

1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 08-065  
 )  
 3 State of New Hampshire Banking ) Cease and Desist Order  
 )  
 4 Department, )  
 )  
 5 Petitioner, )  
 )  
 6 and )  
 )  
 7 Mike's Affordable Auto, and Mike )  
 )  
 8 Albert, )  
 )  
 9 Respondents

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10  
11 This Order commences an adjudicative proceeding under the provisions of  
12 RSA 361-A:3-a, RSA 541-A, BAN 200 and JUS 800 as applicable.

13 LEGAL AUTHORITY AND JURISDICTION

14 Pursuant to RSA 361-A:3-a, the Banking Department of the State of New  
15 Hampshire (hereinafter the "Department") has the authority to issue and cause  
16 to be served an order requiring any person about to engage in or has engaged  
17 in any act or practice constituting a violation of RSA 361-A or any rule or  
18 order thereunder, to cease and desist from violations of RSA 361-A.

19 NOTICE OF RIGHT TO REQUEST A HEARING

20 The above named respondents have the right to request a hearing on this  
21 Cease and Desist Order, as well as the right to be represented by counsel. If  
22 the person to whom a cease and desist order is issued fails to request a  
23 hearing within 30 calendar days of receipt of such order, then such person  
24 shall be deemed in default, such default shall constitute Respondents consent  
25 to the Commissioner's determination in this matter, and the order shall, on the  
thirty-first day, become permanent and shall remain in full force and effect  
until and unless later modified or vacated by the commissioner, for good cause

1 shown. Any such request for a hearing shall be in writing, signed by the  
2 respondents or by the duly authorized agent of the above named respondents,  
3 and shall be delivered either by hand or certified mail, return receipt  
4 request, to the Banking Department, State of New Hampshire, 64B Old Suncook  
5 Road, Concord, NH 03301.

6 A hearing shall be held not later than 10 days after the request for such  
7 hearing is received by the commissioner. Within 20 days of the date of any such  
8 hearing the commissioner shall issue a further order either vacating the cease  
9 and desist order or making it permanent as the facts require. All hearings  
10 shall comply with 541-A. If the person to whom a cease and desist order is  
11 issued fails to appear at the requested hearing after being duly notified of  
12 the date and time, such person shall be deemed in default, and the proceeding  
13 may be determined against him or her upon consideration of the cease and desist  
14 order, the allegations of which may be deemed to be true.

14 **STATEMENT OF ALLEGATIONS, APPLICABLE LAW, AND RELIEF REQUESTED**

15 The Staff Petition dated April 29, 2008 (a copy of which is attached  
16 hereto) is incorporated by reference hereto.

17 **ORDER**

18 WHEREAS, finding it necessary and appropriate and in the public  
19 interest, and consistent with the intent and purposes of the New Hampshire  
20 banking laws, and

21 WHEREAS, finding that the allegations contained in the Staff Petition,  
22 if proved true and correct, form the legal basis of the relief requested,

23 It is hereby ORDERED, that:

- 24 1. The Respondents shall immediately cease selling motor vehicles  
25 subject to retail installment contracts from unlicensed  
locations; and



1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 08-065  
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3 State of New Hampshire Banking ) Staff Petition  
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4 Department, )  
) ) April 29, 2008  
5 Petitioner, )  
) )  
6 and )  
) )  
7 Mike's Affordable Auto, and Mike )  
) )  
8 Albert )  
) )  
9 Respondents

10  
11 STATEMENT OF ALLEGATIONS

12 I. The staff of the Banking Department, State of New Hampshire  
13 (hereinafter referred to as the "Department") alleges the following  
14 facts:

- 15 1. Mike Albert (hereinafter "Respondent Albert") is the sole owner  
16 of Mike's Affordable Auto (hereinafter "Respondent Mike's Auto").
- 17 2. On or about March 25, 2008 the Department was notified that  
18 Respondent Mike's Auto was engaging in "buy here, pay here"  
19 retail seller and sales finance activities. Respondents were  
20 notified that day that Banking Department licenses were required.
- 21 3. Respondent Mike's Auto is not licensed as a Retail Seller.
- 22 4. Respondent Mike's Auto is located at 124 Manchester Street,  
23 Concord, NH 03301. Respondent Albert's filings with the NH  
24 Secretary of State disclosed the business organization date as  
25 April 1, 2005 and its business address as 124 Manchester Street,  
Concord, NH 03301. This location is an unlicensed location.

- 1 5. Respondent Mike's Auto website <http://mikesaffordableauto.com>  
2 offers vehicles for sale.
- 3 6. Respondent Albert is not licensed as a Sales Finance Company.
- 4 7. Respondent Albert (lien holder #16865) has been listed as holding  
5 title to as many as 722 liens with the NH Department of Motor  
6 Vehicles (hereinafter "NH DMV"). Respondent Albert currently  
7 holds title to at least 13 liens. Respondent Albert's place of  
8 business as disclosed on title is 124 Manchester Street, Concord,  
9 NH, 03301.
- 10 8. At least 3 of the 13 titles naming Respondent Albert as the lien  
11 holder were filed with the NH DMV between April 7, 2008 and April  
12 16, 2008.
- 13 9. At least one consumer has purchased a motor vehicle from the  
14 Respondents which included the origination of a direct loan.
- 15 10. As of the date of this Petition there are no pending Retail  
16 Seller and Sales Finance applications for the Respondents.

17  
18 **ISSUES OF LAW**

- 19 II. The staff of the Department, alleges the following issues of law:
- 20 1. The Department realleges the above stated facts in paragraphs 1  
21 through 10.
- 22 2. The Department has jurisdiction over the licensing and  
23 regulation of persons engaged in retail seller and sales finance  
24 activities pursuant to NH RSA 361-A:2.
- 25 3. RSA 361-A:3-a provides that the Department may issue a Cease and  
Desist Order against anyone who it has reasonable cause to

1 believe is conducting business of a retail seller or a sales  
2 finance company without the required license as provided for in  
3 this Chapter.

- 4 4. RSA 361-A:11, VII provides that any person who, either knowingly  
5 or negligently, violates any provision of this chapter may, upon  
6 notice and opportunity for hearing, and in addition to any such  
7 other penalty provided for by law, be subject to suspension,  
8 revocation or denial of any registration or license, including  
9 forfeiture of any application fee, or an administrative fine not  
10 to exceed \$2,500, or both. Each of the acts specified shall  
11 constitute a separate violation, and such administrative action  
12 or fine may be imposed in addition to any criminal penalties or  
13 civil liabilities imposed by New Hampshire Banking laws.

14 **RELIEF REQUESTED**

15 The staff of the Banking Department requests the Commissioner take the  
16 following action:

- 17 1. Find as fact the allegations contained in section I of the  
18 Statement of Allegations of this petition.  
19 2. Make conclusions of law relative to the allegations contained in  
20 section II of the Statement of Allegations of this petition.  
21 3. Pursuant to NH RSA 361-A:3-a, Order Respondent to immediately  
22 Cease and Desist from violations of the chapter.  
23 4. Take such other administrative and legal actions as are necessary  
24 for enforcement of the New Hampshire Banking laws, the protection  
25 of New Hampshire citizens, and to provide other equitable relief.



