

DEPARTMENT OF CONSUMER AFFAIRS
CITY OF NEW YORK

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NYC DEPARTMENT OF CONSUMER AFFAIRS,

Consent Order

Complainant,

-against-

Violation Nos. LL 5321055
OL 5321056
PL 5323855
5341573

PLANET AUTOMOTIVE INC.

and

KANHIYA KINNEY GALANI, Individually, and as
President and Owner of Planet Automotive Inc.

and

SAYFUR RAHMAN, Individually, and as Vice-President
and Owner of Planet Automotive Inc.

Respondents.

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1. Planet Automotive Inc. (Planet Automotive) and Kanhiya Kinney Galani (“Galani”) enter into this Consent Order (“CO”) with the New York City Department of Consumer Affairs (“Department” or “DCA”) to settle the charges in the above Notices of Hearing (“NOH”) alleging that Planet Automotive and Galani (collectively “Respondents”) violated the following provisions of the New York City Administrative Code (“Code”) and Title 6 of the Rules of the City of New York (“Rules”)¹:
 - a. § 2-103(i) of the Rules, by selling second-hand automobiles for more than the advertised or quoted price;
 - b. § 2-103(k)(2) of the Rules, by failing to issue a receipt for a deposit that stated the description of the automobile, the cash-selling price and/or time selling price, finance charges and method of payment, the time during which the option is binding, and whether said deposit is refundable and under what conditions;
 - c. § 2-103(f) of the Rules, by requiring consumers to sign undertakings and agreements without setting forth all of the facts in the undertaking or agreement;

¹ Nothing in this Consent Order is intended to prevent Respondents, Galani and Planet Automotive, Inc. from pursuing claims that they may have either individually or collectively related to the charges in the above Notices of Hearing against named Respondent Sayfur Rahman, Individually, and/or as Vice-President and Owner of Planet Automotive, Inc.

- d. § 1-05 of the Rules, by failing to include their DCA license number on advertisements, letterhead, receipts and other printed matter;
 - e. § 5-32(c)(1) of the Rules, by refusing to provide itemized statements for add-on products;
 - f. § 5-32(f) of the Rules, by failing to provide, upon request, copies of any documents related to the sale of their automobiles signed by the consumers;
 - g. § 2-103(g)(1)(i) of the Rules, by selling second-hand automobiles that had not been inspected in accordance with § 301 of the Vehicle and Traffic Law (“VTL”) and certified in accordance with § 417 of the VTL;
 - h. § 1-14 of the Rules, by failing to timely respond to a subpoena duces tecum served on Planet Automotive;
 - i. § 1-01.1 of the Rules, by making false statements on a license application filed with the Department;
 - j. § 20-113 of the Code, by selling automobiles under a name other than the trade name stated in Planet Automotive’s license application;
 - k. § 20-265(a) of the Code, by engaging in unlicensed second-hand automobile dealer activity at 37-15 Northern Blvd., Long Island City, NY 11101 from February 27, 2012, to the present; and
 - l. § 20-700 of the Code, by using statements and advertisements that have the capacity, tendency and/or effect of deceiving or misleading consumers.
2. Planet Automotive was licensed to conduct business as a second-hand dealer in automobiles at 37-15 Northern Boulevard, Long Island City, New York, 11101, under DCA license number 1278137 until February 27, 2012.
 3. Planet Automotive’s license became void on February 27, 2012, pursuant to Section 20-110 of the Code because Galani sold 40% of Planet Automotive shares to Sayfur Rahman (“Rahman”) without the Department’s prior written approval.
 4. Planet Automotive submitted an application for a new license to conduct business as a second-hand dealer in automobiles at 37-15 Northern Boulevard, Long Island City, New York, 11101 on July 10, 2013. This application remains pending.

I. DEFINITIONS

5. For the purposes of the CO, the following definitions apply:

- a. "Add-on product" shall mean any product or service sold with an automobile, including, but not limited to, warranties and product guarantees, "etch" products, theft protection benefits and insurance, after-market service agreements, GAP insurance, and GAP waiver agreements.
- b. "Advertisement" or "advertisements" shall mean all labels, packaging, promotional materials, statements, visual descriptions or other representations of any kind disseminated in print, television, radio, or electronically, by or on behalf of Respondents to New York City ("NYC") consumers including, but not limited to, mailings, postcards, business cards, signs, banners, in-store signs, store-front signs, billboards, newspaper print advertisements, internet advertisements, and social media.
- c. "Clear and conspicuous" and "clearly and conspicuously" shall mean disclosure of material exclusions, reservations, limitations, modifications or conditions on an advertising statement, made in a manner that is readily apparent and understandable by an ordinary person and which complies with §§ 5-06 and 5-09 of the Rules. Factors to be considered for this purpose include, but are not limited to, use of plain language, relative type size, font, color contrast, location within an advertisement, and proximity to the statement or representation to which it applies. Moreover:
 - i. in print advertisements and mailings, the disclosure, representation or term shall be presented in a manner that is easy to read and placed reasonably near the statement that it modifies; and
 - ii. in radio advertisements, the disclosure, representation or term shall be made reasonably soon after the statement that it modifies and at a volume and speed likely to be understood by an ordinary listener.
 - iii. in advertisements disseminated by means of an interactive electronic medium such as the internet, online services, or other software, the disclosure, representation or term shall be placed reasonably near the statement that it modifies, in a type size at least as large as the claim to which it relates, and in a color that contrasts with the background; or made available through a clear and conspicuous hyperlink which is reasonably close to the statement, is clearly identified as a hyperlink, is labeled to convey the nature and relevance of the information it leads to, is on the same webpage, online service page, or other electronic page and near the representation it modifies, and takes the consumer directly to the disclosure on the click-through electronic page or other display window panel. Any page reached by such hyperlink shall not contain information unrelated to the applicable material terms, exclusions, reservations, limitations, modifications of conditions made in the advertisements. A disclosure that is too small to read on a mobile or tablet device and cannot be enlarged is not "clear and conspicuous."

