

52,028

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : 1208 M. D. 1996
Acting by Attorney General :
THOMAS W. CORBETT, JR. : CIVIL ACTION-EQUITY

Plaintiff :

v. :

METRO CHRYSLER-PLYMOUTH :
JEEP-EAGLE, INC. :
6729 Essington Avenue :
Philadelphia, Pennsylvania 19153 :

Defendant :

RECEIVED AND FILED
COMMONWEALTH COURT
OF PENNSYLVANIA
JAN 10 2 02 PM '97

CONSENT PETITION FOR PERMANENT INJUNCTION

WHEREAS, the Commonwealth of Pennsylvania, through the Office of Attorney General, Bureau of Consumer Protection, has filed a Complaint in Equity pursuant to §§4, 4.1 and 8(b) of the Unfair Trade Practices and Consumer Protection Law, 73 P.S. §§201-4, 201-4.1 and 210-8(b) (hereinafter "Consumer Protection Law") which authorizes the Attorney General to bring an action to restrain by injunction unfair methods of competition and unfair or deceptive acts or practices declared unlawful by the Consumer Protection Law.

WHEREAS, the Defendant, METRO CHRYSLER-PLYMOUTH-JEEP-EAGLE, INC., a Delaware corporation, is engaged in trade and commerce within the Commonwealth as a duly licensed motor vehicle dealer from a principal place of business located at 6729 Essington Avenue, Philadelphia County.

WHEREAS, Defendant, METRO CHRYSLER-PLYMOUTH-JEEP-EAGLE, INC., is agreeable to having this Consent Petition for Permanent Injunction (hereinafter "Consent Petition") approved by this Court.

WHEREAS, upon approval of the Court, this Consent Petition shall constitute a Final Order of the Court.

NOW THEREFORE, Defendant without admitting any violation of law, agrees for itself, its successors, assigns, officers, agents, representatives, employees and all other persons acting on its behalf, jointly or individually, directly or through any corporate device, or acting through any other Pennsylvania motor vehicle dealership of which any owner or officer of Defendant is also an owner or officer, as follows:

I. Every installment sale contract (as defined by the MVSFA) SHALL be completed and delivered in full conformity with the MVSFA. In connection therewith:

A. Every installment sale contract shall be in writing and shall contain all of the agreements between the buyer and the seller relating to the installment sale of the motor vehicle sold and shall be signed by both the buyer and the seller.

B. Every installment sale contract shall be completed as to all essential provisions including, but not limited to, any sale, transfer and assignment contingencies, prior to the signing of such contract by the buyer.

C. No installment sale contract shall be signed by any party thereto when such contract contains blank spaces to be filled in after such contract has been signed except as permitted by §615(A) of the MVSFA.

D. An exact copy of the installment sale contract shall be furnished by the seller to the buyer at the time the buyer signs such contract in full conformity with §613(C) of the MVSFA.

II. Every sales agreement and installment sale contract SHALL be completed and delivered in full conformity with the Auto Regulations. In connection therewith:

A. Such contracts shall contain a list of all conditions precedent to the dealer's acceptance of the contracts set forth in a clear and conspicuous manner including, but not limited to, sale, transfer or assignment contingencies as well as a statement that the purchaser may cancel the contract at any time until Defendant advises purchasers that the conditions have been met.

B. Defendant shall provide purchasers with copies of sales agreements and installment sale contracts in full conformity with §301.4(a)3.

III. Defendant SHALL NOT make any representation or a statement of fact concerning their ability to sell, transfer or assign an installment sale contract at a particular rate and for a particular term if they know or should know that such representation is false and misleading or if Defendant does not

have sufficient information upon which a reasonable belief in the truth of the representation could be based. In connection therewith Defendant SHALL NOT enter into installment sale contracts for specific rates and terms unless it has a prior reasonable basis that it will be able to sell, transfer or assign the contract under such rates and terms. In making such representations Defendant shall have the right to rely upon information supplied by the purchaser.

IV. Defendant SHALL clearly disclose and represent that motor vehicles are used and not new if they have been sold, bargained, exchanged, or given away; have had title transferred from the person who first acquired them from the manufacturer or dealer; or have an odometer reading of 500 miles or more, not including mileage incurred in delivery from the manufacturer or in transporting the vehicle between dealers for sale. In connection therewith where Defendant sells a motor vehicle pursuant to a spot delivery and it is returned by the purchaser:

A. Defendant shall obtain an odometer disclosure statement from the purchaser upon the return of the vehicle in full conformity with the Federal Truth In Mileage Act, 49 U.S.C. §3270 and The Vehicle Code, 75 Pa. C.S.A. §7131.

