

**STATE OF NEW HAMPSHIRE
BANKING DEPARTMENT**

In The Matter of: Miller, Randy
Case No. 15-186

CONSENT ORDER

WHEREAS, pursuant to RSA 361-A, the New Hampshire Banking Department (“Department”) is charged with regulating persons that “engage in the business of a retail seller or a sales finance company” in New Hampshire.

WHEREAS, pursuant to RSA 361-A:6-a, the Department is authorized to examine the business affairs of any retail seller to determine compliance with the RSA 361-A.

WHEREAS, pursuant to RSA 361-A:2, VIII(b), the commissioner determines whether the retail seller applicant’s experience and record of past or proposed conduct warrant the public’s confidence and whether the business will be operated lawfully, honestly and fairly within the purposes of RSA 361-A.

WHEREAS, Randy Miller (“Miller”) was the principal of Empire Automotive Group Inc, which was a licensed New Hampshire Retail Seller until its surrender on June 25, 2015.

WHEREAS, pursuant to its authority under RSA 361-A:2, VIII(b), RSA 361-A:5, VII and RSA 361-A:10-a, the Department, through the Consumer Credit Division, conducted an investigation of Miller’s new license application.

WHEREAS, Department-licensed retail sellers help arrange or locate financing as evidenced by a retail installment contract pursuant to RSA 361-A.

WHEREAS, through its investigation, the Department found that:

1. Miller failed to timely and properly surrender his previous Department-issued Retail Seller license.

WHEREAS, Miller makes the following acknowledgements:

1. Miller hereby acknowledges that were an administrative hearing to be held in this matter, the Department would introduce evidence demonstrating that Miller violated RSA 361-A:2-a, I(a).
2. Miller voluntarily enters into and signs this Consent Order without reliance upon any discussions between the Department and Miller, 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.
3. The conduct described above constitutes violations of state law, which could result in penalties pursuant to RSA 361-A:11, V.
4. Miller understands the nature of the allegations set forth herein and that they constitute grounds for potential sanctions, as provided by law.
5. Miller acknowledges, understands, and agrees that he has the right to notice and an adjudicatory hearing to contest the matters set forth herein, including any appeal, and hereby waives those rights. Miller further acknowledges he waives the filing of any civil actions related to this matter.
6. Miller understands that its action in entering this Consent Order is a final act and not subject to reconsideration or judicial review or appeal.
7. Miller represents and warrants that it has all the necessary rights, powers and abilities to carry out the terms of this Consent Order.

8. Miller acknowledges that the Department is relying upon Miller's representations and warranties stated herein in making its determinations in this matter.
9. Miller acknowledges that this Consent Order may be revoked and the Department may pursue any and all remedies available under the law against Miller if the Department later learns that Miller knowingly or willfully withheld information from the Department.
10. This Consent Order is binding on all heirs, assigns and successors in interest.

WHEREAS, Miller consents to the Department imposing the following sanctions:

1. Miller shall cease and desist from further violations of RSA 361-A.
2. Miller shall be subject to Department examinations as follows:
 - a. The first examination shall occur within the twelve (12) months of licensure as a New Hampshire Retail Seller; and
 - b. Thereafter every eighteen (18) months for three (3) additional examination periods; and
 - c. The Department reserves the right to conduct additional examinations should it discover material violations of RSA 361-A.
3. Miller shall provide a \$25,000 surety bond to the Department within thirty (30) days of the effective date of this Consent Order, which is upon the Commissioner's signature. Miller shall maintain the surety for five (5) years from the date of licensure.
4. Miller shall remit by bank check payable to the "State of New Hampshire" a total of \$5,000, of which \$3,465.43 shall be for investigation costs and the remainder shall be

an administrative penalty for the violation of RSA 361-A:2-a, I(a). Such payment shall be due contemporaneously with Miller's execution of this Consent Order.

5. Failure by Miller to comply with any portion of this Consent Order shall constitute a separate and sufficient basis for administrative action, up to and including license application denial or license revocation, and monetary penalties.

NOW THEREFORE, the Commissioner of the New Hampshire Banking Department enters the following ORDER:

1. The sanctions set forth above are hereby entered;
2. Pursuant to RSA 361-A:5, VI, the Commissioner finds this action necessary or appropriate to the public interest or the protection of consumers and consistent with the purposes fairly intended by the policy and provisions of this title;
3. This Order fully resolves this matter and the Commissioner will not take further action against Miller for the allegations presented herein, provided that the Department may take enforcement action against Miller for any violation of this Consent Order or the matters underlying its entry, if the Commissioner determines that compliance with the terms of this Order are not being observed or if any representation made by Miller and reflected herein is subsequently discovered to be untrue;
4. Nothing herein is intended to alter any future statutory or regulatory requirements of licensure and the allegations set forth above may be fully taken into account by the Department in connection with future examinations and enforcement actions; and
5. This Consent Order shall become final when issued.

