

1 State of New Hampshire Banking Department

2	In re the Matter of:	) Case No.: 09-026
		)
3	State of New Hampshire Banking	)
4	Department,	) Order to Show Cause and
		)
5	Petitioner,	) Cease and Desist Order
		)
6	and	)
		)
7	Automart of New England Inc (d/b/a	)
		)
8	Automart of New England and d/b/a	)
		)
9	Automart of Plaistow), Jeffrey G.	)
		)
10	Legendre, and Daniel J. Nickerson,	)
		)
11	Respondents	)

12 NOTICE OF ORDER

13 This Order commences an adjudicative proceeding under the provisions  
14 of RSA 361-A (including RSA 361-A:3-a), RSA 541-A and JUS 800.

15 LEGAL AUTHORITY AND JURISDICTION

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

20 Pursuant to RSA 361-A:3-a, the Department has the authority to issue  
21 and cause to be served an order requiring any person about to engage in who  
22 or has engaged in any act or practice constituting a violation of RSA 361-A  
23 or any rule or order thereunder, to cease and desist from violations of RSA  
24 361-A.

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

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

8 Pursuant to RSA 383:10-d, the Commissioner shall investigate conduct  
9 that is or may be an unfair or deceptive act or practice under RSA 358-A  
10 and exempt under RSA 358-A:3,I or that may violate any of the provisions of  
11 Titles XXXV and XXXVI and administrative rules adopted thereunder. The  
12 Commissioner may hold hearings relative to such conduct and may order  
13 restitution for a person or persons adversely affected by such conduct.

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

15 The above named Respondents have the right to request a hearing on  
16 this Cease and Desist Order, as well as the right to be represented by  
17 counsel at each Respondent's own expense. All hearings shall comply with RSA  
18 541-A. Any such request for a hearing shall be in writing, and signed by  
19 the Respondent or the duly authorized agent of the above named Respondent,  
20 and shall be delivered either by hand or certified mail, return receipt  
21 requested, to the Banking Department, State of New Hampshire, 53 Regional  
22 Drive, Suite 200, Concord, NH 03301. Such hearings will be scheduled within  
23 10 days of the Department's receipt of the request. If the Respondent fails  
24 to appear at the hearing after being duly notified, such person shall be  
25 deemed in default, and the proceeding may be determined against the

1 Respondent upon consideration of the Order to Show Cause, the allegations of  
2 which may be deemed to be true.

3 If any of the above named Respondents fails to request a hearing  
4 within 30 calendar days of receipt of such order or reach formal settlement  
5 with the Department within that time frame, then such person shall likewise  
6 be deemed in default, and the orders shall, on the thirty-first day, become  
7 permanent, and shall remain in full force and effect until and unless later  
8 modified or vacated by the Commissioner, for good cause shown.

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

10 The Staff Petition dated March 30, 2009 (a copy of which is attached  
11 hereto) is incorporated by reference hereto.

12 **ORDER**

13 WHEREAS, finding it necessary and appropriate and in the public  
14 interest, and consistent with the intent and purposes of the New Hampshire  
15 banking laws, and

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

19 It is hereby ORDERED, that:

- 20 1. Respondents shall immediately cease selling motor vehicles  
21 that will be subject to retail installment contracts from  
22 either the Respondents and/or other entities;
- 23 2. Respondents shall immediately cease pulling credit reports  
24 for its potential or current customers; and
- 25 3. Respondents shall immediately cease violating the Equal

