direct Owner (RSA  
12 361-A:1,III-d), a Person (RSA 361-A:1,VIII) and a Principal (RSA 361-  
13 A:1,VIII-a).

14 7. Donald K. Heap ("Respondent Heap") is the 14% owner, Shareholder and  
15 control person of Respondent Inofin. Respondent Heap is a Control person  
16 (RSA 361-A:1,III-b), Direct Owner (RSA 361-A:1,III-d), a Person (RSA 361-  
17 A:1,VIII) and a Principal (RSA 361-A:1,VIII-a).

18 8. Melissa M. George ("Respondent George") is the Chief Operating Officer  
19 and control person of Respondent Inofin. Respondent George is a Control  
20 person (RSA 361-A:1,III-b), a Person (RSA 361-A:1,VIII) and a Principal (RSA  
21 361-A:1,VIII-a).

22 9. The above named Respondents are hereby collectively known as  
23 "Respondents".

24 **RIGHT TO REQUEST A HEARING**

25 10. Respondents have a right to request a hearing on this Order. A hearing

1 shall be scheduled not later than ten (10) days after the Commissioner  
2 receives the Respondent's written request for a hearing. Respondents may  
3 request a hearing and waive the ten (10) day hearing requirement. The  
4 hearing shall comply with RSA Chapter 541-A and RSA 361-A:3.

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

11 12. A default may result in administrative fines as described in Paragraph  
12 3 above.

13 **STATEMENT OF ALLEGATIONS**

14 **Failure to Facilitate:**

15 13. On December 16, 2010, the Department conducted an on-site, unannounced  
16 examination of Respondent Inofin. The Department's Examiners completed loan  
17 file review while on-site but left the officers questionnaire and schedules  
18 A & B with Respondents to complete and immediately submit to the Department.

19 14. On January 4, 2011, a Department's Examiner sent an e-mail with a read  
20 receipt request to Respondent Cuomo requesting the examination materials be  
21 immediately provided. Respondent Cuomo received the e-mail but failed to  
22 respond to the Department.

23 15. On January 4, 2011, a Department's Examiner telephoned the individual  
24 who was on-site for the December 16, 2010 examination. The Department's  
25 Examiner left a message with the secretary stating the examination

1 information needed to be received immediately and that Respondents need to  
2 fax schedules A & B to the Department. The Department received no response.

3 16. On January 4, 2011, the Department's Examiner sent a letter via  
4 certified mail to Respondent Cuomo again requesting the examination  
5 materials be immediately forwarded to the Department.

6 17. On January 6, 2011, the Department received a package of examination  
7 materials sent by Respondents. The materials the Department received were  
8 incomplete and therefore, on January 7, 2011, the Department e-mailed  
9 Respondent Cuomo for additional materials.

10 18. On January 25, 2011, the Department's Examiner left another message  
11 for Respondent Cuomo regarding production of the examination materials. On  
12 the same day, the Department's Examiner spoke with Respondent Inofin's  
13 Executive Secretary and then had a message forwarded to Respondent Mann.

14 19. On February 1, 2011, the Department's Examiner sent a certified letter  
15 to Respondent Cuomo asking for the materials again. To date, no response has  
16 been received from the Respondents.

17 20. Respondents failed to provide the requested examination materials to  
18 the Department in violation of RSA 361-A:6-a,V.

19 21. Respondent Cuomo and Respondent Mann, both as owners and officers of  
20 Respondent Inofin, failed to reply promptly in writing to the Commissioner's  
21 written inquiries regarding examination materials, in violation of RSA 361-  
22 A:2-b,VI (as the Commissioner's delegation of duties and responsibilities  
23 allows via RSA 383:7-a).

24 **Violation of the January 6, 2011 Order to Show Cause and Cease and Desist:**

25 22. On January 6, 2011, the Department issued an Order to Show Cause and

1 Cease and Desist against Respondents for failing to update information with  
2 the Commissioner, filing a materially false and misleading statement and for  
3 failure to maintain financial integrity, all arising out of acts that  
4 occurred with the Massachusetts Division of Banks. This Order to Show Cause  
5 and Cease and Desist required Respondents to "immediately provide the  
6 Department a list of all New Hampshire consumers for whom Respondents have  
7 conducted sales finance company activity and a status of the loans (both  
8 transferred and non-transferred loans)" and documentation related to the  
9 sales finance activity.

10 23. To date, the Department has not received this consumer list as  
11 directed by the January 6, 2011 Order to Show Cause and Cease and Desist, in  
12 violation of RSA 361-A:3,I-a, (i).

