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State of New Hampshire Banking Department

In re the Matter of:	)	Case No.: 07-299
	)	
State of New Hampshire Banking	)	
Department,	)	Order to Show Cause
	)	
Petitioner,	)	
	)	
and	)	
	)	
Beech Street Auto Wholesalers LLC, and	)	
	)	
Thomas V. Sanuth,	)	
	)	
Respondents	)	

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NOTICE OF ORDER

This Order commences an adjudicative proceeding under the provisions of RSA 361-A and RSA 541-A.

LEGAL AUTHORITY AND JURISDICTION

Pursuant to RSA 361-A:3, the Banking Department of the State of New Hampshire (hereinafter the "Department") has the authority to issue an order to show cause why license revocation and penalties for violations of New Hampshire Banking laws should not be imposed.

Pursuant to RSA 361-A:5, the Commissioner may issue, amend, or rescind such orders as are reasonably necessary to comply with the provisions of the Chapter.

Pursuant to RSA 361-A:11, the Commissioner has the authority to suspend, revoke or deny any license and to impose administrative penalties of up to \$2,500.00 for each violation of New Hampshire banking law and rules.

Pursuant to RSA 383:10-d, the Commissioner shall investigate conduct

1 that is or may be an unfair or deceptive act or practice under RSA 358-A and  
2 exempt under RSA 358-A:3,I or that may violate any of the provisions of  
3 Titles XXXV and XXXVI and administrative rules adopted thereunder. The  
4 Commissioner may hold hearings relative to such conduct and may order  
5 restitution for a person or persons adversely affected by such conduct.

6 **NOTICE OF RIGHT TO REQUEST A HEARING**

7 The above named Respondents have the right to request a hearing on  
8 this Order to Show Cause, as well as the right to be represented by counsel  
9 at each Respondent's own expense. All hearings shall comply with RSA 541-A.  
10 Any such request for a hearing shall be in writing, and signed by the  
11 Respondent or the duly authorized agent of the above named Respondent, and  
12 shall be delivered either by hand or certified mail, return receipt  
13 requested, to the Banking Department, State of New Hampshire, 53 Regional  
14 Drive, Suite 200, Concord, NH 03301. Such hearings will be scheduled within  
15 10 days of the Department's receipt of the request. If the Respondent fails  
16 to appear at the hearing after being duly notified, such person shall be  
17 deemed in default, and the proceeding may be determined against the Respondent  
18 upon consideration of the Order to Show Cause, the allegations of which may be  
19 deemed to be true.

20 If any of the above named Respondents fails to request a hearing within  
21 30 calendar days of receipt of such order or reach a formal written and  
22 executed settlement with the Department within that time frame, then such  
23 person shall likewise be deemed in default, and the orders shall, on the  
24 thirty-first day, become permanent, and shall remain in full force and effect  
25 until and unless later modified or vacated by the Commissioner, for good cause

1 shown.

2 **STATEMENT OF ALLEGATIONS, APPLICABLE LAWS AND REQUEST FOR RELIEF**

3 The Staff Petition dated June 1, 2009 (a copy of which is attached  
4 hereto) is incorporated by reference hereto.

5 **ORDER**

6 WHEREAS, finding it necessary and appropriate and in the public  
7 interest, and consistent with the intent and purposes of the New Hampshire  
8 banking laws, and

9 WHEREAS, finding that the allegations contained in the Staff Petition,  
10 if proved true and correct, form the legal basis of the relief requested,

11 It is hereby ORDERED, that:

- 12 1. Respondent Beech Street Auto Wholesalers LLC ("Respondent  
13 Beech Street Auto") shall show cause why penalties in the  
14 amount of \$2,500.00 should not be imposed against it;
- 15 2. Respondent Thomas V. Sanuth ("Respondent Sanuth") shall show  
16 cause why penalties in the amount of \$2,500.00 should not be  
17 imposed against him;
- 18 3. The above named Respondents shall show cause why, in addition  
19 to the penalties listed in Paragraphs 1 through 2 above, the  
20 \$500.00 examination fee should not be paid to the Department;
- 21 4. Respondents shall be jointly and severally liable for the  
22 above amounts alleged in Paragraphs 1 through 3 above;
- 23 5. The above named Respondents shall show cause why, in addition  
24 to the penalties listed in Paragraphs 1 through 4 above,  
25 Respondent Beech Street Auto's license should not be revoked.



1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 07-299  
 )  
 3 State of New Hampshire Banking )  
 )  
 4 Department, ) Staff Petition  
 )  
 5 Petitioner, ) June 1, 2009  
 )  
 6 and )  
 )  
 7 Beech Street Auto Wholesalers LLC, and )  
 )  
 8 Thomas V. Sanuth, )  
 )  
 9 Respondents )

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10 I. STATEMENT OF ALLEGATIONS

11 The Staff of the Banking Department, State of New Hampshire (hereinafter  
12 "Department") alleges the following facts:

13 Facts Common on All Counts:

- 14 1. Respondent Beech Street Auto Wholesalers LLC (hereinafter  
15 "Respondent Beech Street Auto") was licensed as a Sales Finance  
16 Company from at least July 25, 2003 until it surrendered its  
17 license on May 25, 2007.
- 18 2. Respondent Thomas V. Sanuth (hereinafter "Respondent Sanuth")  
19 was the sole Member of Respondent Beech Street Auto, when  
20 licensed by the Department.