1                   **Credit Opportunity Act.**

2           It is hereby further ORDERED, that:

- 3           4. Respondent Automart of New England Inc (d/b/a Automart of  
4           New England and d/b/a Automart of Plaistow) (hereinafter,  
5           "Respondent Automart") shall show cause why penalties in the  
6           amount of \$22,500.00 should not be imposed against it;
- 7           5. Respondent Jeffrey G. Legendre (hereinafter, "Respondent  
8           Legendre") shall show cause why penalties in the amount of  
9           \$22,500.00 should not be imposed against him;
- 10          6. Respondent Daniel J. Nickerson (hereinafter, "Respondent  
11          Nickerson") shall show cause why penalties in the amount of  
12          \$22,500.00 should not be imposed against him;
- 13          7. Respondents shall show cause why penalties in the amount of  
14          \$23,550.00 should not be imposed for the late filing of a  
15          response to a consumer complaint;
- 16          8. Respondents shall show cause why Respondents do not need to  
17          retrofit Consumer A's motor vehicle with the options stated  
18          on the booking sheet;
- 19          9. Respondents shall show cause why Consumer A should not be  
20          placed on the loan and have the loan appear on Consumer A's  
21          credit report;
- 22          10. Respondents shall be jointly and severally liable for the  
23          above amounts alleged in Paragraphs 4 through 9 above; and
- 24          11. The above named Respondents shall show cause why, in  
25          addition to the penalties listed in paragraphs 1 through 10

1 above, Respondent Automart's license should not be revoked.

2 It is hereby further ORDERED that:

3 12. Along with the administrative penalties listed for the  
4 above named Respondents, the outstanding statutory penalty  
5 of \$23,500.00 shall be immediately paid;

6 13. The Respondents shall immediately **Cease and Desist** from all  
7 violations of New Hampshire law and the rules promulgated  
8 thereunder; and

9 14. Failure to request a hearing within 30 days of the date of  
10 receipt or valid delivery of this Order shall result in a  
11 default judgment being rendered and administrative  
12 penalties imposed upon the defaulting Respondent(s).

13 SIGNED,

14  
15  
16  
17 Dated: 03/30/09

/s/  
18 PETER C. HILDRETH  
19 BANK COMMISSIONER  
20  
21  
22  
23  
24  
25

1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 09-026  
3 State of New Hampshire Banking )  
4 Department, ) Staff Petition  
5 Petitioner, ) March 30, 2009  
6 and )  
7 Automart of New England Inc (d/b/a )  
8 Automart of New England and d/b/a )  
9 Automart of Plaistow), Jeffrey G. )  
10 Legendre, and Daniel J. Nickerson, )  
11 Respondents )

12 I. STATEMENT OF ALLEGATIONS

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

15 Facts Common on All Counts:

- 16 1. Respondent Automart of New England Inc (d/b/a Automart of New  
17 England and Automart of Plaistow) (hereinafter, "Respondent  
18 Automart") was licensed as a Retail Seller since at least the  
19 year 1998 until its license expired on December 31, 2008.  
20 Respondent Automart was not allowed to renew its license for 2009  
21 until and unless it responded to an overdue consumer complaint.
- 22 2. Respondent Jeffrey G. Legendre (hereinafter, "Respondent  
23 Legendre") is a 50% owner and President of Respondent Automart  
24 both during the period it was licensed with the Department and  
25 currently.

1 3. Respondent Daniel J. Nickerson (hereinafter, "Respondent  
2 Nickerson") is a 50% owner and Director of Respondent Automart  
3 both during the period it was licensed with the Department and  
4 currently.

5 DEFRAUDING THE LENDER - CONSUMER A LOAN FILE

6 Violation of RSA 361-A:3,I-a(c) Fraudulent Representations To Consumer (1  
7 Count):

8 Violation of RSA 361-A:3,I-a(d) Failure to Supervise (1 Count):

9 Violation of RSA 361-A:3,I-a(h) Dishonest or Unethical Practices (1 Count):

10 Violation of RSA 361-A:4-a Failure to Properly and Timely Respond to a  
11 Consumer Complaint (1 Count):

12 Violation of RSA 361-A:3-b,I(a) Employing any Scheme, Device or Artifice to  
13 Defraud (1 Count):

14 Violation of RSA 361-A:3-b,I(b) Making Untrue Statements of a Material Fact  
15 in Order to Make Such Statements Appear Not Misleading (1 Count):

16 Violation of RSA 361-A:3-b,I(c) Engaging in Any Act, Practice or Course of  
17 Business which Operates as a Fraud or Deceit Upon Any Person (1 Count):

18 4. Paragraphs 1 through 3 are hereby realleged as fully set forth  
19 herein.

