

1 State of New Hampshire Banking Department

2 In re the Matter of: )Case No.: 11-057  
) )  
3 State of New Hampshire Banking ) )  
) )  
4 Department, ) )  
) )  
5 Petitioner, )Consent Order  
) )  
6 and ) )  
) )  
7 Claremont Ford Lincoln, Inc., ) )  
) )  
8 Respondent ) )  
) )

9 CONSENT ORDER

10 The State of New Hampshire Banking Department (the "Department") finds and  
11 Orders as follows:

12 **Respondent**

13 1. Claremont Ford Lincoln, Inc. ("CFL") is a corporation duly registered  
14 with the New Hampshire Secretary of State on October 31, 2000 with a  
15 principal office location in Claremont, New Hampshire. CFL has been  
16 licensed as a Retail Seller by the Department since at least 2001.

17 **Jurisdiction**

- 18 2. The Department is authorized to regulate retail sellers pursuant to
- 19 RSA Chapter 361-A. *RSA 361-A:2.*
- 20 3. The Commissioner has jurisdiction to issue orders to
- 21 show cause and cease and desist from violations under RSA Chapter 361-
- 22 A and to revoke, deny, or suspend a license of a licensee and/or
- 23 assess penalties pursuant to RSA Chapter 361-A. *RSA 361-A:3,I, RSA*
- 24 *361-A:3,I-a, RSA 361-A:3-a and RSA 361-A:11.*

1 **Facts**

2 4. In March of 2009, the Department had four consumer complaints against  
3 CFL that dealt with untimely lien payoffs on traded-in motor vehicles.  
4 CFL was placed on notice of these issues and was informed this could  
5 not occur again, since the new legislation codified this prohibition  
6 in RSA 361-A:10-c.

7 5. RSA 361-A:10-c requires CFL, on a trade-in, to remit payment to the  
8 lien holder of the traded-in or sold motor vehicle within twenty-one  
9 (21) calendar days of the date of sale.

10 6. Based on information received by the Department, the Department  
11 observed that from 2010 to 2011 CFL did not remit payment on sixty-  
12 three (63) motor vehicle liens until after 21 days.

13 7. During the request for information, CFL cooperated and provided the  
14 requested information to the Department to show it did violate RSA  
15 361-A:10-c.

16 **Violation(s) of Law and Penalties**

17 8. CFL is a "Person" as defined by RSA 361-A:1,VIII.

18 9. CFL may be assessed an administrative fine not to exceed \$2,500.00 for  
19 each violation of RSA Chapter 361-A. *RSA 361-A:11,VII and VIII.*

20 **Respondent's Consent**

21 10. CFL hereby acknowledges that were an administrative hearing to be held  
22 in this matter, the Department would introduce evidence demonstrating  
23 that CFL violated RSA Chapter 361-A.

24 11. CFL has voluntarily entered into this Consent Order without reliance  
25 upon any discussions between the Department and CFL, without promise

1 of a benefit of any kind (other than concessions contained in this  
2 Consent Order), and without threats, force, intimidation, or coercion  
3 of any kind. CFL further acknowledges its understanding of the nature  
4 of the allegations set forth in this action, including the potential  
5 penalties provided by law.

6 12. CFL hereby acknowledges, understands, and agrees that there is the  
7 right to notice, hearing, and/or a civil action and hereby waives said  
8 rights.

9 **Order**

10 13. **Whereas pursuant to RSA 361-A:5,VI** finding this Consent Order  
11 necessary, appropriate and in the public interest and consistent with  
12 the intent and purposes of New Hampshire banking laws, the Department  
13 Orders as follows:

14 a. CFL shall pay an administrative fine to the Department of  
15 \$15,000.00, payable contemporaneously with CFL's signing of this  
16 Consent Order. The check shall be bank check or guaranteed funds  
17 and made payable to "State of New Hampshire;" and

18 b. CFL shall pay to the Department \$2,835.60 in investigation fees,  
19 payable contemporaneously with CFL's signing of this Consent  
20 Order. The check shall be bank check or guaranteed funds and  
21 made payable to "State of New Hampshire;" and

22 c. CFL shall be required to either (1) make a cash injection or  
23 otherwise bring CFL into a positive net worth or (2) obtain a  
24 continuous surety bond for the benefit of the Commissioner in  
25 the amount of \$50,000.00; and

1 d. CFL hereby acknowledges that the Department will examine CFL's  
2 books and records and CFL shall pay for such future  
3 examination(s).

4 14. This Consent Order may be revoked and the Department may pursue any  
5 and all remedies available under law, if the Department later finds  
6 that CFL knowingly or willfully withheld information used and relied  
7 upon in this Consent Order or violate this Consent Order.

8 15. This Consent Order is binding on all heirs, assigns, and/or successors  
9 in interest.

10 16. This Consent Order shall become effective upon the date the  
11 Commissioner signs this Consent Order, providing the Department has  
12 confirmed the receipt of payment referenced in Paragraphs 13.a. and  
13 13.b. and the requirements in Paragraphs 13.c. and 13.d. herein.

14 17. Once this Consent Order is effective, the Department agrees not to  
15 seek further reimbursement, refunds, penalties, fines, costs, or fees  
16 regarding the facts, allegations, or findings of violations contained  
17 herein.

18 **WHEREFORE**, based on the foregoing, we have set our hands to this Consent  
19 Order, upon its execution by Ronald A. Wilbur, Bank Commissioner.

20 Recommended this 28 day of June, 2012 by

21 /s/ Ingrid E. White, Acting General Counsel, o/b/o

22 Maryam Torben Desfosses, Hearings Examiner, Banking Department

23 Executed this 25 day of April, 2012 by

24 \_\_\_\_\_  
25 /s/  
Arrien L.C. Schiltkamp, owner, on behalf of Claremont Ford Lincoln, Inc.

1 **SO ORDERED.**

2 \_\_\_\_\_ /s/  
3 Ronald A. Wilbur,  
4 Bank Commissioner

Dated: 6/28/2012

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