13 **Failure to Update the Commissioner:**

14 24. Respondents had previously failed to inform the Department's  
15 Commissioner about the Massachusetts Division of Banks' June 18, 2010  
16 Consent Order with Respondent Inofin and the December 30, 2010 Order to  
17 Cease and Desist, Order to Show Cause and Notice of Intent to Revoke Motor  
18 Vehicle Sales Finance Company License by the same agency.

19 25. On January 20, 2011, Respondent Inofin entered into a Consent Order  
20 with the Massachusetts Division of Banks but failed to inform the  
21 Department's Commissioner, in violation of RSA 361-A:2,XII.

22  
23 \_\_\_\_\_  
24 /s/ Maryam Torben Desfosses  
25 Hearings Examiner

\_\_\_\_\_  
April 4, 2011  
Date

1 **ORDER**

2 26. **I hereby find as follows:**

3 a. Pursuant to RSA 361-A:3,I, the facts as alleged above, if true,  
4 show Respondents are operating or have operated in violation of RSA Chapter  
5 361-A and form the legal basis for this Amended Order to Show Cause;

6 b. Pursuant to RSA 361-A:5,VI, this Amended Order to Show Cause is  
7 necessary and appropriate to the public interest and for the protection of  
8 consumers and consistent with the purpose of New Hampshire banking laws; and

9 c. If Respondents fail to respond to this Amended Order to Show  
10 Cause and/or defaults then all facts as alleged herein are deemed as true.

11 27. **Accordingly, it is hereby ORDERED that:**

12 a. Respondents shall show cause why an administrative fine of up to  
13 a maximum of \$2,500.00 per violation should not be imposed as follows (these  
14 are in addition to the violations alleged in the January 6, 2011 Order to  
15 Show Cause and Cease and Desist):

16 (1). Respondent Inofin:

17 Violation #1: Failure to Facilitate (RSA 361-A:6-a,V) - 1  
18 Count;

19 Violation #2: Violation of Department's January 6, 2011  
20 Cease and Desist Order (RSA 361-A:3,I-a,(i)) - 1 Count;

21 Violation #3: Failure to Update Information with the  
22 Commissioner (RSA 361-A:2,XII) - 1 Count;

23 (2). Respondent Cuomo (as Control person, Direct Owner and  
24 Principal):

25 Violation #1: Failure to Facilitate (RSA 361-A:6-a,V) - 1

1 Count;

2 Violation #2: Violation of Department's January 6, 2011

3 Cease and Desist Order (RSA 361-A:3,I-a,(i)) - 1 Count;

4 Violation #3: Failure to Update Information with the

5 Commissioner (RSA 361-A:2,XII) - 1 Count;

6 Violation #4: Failure of Officer and Owner to Respond

7 Promptly in Writing (RSA 361-A:2-b,VI) - 1 Count;

8 (3). Respondent Mann (as Control person, Direct Owner and  
9 Principal):

10 Violation #1: Failure to Facilitate (RSA 361-A:6-a,V) - 1

11 Count;

12 Violation #2: Violation of Department's January 6, 2011

13 Cease and Desist Order (RSA 361-A:3,I-a,(i)) - 1 Count;

14 Violation #3: Failure to Update Information with the

15 Commissioner (RSA 361-A:2,XII) - 1 Count;

16 Violation #4: Failure of Officer and Owner to Respond

17 Promptly in Writing (RSA 361-A:2-b,VI) - 1 Count;

18 (4). Respondent Heap (as Control person, Direct Owner and  
19 Principal):

20 Violation #1: Failure to Facilitate (RSA 361-A:6-a,V) - 1

21 Count;

22 Violation #2: Violation of Department's January 6, 2011

23 Cease and Desist Order (RSA 361-A:3,I-a,(i)) - 1 Count;

24 Violation #3: Failure to Update Information with the

25 Commissioner (RSA 361-A:2,XII) - 1 Count;

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(5). Respondent George (as Control person and Principal):

Violation #1: Failure to Facilitate (RSA 361-A:6-a,V) - 1  
Count;

Violation #2: Violation of Department's January 6, 2011  
Cease and Desist Order (RSA 361-A:3,I-a, (i)) - 1 Count;

Violation #3: Failure to Update Information with the  
Commissioner (RSA 361-A:2,XII) - 1 Count;

b. Respondents shall show cause why Respondent Inofin's New  
Hampshire Sales Finance Company license should not be revoked; and

c. Nothing in this Order:

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

(2). shall prevent 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.**

\_\_\_\_\_/s/  
ROBERT A. FLEURY  
DEPUTY BANK COMMISSIONER

Dated: April 4, 2011