20 5. Consumer A informed the lender that Consumer's A's loan was not  
21 on Consumer A's credit report. The lender, after an extensive  
22 investigation, filed the complaint with the Department, by  
23 obtaining Consumer A's and Consumer A's mother's approval to  
24 investigate and file the appropriate claims with the appropriate  
25 agency.

1           6. The lender, as a result of Consumer A's and Consumer A's mother's  
2           cooperation, filed a complaint with the Department on or about  
3           October 4, 2007 indicating that Consumer A's motor vehicle loan  
4           is not on Consumer A's credit report, despite Consumer A making  
5           payments on this loan.

6           7. Consumer A and Consumer A's mother have the same name but  
7           different credit scores and different personal information.

8           8. Respondents pulled both Consumer A's credit and Consumer A's  
9           mother's credit for the loan (Consumer A intended for the mother  
10          to be a co-signer) and the mother's credit was higher than  
11          Consumer A's credit.

12          9. After Consumer A received the loan and began making payments,  
13          Consumer A discovered that the loan was not on Consumer A's  
14          credit report.

15          10. Consumer A inquired with the lender.

16          11. The lender discovered that though Consumer A's signature was on  
17          the contract, Consumer A's mother's information (including social  
18          security number) was the information filled out on the loan  
19          application.

20          12. It appears Consumer A may have signed a blank loan application,  
21          and Respondents filled in the material information using Consumer  
22          A's mother's information in order to be approved for the loan.

23          13. The lender would not have accepted this loan if Consumer A's  
24          information was on the loan application.

25          14. The lender further discovered that some of the options stated in



1 the booking sheet to be on the vehicle were not on the vehicle.

2 15. On or about October 8, 2007, the Department mailed via U.S.  
3 Certified Mail Return Receipt requested, the complaint to  
4 Respondents, which Respondents received on October 10, 2007.

5 16. The response was due on December 9, 2007 (60 days after  
6 Respondents' October 10, 2007 receipt of the Consumer A  
7 complaint).

8 17. Respondents failed to respond.

9 18. With no response, the Department mailed a delinquency notice to  
10 Respondents via U.S. Certified Mail Return Receipt requested, on  
11 December 20, 2007, which Respondents received on December 22,  
12 2007.

13 19. Still with no response, the Department faxed a reminder letter to  
14 Respondents on August 1, 2008.

15 20. Respondents yet again failed to respond to the August 1, 2008  
16 reminder letter.

17 21. After numerous telephone calls to Respondents, the Department  
18 finally received a partial response on March 24, 2009, which was  
19 471 days late.

20 22. Respondents incur a daily fine of \$50.00 until the Department  
21 receives the complaint. 471 days multiplied by \$50.00 equals  
22 \$23,550.00.

23 23. Respondents have still failed to provide documentations  
24 supporting their response and failed to address the matter  
25 concerning the missing options represented to be on the vehicle.

1 UNLICENSED ACTIVITY - FROM JANUARY 1, 2009 TO THE PRESENT

2 Violation of 361-A:3, I-a(i) Violated RSA Chapter 361-A by Engaging in

3 Activity Without a Sales Finance Company License (1 Count):

4 Violation of 12 CFR 202, Section 202.9 and Regulation B of the Equal Credit

5 Opportunity Act via RSA 361-A:3, I-a(i) (1 Count):

6 24. Paragraphs 1 through 23 are hereby realleged as fully set forth  
7 herein.

8 25. On or about March 23, 2009, the Department telephoned Respondents  
9 regarding the Consumer A complaint.

10 26. Respondents' license expired on December 31, 2008 due to the  
11 outstanding consumer complaint, yet Respondents answered the  
12 telephone as "Automart of Plaistow".

13 27. On or about March 24, 2009, the Department had a telephone  
14 conversation with Respondent Legendre as a result of the  
15 outstanding Consumer A complaint.

