

In re Claremont Ford Lincoln, Inc.,
and Arrien L.C. Schiltkamp, individually
and as President of Claremont Ford Lincoln, Inc.

Case No.: 15-076

CONSENT ORDER

The State of New Hampshire Banking Department, acting in agreement with the respondents, Claremont Ford Lincoln, Inc. (“Claremont Ford”) and Arrien L.C. Schiltkamp, individually and as the President of Claremont Ford, finds and orders as follows.

Background

On June 28, 2012, the Department entered into a consent order with Claremont Ford for failing to remit payment on sixty-three motor vehicle liens within twenty-one days in violation of RSA 361-A:10-c. Under the terms of that consent order, Claremont Ford agreed to: (1) pay an administrative fine; (2) pay the Department an investigation fee; (3) bring Claremont Ford into a positive net worth or obtain a surety bond; and (4) submit to examination by the Department.

In 2015, the Department received two consumer complaints indicating that the respondents had failed to pay off the outstanding liens on trade-in vehicles within the timeframe prescribed by RSA 361-A:10-c. In response to the complaints, the Department conducted an on-site examination of Claremont Ford and discovered that the respondents had failed to pay off the outstanding liens on approximately 106 trade-in vehicles within the timeframe prescribed by RSA 361-A:10-c. At the time of the examination, twenty-eight of the liens remain unpaid.

Subsequently, the Department and the respondents entered into negotiations to settle this matter amicably with the cooperation of all parties. The parties have reached the following resolution of this matter.

Consent and Acknowledgments

1. The respondents have voluntarily entered into this Consent Order without reliance upon any discussions between the Department and the respondents, without the promise of a benefit of any kind (other than the concessions contained in this Consent Order), and without threats, force, intimidation, or coercion of any kind.
2. The respondents acknowledge their understanding of the nature of the allegations set forth in this proceeding, including the potential penalties provided by law.
3. The respondents acknowledge, understand, and agree that they have the right to notice, hearing and appeal, and hereby waive those rights.
4. The respondents represent and warrant that they have all the necessary rights, powers, and abilities to carry out all of the terms of this Consent Order that are applicable to the respondents.
5. The respondents acknowledge that the Department is relying upon the respondents' representations and warranties herein in making its determination in this matter.

Order

Pursuant to RSA 361-A:5, VI, the Bank Commissioner finds this Consent Order necessary or appropriate to the public interest and consistent with the purposes fairly intended by the policy and provisions of this title. Accordingly, the Bank Commissioner orders as follows:

1. The respondents shall comply with RSA Chapter 361-A and any rules or orders under RSA Chapter 361-A.
2. Any violation of this Consent Order shall be cause for immediate revocation of Claremont Ford's New Hampshire Retail Seller license.
3. The respondents shall inject sufficient cash into Respondent Claremont Ford to create a positive net worth within 30 days of the effective date of this Consent Order.

4. The respondents shall 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.
5. The respondents shall be subject to periodic Department examinations as the Department deems necessary.
6. The respondents shall provide the Department with the following items:
 - a. Monthly trade-in reports for the previous month regarding every motor vehicle trade-in that requires a lien payoff. The trade-in reports shall include but not be limited to:
 - (1) Consumer names of those who traded-in such vehicle(s);
 - (2) Motor vehicle trade-in date;
 - (3) Lien holder name(s); and
 - (4) Inventory number.
 - b. Monthly remittance reports for the previous month regarding every motor vehicle trade-in payoff. The trade-in reports shall include but not be limited to:
 - (1) Consumer names of those who traded-in such vehicle(s);
 - (2) Motor vehicle trade-in date;
 - (3) Lien holder name(s);
 - (4) Inventory number; and
 - (5) Remittance date(s).
 - c. Any additional relevant documentation the Department may so require or request regarding such trade-in reports and RSA 361-A:10-c motor vehicle lien payoff remittance reports.
 - d. Annual financial statements.
7. The respondents shall immediately pay off any outstanding motor vehicle liens due under RSA 361-A:10-c by May 28, 2015, including but not limited to the twenty-eight

outstanding liens described above.

8. The respondents shall provide proof to the Department that each outstanding motor vehicle lien has been fully paid.
9. The respondents shall provide a copy of this Consent Order to each lien holder to which the respondents must execute a motor vehicle lien payoff, and to each lender with whom they have an indirect lending relationship.
10. The respondents shall pay any restitution to consumers for any monies consumers paid or fees or interest such consumers incurred for the motor vehicle lien payoffs. All such payments to the consumers shall be bank checks or guaranteed funds and made payable to each consumer and submitted directly to each consumer via first class mail by the respondents. Each check to the consumers shall be accompanied by written correspondence containing only the following language: “This refund check is being sent to you pursuant to a public consent order that Claremont Ford Lincoln, Inc. and Arrien L.C. Schiltkamp entered into with the New Hampshire Banking Department. You may find a copy of the public consent order on the Banking Department’s website, which is located at www.nh.gov/banking/orders/enforcement/index.htm by searching for Docket #15-071. For further questions, please contact the New Hampshire Banking Department at (603) 271-3561.”
11. Any verbal communications with consumers about the restitution shall be limited to the language that is found in the written correspondence and the respondents shall refer the consumers to the Department for further information.
12. The respondents shall forward to the Department copies of cancelled checks or copies of cancelled check images for all restitution paid to consumers.
13. The respondents shall make a second attempt to locate the consumer if the address to

which the restitution check is mailed is no longer valid. Such attempt shall be documented and reported to the Department.

14. The respondents shall follow up at least once with any consumer who does not cash each check within three months of receipt. Such follow up shall be documented and reported to the Department.
15. If, after six months, a consumer has failed to cash or deposit a restitution check, the respondents shall begin the process to escheat such funds to the New Hampshire State Treasurer's Abandoned Property division. Such process shall be documented and reported to the Department. The process of escheatment may begin prior to six months, if so approved or directed by the Department.
16. The respondents shall provide letters to the consumers' credit reporting agencies if lien holders reported negative trade-lines regarding the late or unpaid liens for such trade-ins.
17. The respondents shall pay to the Department \$100,000.00 in administrative fines within six months of the effective date of this Consent Order. The check shall be bank check or guaranteed funds and made payable to "State of New Hampshire."
18. This Consent Order may still be revoked and the Department may pursue any and all remedies available under law, if the Department later finds that Respondents knowingly or willfully withheld information used and relied upon in this Consent Order.
22. This Consent Order is binding on all heirs, assigns, and/or successors in interest.
23. This Consent Order shall become effective upon the date the Commissioner signs this Consent Order.

