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IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

STATE OF KANSAS, *ex rel.*)
STEVE SIX, ATTORNEY GENERAL,)

Plaintiff,)

v.)

Case No. 0 C 1216

EMPORIA MOTORS, INC.,)

Defendant.)

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this 30 day of August, 2010, the above-captioned matter comes before this Court for approval of a stipulated Journal Entry of Consent Judgment pursuant to K.S.A. 50-632(b). Plaintiff, State of Kansas, *ex rel.* Steve Six, Attorney General, appears by and through counsel, Emilie Burdette, Assistant Attorney General. Defendant, Emporia Motors, Inc., appears by and through counsel, Thomas A. Krueger of Krueger & Williams.

THEREUPON the Court, being fully advised in the premises and taking notice of the parties' stipulations, makes the following findings of fact and conclusions of law:

I. PARTIES TO THIS AGREEMENT

1. Plaintiff, State of Kansas, *ex rel.* Steve Six is the duly appointed and acting Attorney General of the State of Kansas.

2. The Attorney General's authority to bring this action is derived from the statutory and common law of the State of Kansas, specifically the Kansas Consumer Protection Act, K.S.A. 50-632(b).
3. Defendant, Emporia Motors, Inc. (hereinafter collectively "Defendant"), is a Kansas corporation conducting business in Kansas, with a principal place of business located at 2815 West Highway 50 in Emporia, Kansas.
4. All references to Defendant herein include acts individually, in concert, or by or through employees, agents, representatives, affiliates, assignees and successors.
5. At all times relevant to the allegations set forth herein and, in the ordinary course of business, Defendant acted as a "supplier" as defined by K.S.A. 50-624(j), by soliciting, advertising, and selling automobiles to Kansas consumers in or around Lyon County, Kansas.
6. At all times relevant to the allegations set forth herein and, in the ordinary course of business, Defendant engaged in consumer transactions as defined by K.S.A. 50-624(c), either individually or through employees, representatives, or agents.
7. The Court has personal and subject matter jurisdiction pursuant to the Kansas Consumer Protection act, K.S.A. 50-623 and K.S.A. 50-638(a).
8. Venue is proper in the 3rd Judicial District of Kansas (Shawnee County), pursuant to K.S.A. 50-638(b).
9. Plaintiff alleges that in October of 2009, Defendant sent or caused to be sent approximately 30,000 promotional fliers soliciting Kansas consumers to attend a

sales event titled "Dealer Ordered Year End Liquidation...Entire Inventory Emergency Selloff".

10. Plaintiff alleges Defendant engaged in deceptive and unconscionable acts or practices in violation of the Kansas Consumer Protection Act arising from and related to that one sales event. Specifically, Plaintiff alleges and Defendant denies the following:

- a. Defendant misrepresented the nature, reason or circumstances for the sales event, a deceptive act in violation of K.S.A. 50-626(a).
- b. Defendant failed to disclose material facts about the availability for purchase of vehicles referenced in the solicitation, deceptive acts in violation of K.S.A. 50-626(a).
- c. Defendant failed to disclose material limitations in the availability of represented financing and payment terms, deceptive acts in violation of K.S.A. 50-626(a).
- d. Defendant failed to disclose the verifiable retail prices for items purportedly being given away during the sales event as required by K.S.A. 50-692, unconscionable acts in violation of K.S.A. 50-627(a).
- e. Defendant employed or caused to be employed out-of-state sales staff not licensed by the Kansas Department of Revenue to sell vehicles in this state as required by K.S.A. 8-2434, deceptive and unconscionable acts in violation of K.S.A. 50-626(a) and 50-627(a).

11. Defendant voluntarily agrees to this Consent Judgment without trial or adjudication of any issue of fact or law and specifically denies all allegations contained herein. Defendant asserts that this Consent Judgment is a compromise of a disputed claim and is not to be construed as any admission of liability.
12. Defendant agrees to refrain from and to be permanently enjoined from engaging in those acts and practices alleged to be deceptive and/or unconscionable in paragraph ten (10) above. Defendant further agrees that its agents, employees, and representatives are also permanently enjoined from committing the acts or practices described above in any ongoing or future consumer transactions in this State.
13. Defendant agrees that engaging in such acts or similar acts after the date of this Consent Judgment shall constitute a violation of this Order and civil penalties will be imposed for each subsequent violation.
14. Defendant agrees to entry of judgment in the amount of \$10,000.00 and agrees to pay said amount at the time of the filing of this Consent Judgment in the form of a cashier's check, directly to the Office of the Kansas Attorney General.
15. Compliance with this Consent Judgment does not relieve Defendant of any obligation imposed by applicable federal, state, or local criminal laws, nor shall the Attorney General be precluded from taking appropriate legal action to enforce criminal statutes under his jurisdiction. This Consent Judgment is intended to be a complete release of any and all civil claims which the Kansas Attorney General

has under its jurisdiction relating to the incident herein described, including claims pursuant to the Kansas Consumer Protection Act.

16. The parties understand this Consent Judgment shall not be construed as an approval or sanction by the Kansas Attorney General of the business practices of Defendant, nor shall Defendant represent the decree of such approval. The parties further understand that any failure by the State of Kansas or by the Attorney General to take any action in response to any information submitted pursuant to the Consent Judgment shall not be construed as an approval of or sanction of any representations, acts or practices indicated by such.
17. Nothing in this Consent Judgment shall be construed to limit the rights of any consumers from pursuing any and all legal remedies they may be entitled to assert individually through a private cause of action.
18. Defendant acknowledges and agrees this Court has continuing jurisdiction over this matter pursuant to K.S.A. 50-632(b) and, any breach any of the terms, conditions, or payment plans set forth herein, shall be treated as a violation of the Court's order and shall be subject to further penalties under the law.
19. This Court shall also retain such jurisdiction for the purpose of enabling any of the parties to this Consent Judgment to apply to this Court at any time for such further orders and relief as may be necessary or appropriate for the modification or compliance of any provisions contained herein. This Court shall also retain jurisdiction if any violation of any term of this Consent Judgment is committed.

20. Defendant further acknowledges and agrees that, pursuant to the United States Bankruptcy code, specifically 11 U.S.C 523(a)(2)(A) and (a)(7), and due to the nature of the conduct underlying this agreement and the violations set forth herein, this judgment shall not be dischargeable in any federal court bankruptcy proceeding commenced after the entry of this judgment.
21. If any portion, provision or part of this Consent Judgment is held to be invalid, unenforceable, or void for any reason whatsoever, that portion shall be severed from the remainder and shall not affect the validity or enforceability of the remaining provisions, portions or parts.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the stipulations and agreements of the parties contained herein are found to be reasonable and are hereby adopted and approved as the findings of fact and conclusions of law of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is hereby entered against Defendant Emporia Motors, Inc. in favor of Plaintiff in the amounts set forth herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain jurisdiction over the parties and subject matter of this action for the purpose of rendering any additional equitable relief, orders, decrees, or judgments as may be requested by the parties or may be deemed appropriate by the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to the Kansas Consumer Protection Act and the provisions of K.S.A. 50-632(b), the Court hereby approves the terms of the Consent Judgment and adopts the same as the Order of the Court.

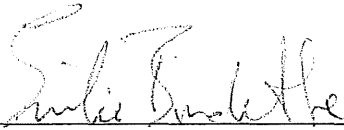
IT IS SO ORDERED

(s)

Judge of the District Court

8-30-10

Respectfully submitted and approved by:
STEVE SIX, Attorney General,

By:  _____

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