16 28. When asked if the Respondents were still conducting business,  
17 Respondent Legendre indicated he was still in business.

18 29. During the March 24, 2009 telephone call, Respondent Legendre  
19 admitted Respondents pull credit in order to determine if the  
20 consumer could be financed for a motor vehicle.

21 30. Respondent Legendre admitted that any individual with a credit  
22 score under 600 would not be forwarded to lenders for motor  
23 vehicle financing.

24 31. Respondent Legendre admitted that Respondents do not provide the  
25 notification of action as required under the Equal Credit

1 Opportunity Act when Respondents deny shopping the consumer to  
2 lenders for motor vehicle financing.

3 **II. ISSUES OF LAW**

4 The staff of the Department alleges the following issues of law:

5 1. The Department realleges the above stated facts in Paragraphs 1  
6 through 31 as fully set forth herein.

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

10 3. Title VI of the Fair Credit Reporting Act is codified as 15 U.S.C.  
11 Section 1681b. Section 604(a)(3) of Title VI provides that any  
12 consumer reporting agency may furnish a consumer report to a  
13 person it has reason to believe intends to use the information in  
14 connection with a credit transaction involving the consumer on  
15 whom the information is to be furnished and involving the  
16 extension of credit to the consumer. The above named Respondents  
17 pulled consumers' credit reports to determine if the score is  
18 below or above 600. If the score is below 600, the Respondents  
19 will not shop the consumer to lenders for motor vehicle financing.

20 4. RSA 358-K:1,V provides that a "consumer credit transaction" means  
21 a consumer credit sale or a consumer loan.

22 5. RSA 361-A:1,XI provides that a "retail installment transaction"  
23 means any consumer credit transaction as defined in RSA 358-K:1,V,  
24 evidenced by a retail installment contract entered into between a  
25 retail buyer and a retail seller, or between a sales finance

1 company and a retail buyer, wherein the retail buyer a motor  
2 vehicle subject to a retail installment contract at a time price  
3 payable in one or more deferred installments. The cash sale price  
4 of the motor vehicle, the amount included for insurance and other  
5 benefits if a separate charge is made therefore, documentary fees,  
6 and the finance charge, which may include insurance and other  
7 benefits, shall together constitute the time price.

8 6. RSA 361-A:1,XIII provides that a "sales finance company" means a  
9 person engaged, in whole or in part, directly or indirectly, in  
10 the business of providing motor vehicle financing in this state to  
11 one or more retail buyers, or in the business of purchasing retail  
12 installment contracts from one or more retail sellers. Respondent  
13 Automart is a sales finance company since it pulls consumers'  
14 credit reports to determine if the credit score is above or below  
15 600 to shop to lenders for motor vehicle financing (i.e. to  
16 determine if the consumer is eligible for an extension of credit).

17 7. RSA 361-A:3,I provides that the Commissioner may issue an order  
18 requiring a person to whom any license has been granted or any  
19 person under the Commissioner's jurisdiction to show cause why the  
20 license should not be revoked or penalties should not be imposed,  
21 or both, for violations of this chapter. The above named  
22 Respondents are still under the Commissioner's jurisdiction due to  
23 their current unlicensed activity and due to their failure to  
24 timely respond to the consumer complaint while licensed.  
25 Therefore, the license should be revoked and not permitted to

1 remain as simply "expired".

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

10 9. RSA 361-A:3,I-a(c) provides that the Commissioner may, by order,  
11 revoke any license if the Commissioner finds that the order is in  
12 the public interest and the respondent, or licensee, any partner,  
13 officer, member, or director, any person occupying a similar  
14 status or performing similar functions, or any person directly or  
15 indirectly controlling the respondent, or licensee, has made  
16 fraudulent misrepresentations, has circumvented or concealed,  
17 through whatever subterfuge or device, any of the material  
18 particulars required to be stated or furnished to a borrower under  
19 the provisions of RSA Chapter 361-A. Each of the above named  
20 Respondents violated this provision on at least one occasion as  
21 alleged above. Respondents should immediately (at no charge to  
22 Consumer A) install the options on the motor vehicle that were  
23 stated on the booking sheet, as well ensure that Consumer A is  
24 financed and the loan appears on Consumer A's credit report and  
25 not that of the mother.