B. Defendant shall disclose to subsequent purchasers that said vehicle is used.

V. If a law or regulation of the Commonwealth of Pennsylvania concerning spot delivery is enacted, amended or adopted, such as would alter Defendant's obligations under this Consent Petition, then so long as Defendant operates in full

conformity with said newly enacted, amended, or adopted law or regulation, Defendant shall be deemed to be in compliance with this Consent Petition. In that regard, prior to changing any spot delivery practices pursuant to this paragraph, Defendant shall provide the Bureau of Consumer Protection, Philadelphia Regional Office with thirty days written notice describing the changes it intends to make.

VI. Prior to the filing of this Consent Petition SHALL pay to the Commonwealth of Pennsylvania by certified check, attorney's check or money order the amount of \$5,000.00 which represents costs of investigation to be used for future public protection purposes.

VII. The Court shall maintain jurisdiction over the subject matter of this Consent Petition and over Defendant for the purpose of enforcement of this Consent Petition. Provided, however, that nothing contained herein shall be construed to waive or limit any right of action by any consumer or by any local, state, federal or other governmental entity.

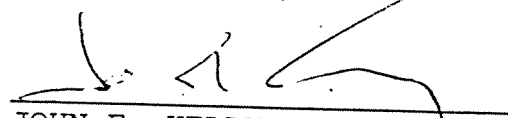
WE HEREBY consent to the foregoing Petition to this
Honorable Court for the making and entry of a Final Order dated
this 7 day of JAN, , 1997.

FOR THE COMMONWEALTH

THOMAS W. CORBETT, JR.
Attorney General


JOSEPH K. GOLDBERG, Director
BUREAU OF CONSUMER PROTECTION

BY:




JOHN E. KELLY
Deputy Attorney General
Office of Attorney General
Bureau of Consumer Protection
21 S. 12th Street
Second Floor
Philadelphia, PA 19107
(215) 560-2437

FOR THE DEFENDANT



SAM DeANGELIS, President
for
METRO CHRYSLER-PLYMOUTH-JEEP
EAGLE, INC.

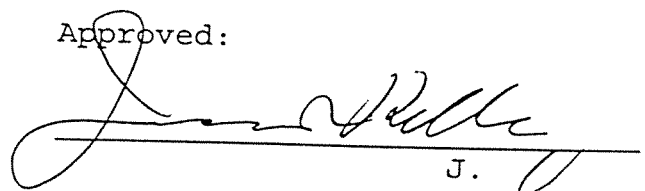


ROBERT L. ARANGIO, ESQUIRE
Attorney for Defendant
Forceno, Hannon & Arangio
Suite 1000 The Bourse
100 S. Independence Mall East
Philadelphia, PA 19106-2574
(215) 732-1630

Date:

JANUARY 21, 1997


Approved:



J.

CERTIFIED FROM THE RECORD
AND ORDER EXIT


JAN 22 1997


Deputy Prothonotary - Chief Clerk

CORPORATE RESOLUTION

AND NOW, on this second day of January, 1997, at a special meeting of the Board of Directors of METRO CHRYSLER PLYMOUTH JEEP EAGLE, INC. it is hereby:

RESOLVED, that SAMUEL J. DE ANGELIS, President, shall have the authority to sign the attached Consent Petition for Permanent Injunction with the Commonwealth of Pennsylvania.


Joseph Ehrenreich
Secretary

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA
Acting by Attorney General
THOMAS W. CORBETT, JR.

: 1208 M. D. 1996
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: CIVIL ACTION-EQUITY

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6729 Essington Avenue
Philadelphia, Pennsylvania 19153

Defendant

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Dec 21 12 47 PM '96

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you, and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE(S) SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Central Pennsylvania Legal Services, Inc.
213-A North Front Street
Harrisburg, PA 17101
(717) 232-0581

Public Services and Lawyers Referral Committee
Dauphin County Bar Association
213 North Front Street
Harrisburg, PA 17101
(717) 232-7536

John E. Kelly
Deputy Attorney General

Office of Attorney General
Bureau of Consumer Protection
21 S. 12th Street, Second Floor
Philadelphia, PA 19107
(215) 560-2437

2. Based on its investigation the Commonwealth believes that Defendant has used or is about to use methods, acts or practices declared unlawful by the Consumer Protection Law; the Pennsylvania Automotive Industry Trade Practices Regulation, 37 Pa. Code 301 (hereinafter "Auto Regulations"); the Motor Vehicle Sales Finance Act, Act of June 28, 1947, P.L. 1110, as amended, 69 P.S. §601 et seq., (hereinafter "MVSFA"); and the Federal Odometer Law, Act of July 5, 1994, P.L. 103-272, 49 U.S.C. §32701 et seq., and accompanying regulations 49 C.F.R. §580.

