

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 07-302
)
 3 State of New Hampshire Banking)
)
 4 Department,) Order to Show Cause
)
 5 Petitioner,)
)
 6 and)
)
 7 Nader's Autoworld, LLC, and Nader)
)
 8 Hanna,)
)
 9 Respondents)

10 NOTICE OF ORDER

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

13 LEGAL AUTHORITY AND JURISDICTION

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

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

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

25 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. The
6 Commissioner may utilize all remedies available under the Consumer
7 Protection Act.

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

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

22 If any of the above named Respondents fails to request a hearing within
23 30 calendar days of receipt of such order or reach formal settlement with the
24 Department within that time frame, then such person shall likewise be deemed
25 in default, and the orders shall, on the thirty-first day, become permanent,

1 and shall remain in full force and effect until and unless later modified or
2 vacated by the Commissioner, for good cause shown.

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

4 The Staff Petition dated January 7, 2009 (a copy of which is attached
5 hereto) is incorporated by reference hereto.

6 **ORDER**

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

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

12 It is hereby ORDERED, that:

- 13 1. Respondent Nader's Autoworld, LLC ("Respondent Nader's
14 Autoworld") shall show cause why penalties in the amount of
15 \$10,000.00 should not be imposed against it;
- 16 2. Respondent Nader Hanna ("Respondent Hanna") shall show cause
17 why penalties in the amount of \$20,000.00 should not be
18 imposed against him;
- 19 3. The above named Respondents shall show cause why, in addition
20 to the penalties listed in Paragraphs 1 through 2 above, a
21 statutory penalty of \$2,500.00 should not be imposed for
22 failing to file the 2007 annual report;
- 23 4. The above named Respondents shall show cause why, in addition
24 to the penalties listed in Paragraphs 1 through 3 above,
25 statutory penalties of \$2,500.00 should not be imposed for

1 State of New Hampshire Banking Department

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 7 Nader's Autoworld, LLC, and Nader)
)
 8 Hanna,)
)
 9 Respondents)

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 Nader's Autoworld, LLC (hereinafter "Respondent
15 Nader's Autoworld") was licensed as a Sales Finance Company from
16 at least November 2, 2005 until its license expired on December
17 31, 2007.
- 18 2. Respondent Nader Hanna (hereinafter "Respondent Hanna") was the
19 owner of Respondent Nader's Autoworld, when licensed by the
20 Department.

21 Violation of RSA 361-A:2-b,I Failure to File Financial Statement (1 Count):

22 Violation of RSA 361-A:2-b,VI Failure of Officer and Owner to Respond to

23 Department Inquiries (4 Counts):

- 24 3. Paragraphs 1 through 2 are hereby realleged as fully set forth
25 herein.

1 4. Respondent Nader's Autoworld's fiscal year end was March 31, 2007,
2 which required the filing of the audited year end financial
3 statement on or before June 29, 2007.

4 5. At the time the 2007 financial statement was due, Respondent
5 Nader's Autoworld was still licensed as a Sales Finance Company
6 with the Department.

7 6. The Department sent notices to Respondent Nader's Autoworld on May
8 31, 2007, July 16, 2007, July 31, 2007 and August 27, 2007.

9 7. To date, the financial statement has not been received and
10 Respondents have not responded to above mentioned inquiries and
11 requests.

12 8. To date, fines have accrued for failing to provide the requested
13 files to the maximum amount of \$2,500.00.

14 **Violation of RSA 361-A:2-a, I Failure to Properly Surrender License (1**

15 **Count):**

16 **Violation of RSA 361-A:2-b, I Failure to File Annual Report (1 Count):**

17 9. Paragraphs 1 through 8 are hereby realleged as fully set forth
18 herein.

19 10. The 2007 Annual Report was due on or before February 1, 2008.

20 11. On January 4, 2008, the Department sent a certified letter
21 advising that Respondent Nader's Autoworld's license had expired
22 on December 31, 2007 and that surrender/expiration form documents
23 needed to be submitted to the Department. The letter was returned
24 to the Department with no forwarding address.

25 12. On February 5, 2008, the Department mailed via U.S. Certified Mail

1 Return Receipt requested a reminder letter that the annual report
2 was due on February 1, 2008. The letter was returned to the
3 Department with no forwarding address.

4 13. To date, the accrued penalty for failure to file an annual report
5 has reached the maximum cap of \$2,500.00.