1 10. RSA 361-A:3,I-a(d) provides that the Commissioner may, by order,  
2 revoke any license if the Commissioner finds that the order is in  
3 the public interest and the respondent, or licensee, any partner,  
4 officer, member, or director, any person occupying a similar  
5 status or performing similar functions, or any person directly or  
6 indirectly controlling the respondent, or licensee, has failed to  
7 supervise its agents, managers or employees. Each of the above  
8 named Respondents violated this provision on at least one  
9 occasion as alleged above.

10 11. RSA 361-A:3,I-a(h) provides that the Commissioner may, by order,  
11 revoke any license if the Commissioner finds that the order is in  
12 the public interest and the respondent, or licensee, any partner,  
13 officer, member, or director, any person occupying a similar  
14 status or performing similar functions, or any person directly or  
15 indirectly controlling the respondent, or licensee, has engaged  
16 in dishonest or unethical practices in the conduct of making  
17 retail installment transactions or collecting on retail  
18 installment contracts. Each of the above named Respondents  
19 violated this provision on at least one occasion as alleged  
20 above.

21 12. RSA 361-A:,I-a(i) provides that the Commissioner may, by order,  
22 revoke any license if the Commissioner finds that the order is in  
23 the public interest and the respondent, or licensee, any partner,  
24 officer, member, or director, any person occupying a similar  
25 status or performing similar functions, or any person directly or

1 indirectly controlling the respondent, or licensee, has violated  
2 RSA Chapter 361-A or any rule or order thereunder or has violated  
3 applicable federal laws or rules thereunder. Each of the above  
4 named Respondents violated this provision on at least two  
5 occasions as alleged above.

6 13. 12 CFR 202, Section 202.9(a)(1) and Regulation B of the Equal  
7 Credit Opportunity Act provide that a creditor shall notify an  
8 applicant of an application taken within (i) 30 days after  
9 receiving an adverse action on the application. Each of the  
10 above named Respondents failed to provide such notification of  
11 action taken to consumers whose credit scores fall under 600.

12 14. 12 CFR 202, Section 202.9, (a)(2) of the Equal Credit Opportunity  
13 Act provides that the notification given to an applicant when an  
14 adverse action is taken shall be in writing and shall contain a  
15 statement of the action taken; the name and address of the  
16 creditor; a statement of the provisions of Section 701(a) of the  
17 Act; the name and address of the federal agency that administers  
18 compliance with respect to the creditor; and either: (i) a  
19 statement of specific reasons for the action taken; or (ii) a  
20 disclosure of the applicant's right to a statement of specific  
21 reasons within 30 days, if the statement is requested within 60  
22 days of the creditor's notification. The disclosure shall  
23 include the name, address, and telephone number of the person or  
24 office from which the statement of reasons can be obtained. If  
25 the creditor chooses to provide the reasons orally, the creditor

1 shall also disclose the applicant's right to have them confirmed  
2 in writing within 30 days of receiving the applicant's written  
3 request for confirmation. Each of the above named Respondents  
4 failed to provide such notification of action taken to consumers  
5 whose credit scores fall under 600.

6 15. 12 CFR 202, Section 202.9,(g) provides that when an application  
7 is made on behalf on an applicant to more than one creditor and  
8 the applicant expressly accepts or uses credit offered by one of  
9 the creditors, notifications of action taken by any of the other  
10 creditors is not required. If no credit is offered or if the  
11 applicant does not expressly accept or use any credit offered,  
12 each creditor taking adverse action must comply with this  
13 section, directly or through a third party. A notice given by a  
14 third party shall disclose the identity of each creditor on whose  
15 behalf the notice is given.