3. The Commonwealth believes that the public interest is served by seeking before this Honorable Court an injunction to restrain methods, acts or practices complained of herein.

4. The unlawful methods, acts or practices described above have been wilfully used by Defendant.

5. This Court has jurisdiction over this action pursuant to the Judicial Code, 42 Pa. C.S.A. §761.

II. THE PARTIES

6. Plaintiff is the Commonwealth of Pennsylvania, acting by Attorney General THOMAS W. CORBETT, JR., through the Bureau of Consumer Protection.

7. Defendant, METRO CHRYSLER-PLYMOUTH-JEEP-EAGLE, INC. (hereinafter "Metro"), is a Pennsylvania corporation engaged in trade and commerce within the Commonwealth as a duly licensed motor vehicle dealer from a principal place of business located

at 6729 Essington Avenue, Philadelphia County.

II. METRO'S BUSINESS PRACTICES

8. Beginning at a time unknown to Plaintiff and continuing into the present, in connection with the sale of motor vehicles Defendant provides consumer financing pursuant to the MVFSA as a duly licensed installment seller.

9. As a licensed installment seller Defendant enters into installment sale contracts with consumers and thereafter either collects payments under said contracts or sells, transfers or assigns them to a duly licensed sales finance company.

10. In the normal course of business, installment sale contracts entered into between Defendant and consumers are invariably sold, transferred or assigned to a sales finance company.

11. With regard to motor vehicle sales transactions in which Defendant provides financing, Defendant often engages in the practice known as "spot delivery."

12. Spot delivery is the practice whereby Defendant enters into a sales agreement and installment sale contract under specific finance terms; transfers title and registration to the purchaser; and immediately delivers the motor vehicle to the purchaser.

13. In some instances through a separate document Defendant purports to make the sales agreement and installment sale contract conditioned upon its ability to subsequently

"secure financing" (e.g. sell or assign the contract to a sales finance company) under the specified terms.

14. The MVSFA requires that installment sale contracts contain all agreements of the parties relating to the installment sale; that they be completed as to all essential provisions and contain no blank spaces; that they be signed by both parties; and that copies be provided to buyers at the time of signing.

15. The Auto Regulations prohibit increasing the contract price of a vehicle, and require that Defendant provide purchasers with sales agreements and installment sale contracts that clearly identify all conditions precedent to Defendant's acceptance of said contracts together with a statement that purchasers may cancel their contracts and receive a full refund until such conditions are met.

16. Defendant's installment sale contracts fail to provide the essential provision that said contract is conditioned upon its sale, transfer or assignment to a sales finance company.

17. In some instances Defendant's installment sale contracts contain blank spaces and do not contain the signatures of both Defendant and purchasers.

18. In some instances Defendant fails to provide purchasers with copies of sales agreements and installment sale contracts at the time said documents are signed.

19. In making spot delivery sales, acting as an agent for the Pennsylvania Department of Transportation, Defendant requires purchasers to obtain insurance coverage for the vehicle,

completes a title transfer application on the purchaser's behalf, and either issues a temporary registration or transfers the license plate from the trade-in vehicle to the newly purchased vehicle.

20. Thereafter, if Defendant is unsuccessful in selling, transferring or assigning the installment sale contracts under the terms specified therein, Defendant represents to purchasers that said contracts are void and that purchasers must either enter into another installment sales contract under less favorable financial terms or return the vehicle and transfer title back to Defendant.

21. Where purchasers return their vehicles, in accordance with Defendant's instructions, Defendant fails to obtain odometer disclosure statements from them as required by Federal Law.

22. In some cases where purchasers return their vehicles in accordance with Defendant's instructions, Defendant refuses to return the purchasers' trade-in vehicles and resells them to third parties.

23. Defendants resell returned and previously sold vehicles as new in violation of the Auto Regulations and Consumer Protection Law.

IV. CLAIM FOR RELIEF

COUNT I

24. The Plaintiff restates and incorporates herein by

reference all matters set forth in ¶¶1 through 23 above.

