) Case No.: 10-300 In re the Matter of: State of New Hampshire Banking Department, Petitioner,) Order to Show Cause and Cease and) Desist and Midstate Auto Sales & Service LLC, Jean L. Harvey, and Ronald D. Bryson, Respondents

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NOTICE OF ORDER TO SHOW CAUSE AND CEASE AND DESIST ("ORDER")

- This Order commences an adjudicative proceeding under the provisions of RSA Chapter 361-A (including RSA 361-A:3,I, RSA 361-A:3,I-a, RSA 361-A:3a, I and RSA 361-A:5, IV), RSA Chapter 541-A and RSA 383:10-d.
- The Commissioner may impose administrative fines of up to a maximum of \$2,500.00 for each violation. RSA 361-A:11.

RESPONDENTS

- Midstate Auto Sales & Service LLC ("Respondent Midstate") is a limited liability company formed in New Hampshire on January 17, 2007 with its principal office location in Rumney, New Hampshire. Respondent is a Person (RSA 361-A:1, VIII).
- 20 Respondent Midstate was licensed as a Retail Seller with the New 21 Hampshire Banking Department ("Department") from June 27, 2007 until its 22 license expired on December 31, 2010.
- Jean L. Harvey ("Respondent Harvey") is the 50% owner and control person of Respondent Midstate. Respondent Harvey is a Person (RSA 361-25 A:1, VIII) and a Control person (RSA 361-A:1, III-b).

- 1 | 6. Ronald D. Bryson ("Respondent Bryson") is the 50% owner and control
 2 | person of Respondent Midstate. Respondent Bryson is a Person (RSA 3613 | A:1,VIII) and a Control person (RSA 361-A:1,III-b).
 - 7. The above named Respondents are hereby collectively known as "Respondents".

RIGHT TO REQUEST A HEARING

- 8. Respondents have a right to request a hearing on this Order. A hearing shall be scheduled not later than ten (10) days after the Commissioner receives the Respondent's written request for a hearing. Respondents may request a hearing and waive the ten (10) day hearing requirement. The hearing shall comply with RSA Chapter 541-A, RSA 361-A:3 and RSA 361-A:3-a.
- 9. If any person fails to request a hearing within thirty (30) days of receiving this Order, then such person shall be deemed in default, and the Order shall, on the thirty-first (31st) day, become permanent, all allegations may be deemed true, and shall remain in full force and effect until modified or vacated by the Commissioner for good cause shown. RSA 361-A:3 and RSA 361-A:3-a
- 10. A default may result in administrative fines as described in Paragraph 2 above.

STATEMENT OF ALLEGATIONS

11. On September 9, 2010, the Department received a consumer complaint from Consumer A, as forwarded by the New Hampshire Office of the Attorney General. Consumer A refinanced a motor vehicle through Respondents and Respondents failed to pay off the existing loan, in violation of RSA 361-A:3,I-a(h). As a result of Respondents' failure, Consumer A still owes

1	\$4,295.00 on the original loan.
2	12. On September 9, 2010, the Department mailed the consumer complaint to
3	Respondents via U.S. Certified Mail Return Receipt. On October 4, 2010, the
4	letter was returned to the Department as "unclaimed; unable to forward".
5	13. On October 7, 2010, the Department left a voicemail message for
6	Respondents regarding the Consumer A complaint. On the same day, the
7	Department successfully faxed the Consumer A complaint to Respondents.
8	14. To date, Respondents have failed to respond to both the Consumer A
9	complaint and Department inquiries regarding the same. Such failure to
10	respond is in violation of RSA 361-A:4-a and RSA 361-A:2-b,VI.
11	/s/ February 14, 2011
12	Maryam Torben Desfosses Date Hearings Examiner
13	ORDER
14	15. I hereby find as follows:
15	a. Pursuant to RSA 361-A:3,I, the facts as alleged above, if true,
16	show Respondents are operating or have operated in violation of RSA Chapter
17	361-A and form the legal basis for this Order;
18	b. Pursuant to RSA 361-A:5,VI, this Order is necessary and
19	appropriate to the public interest and for the protection of consumers and
20	consistent with the purpose of New Hampshire banking laws;
21	c. Pursuant to RSA 361-A:3,I and RSA 361-A:3-a,I, reasonable cause
22	to issue an order to cease and desist; and
23	d. If Respondents fail to respond to this Order and/or defaults
24	then all facts as alleged herein are deemed as true.
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Respondents shall cease and desist from violating RSA Chapter a. 361-A and rules or orders thereunder:

- Respondents shall within fourteen (14) days of the date of this Order provide the Department a list of all New Hampshire consumers for whom Respondents have failed to pay-off existing liens on refinanced motor vehicles. This list must include the names and contact information of the New Hampshire consumers, along with monies charged, collected and waived (if applicable). The list shall also be accompanied by all contracts, checks to and from the consumer and any other documents in the New Hampshire consumers' files;
- Respondents shall show cause why Respondent Midstate's New c. Hampshire Retail Seller license should not be revoked;
- Respondents shall show cause why an administrative fine of up to a maximum of \$2,500.00 per violation should not be imposed as follows:
 - (1). Respondent Midstate:

Violation #1: Engaged in Unfair or Deceptive Activity as Related to Making a Retail Installment Contract (RSA 361-A:3,I-a(h)) (1 count);

Violation #2: Failure to respond to consumer complaint (RSA 361-A:4-a) (1 count);

(2). Respondent Harvey (as control person):

Violation #1: Engaged in Unfair or Deceptive Activity as Related to Making a Retail Installment Contract (RSA 361-A:3, I-a(h)) (1 count);

1	Violation #2: Failure to respond to consumer complaint
2	(RSA 361-A:4-a) (1 count);
3	Violation #3: Failure to respond to Commissioner (RSA 361-
4	A:2-b,VI) (2 counts);
5	(3). Respondent Bryson (as control person):
6	Violation #1: Engaged in Unfair or Deceptive Activity as
7	Related to Making a Retail Installment Contract (RSA 361-
8	A:3,I-a(h)) (1 count);
9	Violation #2: Failure to respond to consumer complaint
LO	(RSA 361-A:4-a) (1 count);
11	Violation #3: Failure to respond to Commissioner (RSA 361-
12	A:2-b,VI) (2 counts); and
L3	e. Nothing in this Order:
14	(1). shall prevent the Department from taking any further
15	administrative and legal action as necessary under New Hampshire law; and
L6	(2). shall prevent the New Hampshire Office of the Attorney General
L7	from bringing an action against the above named Respondents in any New
18	Hampshire superior court, with or without prior administrative action by the
19	Commissioner.
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21	SO ORDERED.
22	/s/ Dated: February 14, 2011
23	Robert A. Fleury, Deputy Bank Commissioner
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