21 Violation of RSA 361-A:6-a, IV Failure to Pay Examination Fee (1 Count):

- 22 3. Paragraphs 1 through 2 are hereby realleged as fully set forth  
23 herein.
- 24 4. The Department conducted an examination of Respondent Beech Street  
25 Auto on July 23, 2007, for activities that occurred while

1 Respondent Beech Street Auto was still licensed with the  
2 Department.

3 5. Respondents failed to facilitate the examination and a referral to  
4 the Legal Division was made on September 25, 2007.

5 6. All attempts to contact the Respondents have been unsuccessful.

6 7. On September 28, 2007, the Department mailed the invoice for  
7 \$500.00 to Respondent Beech Street Auto, via U.S. Certified Mail  
8 Return Receipt requested, which the post office returned to the  
9 Department on October 15, 2007.

10 8. The Department, via U.S. mail, mailed a second notice on November  
11 1, 2007 and a third notice on December 7, 2007.

12 9. On January 9, 2008, the Department mailed the invoice, via U.S.  
13 Certified Mail Return Receipt requested, which the post office  
14 returned to the Department on January 28, 2008 as "unclaimed".

15 10. Finally on January 29, 2008, the Department mailed the invoice,  
16 via UPS, which was returned to the Department on February 8, 2008  
17 as "receiver moved, not deliverable".

18 11. To date, the above named Respondents still owe the \$500.00  
19 examination fee for the one day examination.

## 20 **II. ISSUES OF LAW**

21 The staff of the Department, alleges the following issues of law:

22 1. The Department realleges the above stated facts in Paragraphs 1  
23 through 11 as fully set forth herein.

24 2. The Department has jurisdiction over the licensing and regulation  
25 of persons engaged in retail seller and sales finance activities

1           pursuant to NH RSA 361-A:2.

2           3. RSA 361-A:6-a,IV provides that the expense of such examination  
3           shall be chargeable to and paid by the licensee. Each of the  
4           above named Respondents violated this provision on at least one  
5           occasion as alleged above. To date, the above named Respondents  
6           have failed to pay the \$500.00 examination invoice.

7           4. RSA 361-A:3,I provides that the Commissioner may issue an order  
8           requiring a person to whom any license has been granted or any  
9           person under the Commissioner's jurisdiction to show cause why  
10          the license should not be revoked or penalties should not be  
11          imposed, or both, for violations of this chapter.

12          5. RSA 361-A:3,I-a provides that the Commissioner may, by order,  
13          revoke any license if the Commissioner finds that the order is in  
14          the public interest and the respondent, or licensee, any partner,  
15          officer, member, or director, any person occupying a similar  
16          status or performing similar functions, or any person directly or  
17          indirectly controlling the respondent, or licensee, has among  
18          other types of violations, violated RSA Chapter 361-A or any rule  
19          or order thereunder.

20          6. RSA 361-A:11, VII provides that any person who, either knowingly  
21          or negligently, violates any provision of RSA Chapter 361-A, may  
22          upon hearing, and in addition to any other penalty provided for  
23          by law, be subject to an administrative fine not to exceed  
24          \$2,500.00, or both. Each of the acts specified shall constitute  
25          a separate violation, and such administrative action or fine may

1 be imposed in addition to any criminal penalties or civil  
2 liabilities imposed by New Hampshire Banking laws.

3 7. RSA 361-A:11,VIII provides that every person who directly or  
4 indirectly controls a person liable under this section, every  
5 partner, principal executive officer or director of such person,  
6 every person occupying a similar status or performing a similar  
7 function, every employee of such person who materially aids in the  
8 act constituting the violation, and every licensee or person acting  
9 as a common law agent who materially aids in the acts constituting  
10 the violation, either knowingly or negligently, may, upon notice  
11 and opportunity for hearing, and in addition to any other penalty  
12 provided for by law, be subject to suspension, revocation, or  
13 denial of any registration or license, including the forfeiture of  
14 any application fee, or the imposition of an administrative fine  
15 not to exceed \$2,500, or both. Each of the acts specified shall  
16 constitute a separate violation, and such administrative action or  
17 fine may be imposed in addition to any criminal or civil penalties  
18 imposed.

19 **III. RELIEF REQUESTED**

20 The staff of the Department requests the Commissioner take the following  
21 action:

- 22 1. Find as fact the allegations contained in section I of this Staff  
23 Petition;
- 24 2. Make conclusions of law relative to the allegations contained in  
25 section II of this Staff Petition;