25. Defendant's conduct described above constitutes an unlawful method of competition and an unfair or deceptive act or practice in the conduct of trade or commerce pursuant to §201-3 of the Consumer Protection Law as defined by §§201-2(4)ii, 201-2(4)v, 201-2(4)vi and 201-2(4)vii.

COUNT II

26. The Plaintiff restates and incorporates herein by reference all matters set forth in ¶¶1 through 25 above.

27. Defendant's conduct described above constitutes an unlawful method of competition and an unfair or deceptive act or practice in the conduct of trade or commerce pursuant to §201-3 of the Consumer Protection Law as set forth in §§301.4(a)(2)v, 301.4(a)3, 301.4(a)7, 301.2(4), and 301.2(6) of the Auto Regulations.

COUNT III

28. The Plaintiff restates and incorporates herein by reference all matters set forth in ¶¶1 through 27 above.

29. Defendant's conduct described above violates §§613 and 615 of the MVSA which constitutes a per se unlawful method of competition and unfair or deceptive act or practice in the conduct of trade or commerce pursuant to §201-3 of the Consumer Protection Law as defined by §§201-2(4)ii, 201-2(4)v and 201-2(4)vii.

COUNT IV

30. The Plaintiff restates and incorporates herein by reference all matters set forth in ¶¶1 through 29 above.

31. Defendant's conduct described above violates §32705 of the Federal Odometer Law which constitutes a per se unlawful method of competition and unfair or deceptive act or practice in the conduct of trade or commerce pursuant to §201-3 of the Consumer Protection Law as defined by §§201-2(4)ii, 201-2(4)v, 201-2(4)vi and 201-2(4)vii.

V. PRAYER FOR RELIEF

WHEREFORE, the Commonwealth respectfully requests this Honorable Court to issue an Order:

A. Finding Defendant, Metro's conduct as described in this Complaint in violation of the Consumer Protection Law, Auto Regulations, MVSFA and Federal Odometer Law.

B. Enjoining Defendant, its agents, employees, successors and all other persons acting on its behalf, directly or through any corporate or other entity, as follows:

1. Every installment sale contract (as defined by the MVSFA) SHALL be completed and delivered to buyers in full conformity with the MVSFA. In connection therewith:

(a) Every installment sale contract shall be in writing and shall contain all of the agreements between the buyer and the seller relating to the installment sale of the motor vehicle sold and shall be signed by both the buyer and the

seller.

(b) Every installment sale contract shall be completed as to all essential provisions including, but not limited to, sale, transfer and assignment contingencies, prior to the signing of such contract by the buyer.

(c) No installment sale contract shall be signed by any party thereto when such contract contains blank spaces to be filled in after such contract has been signed except as permitted by §615(A) of the MVSFA.

(d) An exact copy of the installment sale contract shall be furnished by the seller to the buyer at the time the buyer signs such contract in full conformity with §613(C) of the MVSFA.

2. Every sales agreement and installment sale contract SHALL be completed and delivered in full conformity with the Auto Regulations. In connection therewith:

(a) Such contracts shall contain a list of all conditions precedent to the dealer's acceptance of the contracts set forth in a clear and conspicuous manner including, but not limited to, sale, transfer or assignment contingencies as well as a statement that the purchaser may cancel the contract at any time until Defendant advises buyers that the conditions have been met.

(b) Defendant shall provide buyers with copies of sales agreements and installment sale contracts in full conformity with §301.4(a)3.

3. Defendant SHALL NOT make any representation or a statement of fact concerning its ability to sell, transfer or assign an installment sale contract at a particular rate and for a particular term if it knows or should know that such representation is false and misleading or if Defendant does not have sufficient information upon which a reasonable belief in the truth of the representation could be based.

4. Defendant SHALL NOT enter into installment sale contracts for specific rates and terms unless it has a prior reasonable basis that it will be able to sell, transfer or assign the contract under such rates and terms.

5. Defendant SHALL NOT represent that any motor vehicle is new if it has been sold, bargained, exchanged, or given away; has had title transferred from the person who first acquired it from the manufacturer or dealer; or has an odometer reading of 500 miles or more, not including mileage incurred in reading of 500 miles or more, not including mileage incurred in delivery from the manufacturer or in transporting the vehicle between dealers for sale.

6. Where Defendant sells a motor vehicle pursuant to a spot delivery and it is returned by the buyer:

(a) Defendant shall obtain an odometer disclosure statement from the buyer upon the return of the vehicle in full conformity with the Federal Odometer Act.

(b) Defendant shall disclose to subsequent buyers that said vehicle is used.

