

**STATE OF NEW HAMPSHIRE
BANKING DEPARTMENT**

In The Matter of: Avery Lacy, Inc. d/b/a Infiniti of Nashua
Case No. 16-012

CONSENT ORDER

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

WHEREAS, Avery Lacy, Inc. d/b/a Infiniti of Nashua (“Infiniti of Nashua”), a New Hampshire corporation, purchased the Infiniti of Nashua dealership in April 2015.

WHEREAS, Avery Lacy, Inc. d/b/a Infiniti of Nashua became licensed by the Department as a retail seller of motor vehicles on April 29, 2016.

WHEREAS pursuant to its authority under RSA 361-A:6-a, the Department requested documentation from Infiniti of Nashua regarding its retail seller or sales finance business activities conducted since April 2015, from which the following information is relevant:

1. Infiniti of Nashua, under the ownership of Avery Lacy, Inc., began operating as a retail seller on or about April 24, 2015.
2. From April 24, 2015 through April 29, 2016, Infiniti of Nashua conducted 380 sales transactions as a retail seller.
3. Infiniti of Nashua was not licensed by the Department to engage in the business of a retail seller during that time period.

WHEREAS, RSA 361-A:2, I provides, “No person shall engage in the business of a sales finance company or retail seller in this state without a license therefor as provided in this chapter.”

WHEREAS, Infiniti of Nashua maintains that its actions were inadvertent and has worked cooperatively with the Department to provide information and bring forth a resolution for the above-described unlicensed activity.

WHEREAS, Infiniti of Nashua makes the following acknowledgements:

1. Infiniti of Nashua knowingly and voluntarily enters into and signs this Consent Order without reliance upon any discussions between the Department and Infiniti of Nashua, 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. Infiniti of Nashua understands the nature of the allegations set forth herein and that they could constitute grounds for potential sanctions, including administrative fines, as provided by RSA 361-A:11.
3. Infiniti of Nashua understands that it has the right to notice and an adjudicatory hearing to contest the matters set forth herein, including any appeal, and hereby waives those rights.
4. Infiniti of Nashua understands that its action in entering this Consent Order is a final act and not subject to reconsideration or judicial review or appeal.
5. Infiniti of Nashua represents and warrants that it has all the necessary rights, powers and abilities to carry out the terms of this Consent Order.

6. Infiniti of Nashua acknowledges that the Department is relying upon Infiniti of Nashua's representations and warranties stated herein in making its determinations in this matter.
7. Infiniti of Nashua acknowledges that this Consent Order may be revoked and the Department may pursue any and all remedies available under the law against Infiniti of Nashua if the Department later learns that Infiniti of Nashua knowingly or willfully withheld information from the Department.

WHEREAS, to resolve the foregoing matter, Infiniti of Nashua consents to enter into this voluntary Consent Order with the Department as follows:

1. Infiniti of Nashua shall remit a penalty, pursuant to RSA 361-A:11, VII in the amount of \$90,000 for 380 violations of negligently engaging in the business of a retail seller without a license, which Infiniti of Nashua shall remit to the New Hampshire Banking Department by check payable to the "State of New Hampshire" according to the following schedule:
 - a. \$30,000 to be paid contemporaneously with Infiniti of Nashua's execution of this Consent Order;
 - b. \$30,000 to be paid on or before January 13, 2017; and
 - c. \$30,000 to be paid on or before May 13, 2017;
2. Infiniti of Nashua shall comply with any and all recordkeeping and reporting requirements as required by RSA 361-A, including any corresponding regulations; and

3. Failure by Infiniti of Nashua to comply with any portion of this Consent Order shall constitute a separate and sufficient basis for administrative action, up to and including license suspension, revocation and monetary fines.

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

1. The sanctions set forth above are hereby entered;
2. This Order fully resolves this matter and the Commissioner will not take further action against Infiniti of Nashua for the allegations presented herein, provided that the Department may take enforcement action against Infiniti of Nashua 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 Infiniti of Nashua and reflected herein is subsequently discovered to be untrue;
3. Nothing herein shall nor is intended to challenge or negate the validity or legality of any of the retail installment contracts, or any term therein, entered into with consumers by Infiniti of Nashua;
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;
5. 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 RSA 361-A; and

6. This Consent Order shall become effective and final upon the date signed by the Banking Department Deputy Commissioner.
7. This Consent Order is the complete document representing resolution of this matter. There are no other agreements, promises, representations or warranties other than those set forth in this Consent Order.

Executed by:

_____/s/_____
Rosemary Wiant, Esq.
Supervisor of Enforcement
New Hampshire Banking Department

09/19/16
Date

_____/s/_____
George Albrecht, Jr.
President
Avery Lacy, Inc. d/b/a Infinity of Nashua

09/14/16
Date

SO ORDERED.

_____/s/_____
Gerald H. Little
Commissioner
New Hampshire Banking Department

09/19/16
Date