

In re: Baker Valley Motors, Inc.  
Case No.: 12-285

CONSENT ORDER

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

**Respondent**

1. Baker Valley Motors, Inc. ("Baker Valley") is a corporation duly registered with the New Hampshire Secretary of State since May 25, 1989 with a principal office location in Plymouth, New Hampshire. Baker Valley was a licensed New Hampshire Retail Seller from at least 1997 until December 31, 2004. Baker Valley is currently not a licensed New Hampshire Sales Finance Company.

**Jurisdiction**

2. The Department is authorized to regulate sales finance companies pursuant to RSA Chapter 361-A. *RSA 361-A:2.*
3. The Commissioner has jurisdiction to issue orders to cease and desist from violations under RSA Chapter 361-A and to assess penalties pursuant to RSA Chapter 361-A. *RSA 361-A:3,I, RSA 361-A:3,I-a, RSA 361-A:3-a and RSA 361-A:11.*

4. The Department may assess Baker Valley administrative fines of up to \$2,500.00 for each violation of RSA Chapter 361-A. *RSA 361-A:11, VII and VIII.*
5. Further, pursuant to RSA 361-A:11,III, the Department may impose restitution for each consumer with whom Baker Valley contracted as a sales finance company.

#### **Facts**

6. The Department conducted an investigation and determined that Baker Valley did conduct sales finance company activity by leasing motor vehicles for a term exceeding four (4) months with an option for the consumer to purchase said leased vehicles for additional consideration. *See RSA 361-A:1,X and Regulation M (12 C.F.R. §213.2(e)(1)).*
7. Baker Valley, however, failed to register as the lien holder on certificates of title filed with the New Hampshire Department of Safety, Title Bureau. The Department has reviewed the contracts and payment history and determined the following consumers require restitution pursuant to RSA 361-A:11,III, for a total restitution amount of \$24,922.94:

Consumer A:\$1,554.14	Consumer F:\$2,948.00	Consumer K:\$0.00
Consumer B:\$3,488.00	Consumer G:\$2,264.00	Consumer L:\$3,573.00
Consumer C:\$0.00	Consumer H:\$0.00	Consumer M:\$1,273.00
Consumer D:\$0.00	Consumer I:\$6,914.00	Consumer N:\$628.00
Consumer E:\$1,140.80	Consumer J:\$1,140.00	Consumer O:\$0.00

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

8. Baker Valley has conducted unlicensed sales finance company activity for New Hampshire consumers without a valid Sales Finance Company license, in violation of RSA 361-A:2,I.

#### **Respondent's Consent and Acknowledgments**

9. Baker Valley hereby acknowledges that were an administrative hearing to be held in this matter, the Department would introduce evidence demonstrating that Baker Valley violated RSA Chapter 361-A.
10. Baker Valley has voluntarily entered into this Consent Order without reliance upon any discussions between the Department and Baker Valley, without promise of a benefit of any kind (other than concessions contained in this Consent Order), and without threats, force, intimidation, or coercion of any kind. Baker Valley further acknowledges its understanding of the nature of the allegations set forth in this action, including the potential penalties provided by law.
11. Baker Valley hereby acknowledges, understands, and

agrees that it has the right to notice and hearing, and hereby waives said rights. Baker Valley hereby further acknowledges it waives the filing of any civil actions related to this matter.

**Order**

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

- a. Pursuant to RSA 361-A:3,I, RSA 361-A:3,I-a, and RSA 361-A:3-a, Baker Valley shall not violate RSA Chapter 361-A and any rules or orders thereunder;
- b. Baker Valley shall cease and desist from any unlicensed retail seller or sales finance company activity in New Hampshire;
- c. Baker Valley shall reimburse Consumers A through O the fees charged as described in Paragraph 7 above, payable contemporaneously with the effective date of this Consent Order, which is upon the Commissioner's signature. These consumer checks shall be bank check or guaranteed funds and made payable to each individual consumer and

submitted directly to each consumer via first class mail by Baker Valley.

(1). Each check shall be accompanied by written correspondence containing only the following language: "This refund check is being sent to you pursuant to a public consent order that Baker Valley Motors, Inc. entered into with the New Hampshire Banking Department. You may find a copy of the public consent order on the Banking Department's website, which is located at

[www.nh.gov/banking/orders/enforcement/index.htm](http://www.nh.gov/banking/orders/enforcement/index.htm) by searching for Docket #12-285. For further questions, please contact the New Hampshire Banking Department at (603) 271-3561;"

(2). Any verbal communications with consumers about the restitution shall be limited to the language found in the written correspondence, and Baker Valley shall refer the consumer to the Department for further information;

(3). Baker Valley shall also forward to the Department copies of both cancelled checks or copies of both cancelled check images;

(4). Baker Valley shall make a second attempt

to locate the consumer, if the address to which the restitution check is mailed is no longer valid. Such attempt shall be documented and reported to the Department;

(5). Baker Valley shall follow up at least once with any consumer who does not cash the check within three months of receipt. Such follow up shall be documented and reported to the Department; and

(6). If, after six months, a consumer has failed to cash or deposit the restitution check, Baker Valley shall begin the process to escheat the funds to the New Hampshire State Treasurer's Abandoned Property division. Such process shall be documented and reported to the Department. The process of escheatment may begin prior to six months, if so approved or directed by the Department; and

d. Baker Valley shall pay to the Department \$1,500.00 in administrative penalties, payable contemporaneously with Baker Valley's signing of this Consent Order. The check shall be bank check or guaranteed funds and made payable to "State of New Hampshire."

13. This Consent Order may be revoked and the Department may pursue any and all remedies available under law, if the Department later finds that Baker Valley knowingly or willfully withheld information used and relied upon in this Consent Order or violates this Consent Order.
14. This Consent Order is binding on all heirs, assigns, and/or successors in interest.
15. This Consent Order shall become effective upon the date the Commissioner signs this Consent Order, providing the Department has confirmed the payments as referenced in Paragraphs 12.c. and 12.d. herein.
16. Once this Consent Order is effective, the Department agrees not to seek further reimbursement, refunds, penalties, fines, costs, or fees regarding the facts, allegations, or findings of violations contained herein.

**WHEREFORE**, based on the foregoing, we have set our hands to this Consent Order, effective upon its execution by Glenn A. Perlow, Bank Commissioner.

Recommended this 9th day of June, 2014 by

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/s/

Maryam Torben Desfosses,  
Hearings Examiner, Banking Department

In re: Baker Valley Motors Inc.

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