C. Granting restitution to all purchasers who suffered monetary loss resulting from Defendant's failure to honor the terms of its original installment sale contracts.

D. Finding the Defendant liable and requiring the Defendant to pay to the Commonwealth a civil penalty in the amount of \$1,000.00 for each and every wilful violation of the Consumer Protection Law and the Commonwealth's costs in pursuing this action.


E. Granting such other relief as the Court deems appropriate.

Respectfully Submitted,

THOMAS W. CORBETT, JR.
Attorney General

JOSEPH K. GOLDBERG, Director
BUREAU OF CONSUMER PROTECTION

BY:



JOHN E. KELLY
Deputy Attorney General

Office of Attorney General
Bureau of Consumer Protection
21 S. 12th Street, 2nd Floor
Philadelphia, PA 19107
(215) 560-2437

VERIFICATION

I, JANIS PARRILLA, am an Agent with the Office of Attorney General, Philadelphia Regional Office of the Bureau of Consumer Protection. I hereby affirm that the facts set forth in the foregoing Complaint in Equity are true and correct and made subject to the penalties of 18 Pa. C.S.A. §4904, relating to unsworn statements made to authorities.



JANIS PARRILLA
Agent



PENNSYLVANIA AUTOMOTIVE ASSOCIATION NEWS BULLETIN

BULLETIN NO. 3

FEBRUARY 14, 1997

SPECIAL SPOT DELIVERY ISSUE

Spot Delivery Background

Spot delivery occurs when a customer takes possession of a vehicle in anticipation of, or contingent upon, finance approval. Many dealers sell to repeat customers and are confident that the agreed-to finance terms can be obtained. The dealer may be inclined to proceed with a spot delivery based on a prior customer relationship or other factors indicating potentially good credit. The majority of these sales pose no problem for the dealer or the customer.

However, dealers should recognize that it is a risk to complete a spot delivery with one or more of the following: signed buyer's order; completed finance contract; or plate transfer or issuance. If the financing is not approved, the dealer is bound by the terms of the sale. In this case, the interest rate would have to be "bought down" to allow the loan to be placed, or the dealership would have to hold the finance contract if financing could not be obtained from another source.

The dealer can take steps to avoid potential problems when a credit check reveals that a customer may be unable to obtain financing. Spot deliveries are ill-advised with customers who have marginal credit.

Spot Deliveries Can Trigger Unfair Trade Practices

The Office of the Attorney General has been firm regarding consumer protection when a spot delivery occurs and financing cannot be obtained at the agreed-to terms. This type of situation triggers several violations which the Office considers to be unfair trade practices. For example, any attempt by the dealer to renegotiate the terms of a signed finance contract, even with a contingency agreement, is viewed by the Office as an unfair trade practice.

Unfair trade practices can also occur when:

The customer, who, in possession of a signed finance agreement, is asked to return the vehicle.

In this case, if the finance terms cannot be arranged, the outstanding cost becomes an account receivable. No contract default has occurred; therefore the dealer may not attempt to repossess the vehicle.

As previously reported (PAA News Bulletin No. 13, 7/3/96), spot deliveries can create potential problems for both the dealer and the customer.

This Bulletin has been prepared to assist dealers in handling spot delivery situations.

PAA wishes to thank the Office of the Attorney General and the law firm of McNeese, Wallace & Nurick, Harrisburg, PA for assisting PAA in compiling this material.

The customer agrees to return to the dealership to renegotiate financing, which will likely be at a higher interest rate.

It is an unfair trade practice to force the customer to renegotiate the terms of a signed finance contract. When the dealer and customer sign a finance contract, the Motor Vehicle Sales Finance Act does not allow for contingency arrangements. The dealer may not use a written acknowledgment from the customer that his ability to secure credit is a determining factor of the sale or finance terms.

The customer willingly agrees to return the vehicle and cancel the sale.

The Attorney General position is that the returned vehicle is considered used if ownership is transferred, title or registration was issued, or the vehicle has accumulated over 500 miles on the odometer. The vehicle may then only be represented and resold as a used vehicle. In making this determination, the Attorney General's Office cites its regulations defining a used vehicle as one for which transfer of ownership has occurred. The cancellation of the sale could become further complicated if the dealer has already sold the customer's trade-in vehicle.

