

**STATE OF NEW HAMPSHIRE
BANKING DEPARTMENT**

In The Matter of: TS & A Motors LLC
(d/b/a Stratham Mitsubishi and d/b/a Kia of Somersworth) and Said Yahyapour, Respondents
Case No. 16-130

CONSENT ORDER

WHEREAS, pursuant to RSA 361-A:2, I, the New Hampshire Banking Department (“Department”) is charged with regulating persons that “engage in the business of a sales finance company or retail seller” in New Hampshire.

WHEREAS, pursuant to RSA 361-A:6-a, the Department is authorized to examine the business affairs of any retail seller to determine compliance with RSA 361-A.

WHEREAS, pursuant to RSA 383:10-d, the commissioner has exclusive authority and jurisdiction to investigate conduct that may violate RSA 361-A, including RSA 361-A:10-c.

WHEREAS, TS & A Motors LLC (d/b/a Stratham Mitsubishi and d/b/a Kia of Somersworth) (“TS& A Motors”) is a Somersworth, New Hampshire limited liability company and is a Department-licensed New Hampshire Retail Seller.

WHEREAS, Said Yahyapour (“Yahyapour”) is the 100% owner and control person of TS & A Motors.

WHEREAS, TS & A Motors and Yahyapour shall be collectively known as “Respondents.”

WHEREAS, pursuant to its authority under RSA 361-A:4, RSA 361-A:4-a, RSA 361-A:5, VII, RSA 361-A:6-a and RSA 383:10-d, the Department, through the Consumer Credit Division, conducted an investigation of a consumer complaint.

WHEREAS, pursuant to RSA 361-A:10-c, Department-licensed retail sellers, within 21 calendar days of the date of trade-in or sale of a motor vehicle with an existing lien, shall remit

payment to the lien holder to pay off the lien on the trade-in or sold motor vehicle.

WHEREAS, through its investigation, the Department found that:

Consumer A:

1. Consumer A purchased a motor vehicle from Respondents on April 26, 2016, which was subject to a new loan (“Second Loan”). As part of this purchase, Consumer A traded-in Consumer A’s motor vehicle, which was also subject to a motor vehicle loan (“First Loan”).
2. At the time of the trade-in, Consumer A owed approximately \$33,619 on the First Loan. Respondents gave Consumer A a trade-in allowance of \$26,000 and Consumer A also paid \$1,500 as a cash down payment and also received a \$1,500 rebate credit. Respondents were to then remit \$33,619 to pay the First Loan in full.
3. Respondents are required to remit payment to the lender on a trade-in within 21 calendar days from the trade-in date. *See* RSA 361-A:10-c. However, Consumer A paid the monthly payment for both May 2016 and June 2016 to prevent the First Loan from becoming delinquent. Respondents reimbursed Consumer A for both payments, which totaled \$697.12.
4. Respondents did not issue a check to the First Loan Lender in the amount of \$33,688.62 until June 17, 2016 and the check did not clear until July 5, 2016.

Additional Consumers:

5. Upon further review of Respondents’ records, Respondents violated RSA 361-A:10-c for eighteen (18) other consumers wherein the lien pay off remittance date exceeded twenty-one (21) calendar days.
6. The time between the trade-in dates and a check issuance date ranged between

twenty-two (22) and seventy-three (73) days.

7. All motor vehicle liens for the trade-ins were eventually paid and the final payoff dates ranged between thirty-three (33) to seventy (70) days from date of trade-in to date of payment posting.

WHEREAS, Respondents make the following acknowledgements:

1. Respondents hereby acknowledge that were an administrative hearing to be held in this matter, the Department would introduce evidence demonstrating that Respondents violated RSA 361-A:10-c on at least nineteen (19) occasions.
2. Respondents voluntarily enter into and sign this Consent Order without reliance upon any discussions between the Department and Respondents, without the promise of a benefit of any kind (other than the concessions contained in this Consent Order), and without threats, force, intimidation or coercion of any kind.
3. The conduct described above constitutes violations of state law, which could result in penalties pursuant to RSA 361-A:11, VII and RSA 361-A:11, VIII.
4. Respondents understand the nature of the allegations set forth herein and that they constitute grounds for potential sanctions, as provided by law.
5. Respondents acknowledge, understand, and agree that they have the right to notice and an adjudicatory hearing to contest the matters set forth herein, including any appeal, and hereby waive those rights. Respondents further acknowledge they waive the filing of any civil actions related to this matter.
6. Respondents understand that their action in entering this Consent Order is a final act and not subject to reconsideration or judicial review or appeal.
7. Respondents represent and warrant that they have all the necessary rights, powers and

abilities to carry out the terms of this Consent Order.

8. Respondents acknowledge that the Department is relying upon Respondents' representations and warranties stated herein in making its determinations in this matter.
9. Respondents acknowledge that this Consent Order may be revoked and the Department may pursue any and all remedies available under the law against Respondents if the Department later learns that Respondents knowingly or willfully withheld information from the Department.
10. This Consent Order is binding on all heirs, assigns and successors in interest.

WHEREAS, Respondents consent to the Department imposing the following sanctions:

1. Respondents shall cease and desist from further violations of RSA 361-A.
2. Respondents shall remit an administrative penalty in the amount of \$19,000 for 19 violations of RSA 361-A:10-c. Such payments shall be as follow:
 - a. \$1,000 shall be paid contemporaneously with Respondents' execution of this Consent Order; and
 - b. \$1,500 shall be paid on the 1st of each month beginning on June 1, 2017 and shall be paid each month thereafter for twelve (12) months; and
 - c. Each payment shall be made by bank check made payable to the "State of New Hampshire."
3. Failure by Respondents to comply with any portion of this Consent Order shall constitute a separate and sufficient basis for administrative action, up to and including license application denial or license revocation, and monetary penalties.

NOW THEREFORE, the Commissioner of the New Hampshire Banking Department enters the following ORDER:

1. The sanctions set forth above are hereby entered;
2. Pursuant to RSA 361-A:5, VI, the Commissioner finds this action necessary or appropriate to the public interest or the protection of consumers and consistent with the purposes fairly intended by the policy and provisions of this title;
3. This Order fully resolves this matter and the Commissioner will not take further action against Respondents for the allegations presented herein. However, the Department may take enforcement action against Respondents for any violation of this Consent Order or the matters underlying its entry, if the Commissioner determines that compliance with the terms of this Order are not being observed or if any representation made by Respondents and reflected herein is subsequently discovered to be untrue;
4. Nothing herein is intended to alter any future statutory or regulatory requirements of licensure and the allegations set forth above may be fully taken into account by the Department in connection with future examinations and enforcement actions; and
5. This Consent Order shall become final when executed by the Commissioner.

Recommended by:

/s/
Maryam Torben Desfosses
Hearings Examiner
New Hampshire Banking Department

05/09/17
Date

_____/s/_____
Mr. Said Yahyapour, on his own behalf and
on behalf of TS & A Motors LLC
d/b/a Stratham Mitsubishi and d/b/a Kia of Somersworth

05/19/17
Date

SO ORDERED.

_____/s/_____
Gerald H. Little
Bank Commissioner
New Hampshire Banking Department

05/22/17
Date