

**STATE OF NEW HAMPSHIRE
BANKING DEPARTMENT**

In The Matter of: Rochester Lincoln-Mercury, Inc. d/b/a Rochester Toyota

Case No. 19-047

CONSENT ORDER

The State of New Hampshire Banking Department (“Department”), acting in agreement with the respondent, Rochester Lincoln-Mercury, Inc. d/b/a Rochester Toyota, finds and orders as follows:

Jurisdiction

Pursuant to RSA 361-A:2, I, the New Hampshire Banking Department (“Department”) is charged with regulating persons that “engage in the business of a...retail seller” in New Hampshire. Pursuant to RSA 361-A:6-a, the Department is authorized to examine the business affairs of any licensee or non-licensee retail seller to determine compliance with RSA 361-A. Pursuant to RSA 361-A:5, VII, the Commissioner shall have authority to investigate conduct that is or may be a violation of RSA 361-A.

Background

Rochester Lincoln-Mercury, Inc., with a trade name of Rochester Toyota (“Rochester Toyota”), is a New Hampshire corporation with a principal office location in Rochester, New Hampshire, and a current New Hampshire retail seller-licensee. Rochester Toyota failed to timely renew its retail seller license before January 1, 2019 and accordingly, had unlicensed retail seller activity from January 1, 2019 to March 19, 2019. Pursuant to its authority under 361-A:6-a, I, the Department, through the Consumer Credit Division, conducted an investigation of Rochester Toyota, who fully cooperated with the Department regarding its unlicensed activity

prior to Rochester Toyota's re-licensure date of March 20, 2019.

Through its investigation, the Department found that from January 1, 2019 through March 19, 2019, Rochester Toyota conducted unlicensed retail seller activity (both arranging motor vehicle sales financing and arranging motor vehicle leasing) with 223 consumers, in violation of RSA 361-A:2, I. The Department also determined that Rochester Toyota has potential recordkeeping issues with its software programs.

Acknowledgments

WHEREAS, Rochester Toyota makes the following acknowledgements:

1. Rochester Toyota voluntarily enters into and signs this Consent Order without reliance upon any discussions between the Department and Rochester Toyota, 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. Rochester Toyota understands the nature of the allegations set forth herein and that they constitute grounds for potential sanctions, as provided by law.
3. Rochester Toyota acknowledges, understands, and agrees 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. Rochester Toyota further acknowledges it waives the filing of any civil actions related to this matter.
4. Rochester Toyota understands that its action in entering this Consent Order is a final act and not subject to reconsideration or judicial review or appeal.
5. Rochester Toyota represents and warrants that it has all the necessary rights, powers and abilities to carry out the terms of this Consent Order.
6. Rochester Toyota acknowledges that the Department is relying upon Rochester

Toyota's representations and warranties stated herein in making its determinations in this matter.

7. Rochester Toyota acknowledges that this Consent Order may be revoked and the Department may pursue any and all remedies available under the law against Rochester Toyota if the Department later learns that Rochester Toyota knowingly or willfully withheld information from the Department.
8. This Consent Order is binding on all heirs, assigns and successors in interest.

Order

Pursuant to RSA 361-A:5, VI, the Bank 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 Chapter 361-A. Accordingly, the Bank Commissioner orders as follows:

1. Rochester Toyota shall cease and desist from further violations of RSA 361-A.
2. Rochester Toyota shall ensure it creates and/or amends its recordkeeping policies and practices regarding all retail seller transactions (motor vehicle sales and leases) to comply with RSA Chapter 361-A, including but not limited to retaining fully executed copies of the following: retail purchase and sales agreements, retail installment contracts, motor vehicle lease agreements, any and all GAP waivers, any and all warranties, any and all service contracts, any and all VSI contracts (if applicable).
3. Rochester Toyota shall be subject to a full examination by the Department between six (6) to twelve (12) months after the Commissioner's execution of this Consent Order.

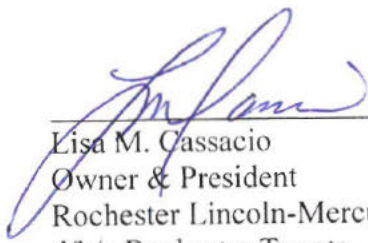
4. Rochester Toyota shall remit an administrative fine in the amount of \$15,000.00, which shall be made contemporaneously with Rochester Toyota's execution of this Consent Order and by bank check made payable to the "State of New Hampshire."
5. Failure by Rochester Toyota to comply with any portion of this Consent Order shall constitute a separate and sufficient basis for administrative action, up to and including license revocation and monetary penalties.
6. This Order fully resolves this matter and the Commissioner will not take further action against Rochester Toyota for the allegations presented herein. However, the Department may take enforcement action against Rochester Toyota 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 Rochester Toyota and reflected herein is subsequently discovered to be untrue.
7. This Consent Order shall become final when executed by the Commissioner.

Recommended by:



Maryam Torben
Hearings Examiner
New Hampshire Banking Department

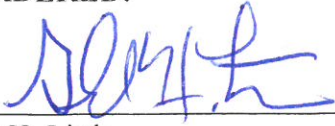
Dec. 11, 2019
Date



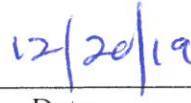
Lisa M. Cassacio
Owner & President
Rochester Lincoln-Mercury, Inc.
d/b/a Rochester Toyota

12-18-19
Date

SO ORDERED.



Gerald H. Little
Bank Commissioner
New Hampshire Banking Department



Date