PAA has discussed the issue with the Office of the Attorney General, most recently at a face-to-face meeting in January, with spot deliveries at the top of our agenda. The Office has been open to dealer concerns such as losing a sale if the customer cannot take immediate delivery of a new vehicle. However, the Attorney General points to provisions contained within the Motor Vehicle Sales Finance Act, the Automotive Industry Trade Practices, and Unfair Trade Practices to defend its position on spot deliveries.

Recommendations on Handling Spot Deliveries

After consultation with the Office of the Attorney General, the following practices are recommended to protect both the dealer and the customer against potential difficulties with spot deliveries:

- 1 The buyer's order and the loan application must state in clear and conspicuous print that the sale is contingent upon financing. The buyer's order or accompanying conditional delivery statement must indicate the total amount to be financed, the monthly payments, the term of the loan and the rate the dealer is attempting to obtain.
- 2 The dealer must place a dealer plate on the vehicle and utilize PennDOT form MV-355 (valid for up to 5 days) indicating that the vehicle is being used for demonstration purposes. The dealership's insurance carrier should be consulted with regard to demonstrator liability.
- 3 The dealer may consider putting a limit on the amount of miles that the customer may drive the vehicle. This is because once the vehicle has been driven 500 miles (or title transfer has taken place) it must be sold (or resold)

as "used." If the financing is not approved, or the customer changes his mind, the vehicle will lose value and will no longer be considered "new."

If a limitation is used, the dealer should consider a CLEAR and CONSPICUOUS liquidated damages provision, separately initialed by the customer and allowing the deposit to be used for partial payment of the liquidated damages, should the customer drive the vehicle for more than 500 miles or cause any other unusual damage.

④ The dealer is advised not to fill in any paperwork from the Department of Transportation concerning the title of the vehicle or the trade-in, if there is one. The dealer should hold the trade-in until the sale is complete and should place the vehicle in a secure location.

⑤ The dealer should demand numerous forms of identification, which he should copy, before releasing the vehicle. This is required in case the dealer needs to file an insurance claim for a "stolen vehicle."

⑥ The dealer should consult with its insurance carrier to be certain that the dealer has insurance to cover any possible personal or property damage resulting from this transaction.

⑦ Upon approval of financing, the dealer must supply the customer with a signed copy of the buyer's order. When transferring ownership to the vehicle, transfer the registration plate from the customer's trade-in.

The Attorney General regulations require that until the customer receives a copy of the contract, signed by the dealer, indicating that financing has been approved and the dealership accepts the terms offered by the customer, the customer may cancel the deal.

Spot deliveries have been identified by the Office of the Attorney General as a problem area and a high enforcement priority.

Spot Delivery Procedure Summary

In summary, the following outline lists documents, procedures and disclosures a dealer must follow if a spot delivery occurs:

- A. a buyer's order unsigned by the dealer, as the dealer has yet to accept the contract;
- B. a buyer's order, unsigned by the dealer, or through an accompanying conditional delivery statement, signed by the customer, disclosing:

1. the finance terms attempted to be obtained;
2. the buyer's right to cancel until financing is obtained;
3. the procedures for supplying the customer with a signed copy of the buyer's order and finalizing the sale when financing has been obtained;
4. the terms on how to handle a failed finance situation: pay for the vehicle in cash; customer obtains own financing; dealer financing terms renegotiated; or customer returns the vehicle; and
5. terms limiting the use of the vehicle and the responsibility for damage beyond normal wear and tear.

- C. no finance contract can be signed at this time, as financing has yet to be obtained;
- D. no transfer of ownership, title or temporary registration at the time of spot delivery;
- E. recognition that if the vehicle is returned without following these guidelines, the vehicle must be resold as a "used" vehicle; and
- F. retain a trade-in vehicle until the financing is obtained and the customer is notified.

Dealers are also reminded that if a finance contract is entered into under the Motor Vehicle Sales Finance Act, the interest rate will have to be "bought down" to allow the loan to be placed or the dealership will have to hold the finance contract if financing cannot be obtained from another source.

Conclusion

PAA recognizes that the Attorney General's position on spot deliveries is not good news for dealers. The issue is broad, governed by provisions contained in at least three state laws and several regulations. The PAA Legislative and Executive Committees, as well as the Board of Directors, are expected to address spot deliveries at upcoming meetings.

(No. 3, 2/14/97)

The pros and cons of opening statutes such as the Motor Vehicle Sales Finance Act, or the automotive industry regulations, must be weighed carefully. While the potential would exist to seek a spot delivery solution, amendments could be offered on any number of other issues which would be considered unfavorable for dealers.

PAA News Bulletin
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Kimberly J. Ketterer, *Editor*

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