16 16. RSA 361-A:3-a provides that the Department may issue a Cease and  
17 Desist Order against anyone it has reasonable cause to believe is  
18 engaging in the business of a retail seller or sales finance  
19 company without the required license as provided for in RSA  
20 Chapter 361-A.

21 17. RSA 361-A:3-b,I(a) provides that it is unlawful for any person in  
22 connection with the solicitation, offer or closing of a loan,  
23 directly or indirectly, to employ any device, scheme, or artifice  
24 to defraud. Each of the above named Respondents violated this  
25 provision on at least one occasion as alleged above.



1 18. RSA 361-A:3-b,I(b) provides that it is unlawful for any person in  
2 connection with the solicitation, offer or closing of a loan,  
3 directly or indirectly, to make any untrue statements of a  
4 material fact or to omit to state a material fact necessary in  
5 order to make the statements made, in light of the circumstances  
6 under which they are made, not misleading. Each of the above  
7 named Respondents violated this provision on at least one  
8 occasion as alleged above.

9 19. RSA 361-A:3-b,I(c) provides that it is unlawful for any person in  
10 connection with the solicitation, offer or closing of a loan,  
11 directly or indirectly, to engage in any act, practice, course of  
12 business which operates or would operate as a fraud or deceit  
13 upon any person. Each of the above named Respondents violated  
14 this provision on at least one occasion as alleged above.

15 20. RSA 361-A:4-a,I provides that retail sellers or sales finance  
16 companies under RSA 361-A shall reply no later than 60 days  
17 following receipt of a consumer complaint filed with the  
18 Department. Each of the above named Respondents violated this  
19 provision on at least one occasion as alleged above.

20 21. RSA 361-A:4-a,II provides that the retail seller or sales finance  
21 company who fails to respond to the consumer complaint as  
22 required by RSA 361-A:4-a shall pay to the Commissioner the sum  
23 of \$50.00 for each day such response is overdue. Respondents owe  
24 \$23,550.00 (471 days x \$50.00 per day).

25 22. RSA 361-A:11,I provides that any person who shall violate any

1 provisions of RSA Chapter 361-A, or engage in the business of a  
2 sales finance company in this state without a license therefor as  
3 provided, shall be guilty of a misdemeanor if a natural person,  
4 or guilty of a felony if any other person.

5 23. RSA 361-A:11,I-a provides that any person who willfully violates  
6 any provisions of RSA 361-A:3-b,I or any cease and desist order  
7 or injunction issued pursuant to RSA 361-A:3-a shall be guilty of  
8 a class B felony. Each of the acts specified shall constitute a  
9 separate offense and a prosecution or conviction for any one of  
10 such offenses shall not bar prosecution or conviction of any  
11 other offense.

12 24. RSA 361-A:11,III provides that any person engaging in the  
13 business of a sales finance company without a license if the  
14 license is required under RSA Chapter 361-A shall be barred from  
15 recovering any finance charge, delinquency, or collection charge  
16 on the contract. Where no finance charge is payable under the  
17 terms of the contract, a person engaging in the business of a  
18 sales finance company without a license shall be barred from  
19 recovering any amount in excess of the wholesale market value of  
20 the vehicle, if the vehicle was purchased by the seller at a  
21 wholesale auction or other wholesale outlet, or the trade-in  
22 value of the vehicle if the seller acquired the vehicle in trade.  
23 Such value shall be that quoted for New Hampshire or the New  
24 England region in a value quotation publication generally  
25 recognized by the motor vehicle industry and as specified by the

1 Commissioner in rules adopted pursuant to RSA 541-A.

2 25. RSA 361-A:11,VII provides that any person who, either knowingly  
3 or negligently, violates any provision of RSA Chapter 361-A, may  
4 upon hearing, and in addition to any other penalty provided for  
5 by law, be subject to an administrative fine not to exceed  
6 \$2,500.00, or both. Each of the acts specified shall constitute  
7 a separate violation, and such administrative action or fine may  
8 be imposed in addition to any criminal penalties or civil  
9 liabilities imposed by New Hampshire Banking laws.

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