6 **Violation of RSA 361-A:4-a Failure to Timely Respond to Consumer Complaint**

7 **(1 Count)**

8 14. Paragraphs 1 through 14 are hereby realleged as fully set forth
9 herein.

10 15. A consumer complaint filed against Respondent Nader's Autoworld
11 was filed 17 days late with the Department, generating a fine of
12 \$850.00 (\$50.00 a day x 17 days).

13 16. To date, the above named Respondents have not paid this fine.

14 **II. ISSUES OF LAW**

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

16 1. The Department realleges the above stated facts in Paragraphs 1
17 through 16 as fully set forth herein.

18 2. The Department has jurisdiction over the licensing and regulation
19 of persons engaged in retail seller and sales finance activities
20 pursuant to NH RSA 361-A:2.

21 3. RSA 361-A:2-a,I provides that a licensee who ceases to engage in
22 the business of a sales finance company or retail seller at any
23 time during a license year for any cause shall surrender such
24 license in person or by registered or certified mail to the
25 Commissioner within 15 calendar days of such cessation. Each of

1 the above named Respondents violated this provision on at least
2 one occasion as alleged above.

3 4. RSA 361-A:2-b,I provides that a licensee shall file its annual
4 report on or before February 1 each year concerning operations
5 for the preceding year or license period ending December 31.
6 Each of the above named Respondents violated this provision on at
7 least one occasion as alleged above. To date, the statutory
8 penalty is now \$2,500.00.

9 5. RSA 361-A:2-b,I also provides that each licensee shall file a
10 financial statement within 90 days from the date of its fiscal
11 year end. Each of the above named Respondents violated this
12 provision on at least one occasion as alleged above. To date,
13 the statutory penalty is now \$2,500.00.

14 6. RSA 361-A:2-b,VI provides that any officer, owner, manager or
15 agent of any licensee shall reply promptly in writing, or other
16 designated form, to any written inquiry from the Commissioner.
17 Respondent Hanna violated this provision on at least four
18 occasions as alleged above.

19 7. RSA 361-A:4-a provides that retail sellers and sales finance
20 companies shall provide a written acknowledgment within 30 days
21 of receipt of the complaint and provide a response to the
22 Department within 60 days following receipt of such complaint.
23 Each of the above named Respondents violated this provision on at
24 least one occasion.

25 8. RSA 361-A:3,I provides that the Commissioner may issue an order

1 requiring a person to whom any license has been granted or any
2 person under the Commissioner's jurisdiction to show cause why
3 the license should not be revoked or penalties should not be
4 imposed, or both, for violations of this chapter.

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

13 10. RSA 361-A:11, VII provides that any person who, either knowingly
14 or negligently, violates any provision of RSA Chapter 361-A, may
15 upon hearing, and in addition to any other penalty provided for
16 by law, be subject to an administrative fine not to exceed
17 \$2,500.00, or both. Each of the acts specified shall constitute
18 a separate violation, and such administrative action or fine may
19 be imposed in addition to any criminal penalties or civil
20 liabilities imposed by New Hampshire Banking laws.

21 11. RSA 361-A:11,VIII provides that every person who directly or
22 indirectly controls a person liable under this section, every
23 partner, principal executive officer or director of such person,
24 every person occupying a similar status or performing a similar
25 function, every employee of such person who materially aids in the

1 act constituting the violation, and every licensee or person acting
2 as a common law agent who materially aids in the acts constituting
3 the violation, either knowingly or negligently, may, upon notice
4 and opportunity for hearing, and in addition to any other penalty
5 provided for by law, be subject to suspension, revocation, or
6 denial of any registration or license, including the forfeiture of
7 any application fee, or the imposition of an administrative fine
8 not to exceed \$2,500, or both. Each of the acts specified shall
9 constitute a separate violation, and such administrative action or
10 fine may be imposed in addition to any criminal or civil penalties
11 imposed.

12 **III. RELIEF REQUESTED**

13 The staff of the Department requests the Commissioner take the following
14 action:

- 15 1. Find as fact the allegations contained in section I of this Staff
16 Petition;
- 17 2. Make conclusions of law relative to the allegations contained in
18 section II of this Staff Petition;
- 19 3. Find the Commissioner's order to be in the public interest;
- 20 4. Pursuant to RSA 361-A:3, order each of the above named Respondents
21 to show cause why their license should not be revoked;
- 22 5. Assess fines and administrative penalties in accordance with RSA
23 397-A:11, for violations of RSA Chapter 361-A, in the number and
24 amount equal to the violations set forth in section II of this
25 Staff Petition; and

