In re: Absolute Sales & Services, Inc., Janet L. Hutchinson, and Kevin Hutchinson Respondents

Case No.: 15-065

NOTICE OF ORDER TO CEASE AND DESIST

("ORDER")

- 1. This Order commences an adjudicative proceeding under the provisions of RSA Chapter 361-A (including RSA 361-A:3-a,I and II, RSA 361-A:5,IV, and RSA 361-A:11,I through VIII) and RSA Chapter 541-A.
- 2. The Commissioner may impose administrative penalties against each Respondent of up to \$2,500 for each violation of RSA Chapter 361-A. RSA 361-A:11, VII and VIII.
- 3. The Commissioner may also impose restitution against Respondents as a result of Respondents' unlicensed sales finance company activities. RSA 361-A:11, III.
- 4. The Department reserves its right pursuant to RSA 361-A:5,IV to amend this Order or issue or rescind such orders as are reasonably necessary to carry out the provisions of RSA Chapter 361-A.

RESPONDENTS

5. Absolute Sales & Services, Inc. ("Respondent Absolute Sales") was a corporation duly formed in the State of In re: Absolute Sales & Services, Inc., et al.

Case No. 15-065 Order to Show Cause - 1 New Hampshire on December 14, 2011 with a principal office location in Belmont, New Hampshire. Respondent Absolute Sales was administratively dissolved on August 29, 2014 and never held a Sales Finance Company license with the Department. Respondent Absolute Sales is a Sale Finance Company and a Person. RSA 361-A:1, VIII and XIII.

- 6. Janet L. Hutchinson ("Respondent J. Hutchinson") was the direct owner and control person of Respondent Absolute Sales. Respondent J. Hutchinson is a Control person (RSA 361-A:1,III-b), a Direct Owner (RSA 361-A:1,III-d), a Principal (RSA 361-A:1,VIII-a), and a Person (RSA 361-A:1,VIII).
- 7. Kevin Hutchinson ("Respondent K. Hutchinson") was the control person of Respondent Absolute Sales.

 Respondent K. Hutchinson is a Control person (RSA 361-A:1,III-b) and a Person (RSA 361-A:1,VIII).
- 8. The above-named Respondents are hereinafter collectively known as "Respondents."

RIGHT TO REQUEST A HEARING

9. Respondents each have a right to request a hearing on this Order. A hearing, if requested, shall be held not later than ten (10) calendar days after the Commissioner receives a Respondent's written request

for a hearing. RSA 361-A:3-a, I. If the Respondents fail to request a hearing within 30 calendar days of receipt or valid delivery of the order and no hearing is ordered by the Commissioner, then such person shall be deemed in default, 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 shown. Id.

- 10. If any person fails to appear at the hearing, such person shall be deemed in default, and the Order shall 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-a, I, 541-A:31,V(a) and JUS 810.02.
- 11. A default herein may result in administrative fines and restitution.

STATEMENT OF ALLEGATIONS

- 12. From 2012 until 2013, Respondents conducted unlicensed sales finance company activity by entering into buy here/pay here retail installment contracts with sixteen (16) of the seventeen (17) consumers with whom they conducted business.
 - a. Of the 16 consumers, three (3) consumers do not

require restitution because they paid less than the auction/wholesale price of the purchased motor vehicle.

- 13. Respondents provided copies of Department of Safety

 Title Certificates and accompanying documents

 demonstrating that:
 - a. Respondent Absolute Sales is the lien holder on motor vehicles it sold the 16 consumers; and
 - b. Respondents J. Hutchinson and K. Hutchinson signed assignments of title, lien releases, temporary plate documents and odometer disclosure statements on behalf of Respondent Absolute Sales.
- 14. Of the 16 consumers, 13 require a total restitution of \$23,085 as follows:

Consumer 1: \$520	Consumer 7: \$2,755	Consumer 15: \$2,010
Consumer 2: \$1,425	Consumer 8: \$2,800	Consumer 16: \$1,200
Consumer 4: \$1,675	Consumer 9: \$1,600	Consumer 17: \$1,300
Consumer 5: \$1,725	Consumer 10: \$2,720	
Consumer 6: \$1,135	Consumer 13: \$2,220	

15. To date, Respondents failed to resolve this matter with the Department.

Respectfully submitted by:

/s/	Dated:	11/23/15
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Maryam Torben Desfosses Hearings Examiner

ORDER

16. I hereby find as follows:

- a. Pursuant to RSA 361-A:3-a, I, the facts as alleged above, if true, show Respondents are operating and have operated in violation of RSA Chapter 361-A and form the legal basis for this Order;
- b. Pursuant to 361-A:5,VI, this Order is necessary and appropriate to the public interest and for the protection of consumers and consistent with the purpose and intent of New Hampshire banking laws;
- c. Pursuant to RSA 361-A:3-a, I, if any Respondent fails to respond to this Order and/or defaults then all facts as alleged herein are deemed as true.

17. Accordingly, it is hereby ORDERED that:

- a. Respondents shall cease and desist from violating RSA Chapter 361-A and rules or orders thereunder;
- b. Pursuant to RSA 361-A:11, II, Respondents shall be required to provide a total of \$23,085 in restitution to 13 New Hampshire consumers as set out in Paragraph 14 above;

- c. Respondents shall each be hereby administratively fined a maximum of \$2,500 per violation pursuant to RSA 361-A:11, VII and VIII as follows:
 - (1). Unlicensed sales finance company activity (RSA 361-A:2, I): 16 Violations; and
- b. Nothing in this Order:
 - (1). shall prevent the Department from taking any further administrative and legal action as necessary under New Hampshire law; and
 - (2). shall prevent the New Hampshire Office of the Attorney General from bringing an action against the above named Respondents in any New Hampshire superior court, with or without prior administrative action by the Commissioner.

SO ORDERED.

Ingrid E. White
Deputy Bank Commissioner

CERTIFICATE OF SERVICE

I, Maryam Torben Desfosses, hereby certify that on <u>11/23/15</u>, a copy of this Notice of Order to Cease and Desist was sent to the following parties via U.S. Certified Mail First Class:

Absolute Sales & Services, Inc. P.O. Box 745 Winnisquam NH 03289

Janet L. Hutchinson Owner Absolute Sales & Services, Inc. P.O. Box 745 Winnisquam NH 03289

Kevin Hutchinson Control Person Absolute Sales & Services, Inc. P.O. Box 745 Winnisquam NH 03289

/s/

Maryam Torben Desfosses Hearings Examiner, Consumer Credit Division State of New Hampshire Banking Department