

STATE OF NEW HAMPSHIRE BANKING DEPARTMENT

In re the Matter of:

Joseph Harlow Bates (d/b/a Joe Bates' Citgo)

ORDER DENYING REQUEST FOR REHEARING  
of

Order of Denial of Sales Finance Company License

**I. Procedural Background:**

On October 15, 2012, the New Hampshire Banking Department ("Department") issued an Order of Denial for Sales Finance Company License ("Order of Denial") based on the Department's determination that Joseph Harlow Bates (d/b/a Joe Bates' Citgo) (the "Applicant"):

- a) is operating or has operated without a license in violation of RSA Chapter 361-A;
- b) has failed to disclose on its license application administrative orders entered against the Applicant by the New Hampshire Department of Safety ("DOS") as required by the Department's statutes and rules; and
- c) has failed to provide information about or account for all 600 liens as listed on titles filed with the DOS Title Bureau.

The Department determined that pursuant to:

- a) RSA 361-A:5,VI, the Order of Denial was 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; and
- b) RSA 361-A:2,VIII, and RSA 541-A:29, the Applicant's financial resources and responsibility, experience, personnel and record of past or proposed conduct did not warrant the public's confidence and did not indicate the business would be operated lawfully, honestly, and fairly within the purposes of RSA Chapter 361-A.

On October 19, 2012, the Department received via facsimile a timely request for rehearing pursuant to RSA 541:3, filed by Applicant's counsel (the "Motion").

## **II. Discussion:**

RSA 541:4 requires that a motion for rehearing shall set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable. An application for a rehearing of a prior determination is not a new proceeding but merely another step in the proceeding in which the prior determination was made. *Lambert Construction Company, Inc. v. State of New Hampshire*, 345 A.2d 396, 398, citing 2 Am.Jur.2d Administrative Law §538 (1962). “Its purpose is to direct ‘attention to matters said to have been overlooked or mistakenly conceived in the original decision, and thus invites a reconsideration upon the record upon which that decision rested.’” *Lambert*, citing *Atchison, T. & S.F. Ry Co. v. United States*, 284 U.S. 248, 260, 52 S.Ct. 146, 149, 76 L.Ed. 273 (1932). In *Lambert*, the New Hampshire Supreme Court held the public utilities commission properly denied license applications based on previously presented evidence.

Applicant’s Motion states, without specificity or detailed explanation, that the Applicant disclosed the DOS administrative orders to the Department. In fact, only one of the two DOS administrative orders was provided by the Applicant to the Department, and the DOS order was not provided as an amendment to the Applicant’s license application, but rather was given to the Department’s Legal Division to rebut the Department’s jurisdiction to require a consent order of the Applicant. Further, the DOS administrative order was untimely submitted in July of 2012, rather than in October of 2011 or August of 2011, when the DOS administrative orders became effective (and at the time the Applicant filed the license application with the Department).

The Motion states the Applicant did honestly provide all information asked of him, but the Motion does not specify or explain this broad statement. The Department had considerable difficulty in obtaining consistent financial documents and never received complete sales finance company records regarding the 600 liens filed with the DOS Title Bureau. No further explanation regarding the 600 liens is presented in the Motion.

Just as in *Lambert*, the Applicant’s vague motion for rehearing lacks any detail and fails to direct the Department’s attention to any overlooked or “mistakenly conceived” matter. The Applicant failed to provide any grounds to support the contention that the Order of Denial was unlawfully or unreasonably issued.

**III. Order**

1. Pursuant to RSA 541:3 and RSA 541:4, the Department hereby denies the Motion for Rehearing per RSA 541:3 and Specifications per RSA 541:4 (“Motion”) as good reason does not exist to grant the Motion.
2. Accordingly, the Order of License Denial against Joseph Harlow Bates’ (d/b/a Joe Bates’ Citgo) stands.

**SO ORDERED.**

\_\_\_\_\_/s/  
Ronald A. Wilbur  
Bank Commissioner

Dated: 10/25/12