- d. "Date of the CO" shall mean the date the CO is signed and executed by the Department.
- e. "Deal jacket" shall refer to all documents relating to the sale of a specific automobile, including, but not limited to:
 - 1. Credit applications;
 - 2. Retail installment contracts;
 - 3. Retail finance agreements;
 - 4. Buyer's orders;
 - 5. Purchase orders;
 - 6. Sales contracts;
 - 7. Vehicle invoices;
 - 8. Odometer statements;
 - 9. All documentation related to add-on products including contracts, warranty documents, service agreements and receipts;
 - 10. Receipts for all deposits and other payments towards the purchase or financing of the automobile;
 - 11. DMV related information and documents;
 - 12. Title documents, including vehicle title history documents;
 - 13. Documents related to automobile repair history;
 - 14. Vehicle history reports;
 - 15. Inspection records;
 - 16. Trade-in calculation documents;
 - 17. Dealer worksheets;
 - 18. Rebate documentation;
 - 19. Washout sheets (i.e. dealer document listing how much the dealer paid for the automobile and the cost of any repairs made on it); and
 - 20. Any other documents Respondents are required to maintain pursuant to state or federal law, the Code, or the Rules, that are not otherwise identified within this section.
- f. "Material disclosures" or "material terms" shall mean words, representations, or documents that (1) are required by federal, state, or New York City law and rules; (2) alter the rights or responsibilities of any party to a transaction; or (3) alter the price, quality, or characteristics of any second-hand automobile, financing agreement, or any add-on product.
- g. "Police book" shall mean the record of purchase and sales that Respondents maintain pursuant to Section 20-273 of the Code.
- h. "Recalled automobile" or "recalled automobiles" shall mean any second-hand automobile that was the subject of a manufacturer or National Highway Traffic Safety Administration ("NHTSA") safety recall, as retrievable in NHTSA's Recalls, Investigations, & Complaints – Vehicle Selection databases, located at: <http://www-odi.nhtsa.dot.gov/owners/SearchSafetyIssues>, or any website designated by NHTSA.

- i. "Record of deposits" shall mean the record of deposits that Respondents maintain pursuant to Section 2-103(k)(3) of the Rules.
- j. "Sales Representative" shall mean any person who, through a direct employment relationship, independent contract or otherwise, has been made responsible by Respondents, expressly or impliedly, orally or in writing, for selling, financing, or offering for sale second-hand automobiles, or products or services sold attendant to the purchase of a second-hand automobile.

II. LICENSES & GENERAL TERMS

- 6. The CO shall apply to Respondents and their officers; successors; assigns; all other persons acting on their behalf or through any corporate or other entity; and every second-hand dealer in automobiles located in New York City of which Galani is a sole-owner, partner, or shareholder possessing an ownership interest of 10% or more (hereinafter "Respondents").
- 7. Respondents shall not permit Rahman to participate in any consumer transactions or knowingly permit Rahman to participate in any decisions related to Respondents' business activities as a second hand dealer in automobiles. Respondents shall not knowingly permit Rahman to contact or speak with any consumer on behalf of Respondents.
- 8. Respondents shall not knowingly permit Rahman to retain or acquire an ownership interest in Planet Automotive. Respondents shall not hire or enter into a business or employment contract with Rahman.
- 9. Upon execution of the CO and Respondents' payment of \$98,777.32 in Restitution pursuant to paragraph 75, the Department will issue a two-month Temporary Operating Letter to Planet Automotive to operate as a second-hand dealer in automobiles at 37-15 Northern Boulevard, Long Island City, New York, 11101. If Respondents submit a new license application and satisfy all licensing requirements, the Department will issue a new license to Planet Automotive prior to the expiration of the Temporary Operating Letter or further extend the Temporary Operating Letter until such time a new license to operate as a second-hand dealer in automobiles at 37-15 Northern Boulevard, Long Island City, New York, 11101 is issued to Planet Automotive.

III. FUTURE COOPERATION

- 10. Respondents shall cooperate with the Department in any current or future investigation of, or proceeding against Rahman, including, but not limited to, producing documents and evidence in their possession and testifying truthfully at any future proceeding. Respondents shall not destroy, dispose, alter or otherwise move documents in their possession.

IV. INJUNCTIVE RELIEF

11. Respondents shall comply fully with the Consumer Protection Law, the License Enforcement Law, the Second-Hand Dealer Law, and the Rules promulgated pursuant to these laws. Respondents shall also comply with all applicable state and federal law, including but not limited to the Federal Trade Commission's ("FTC") Trade Regulation Rule on the Sale of Used Motor Vehicles ("Used Car Rule"), 16 C.F.R. Section 455. Nothing in the CO shall be construed to lessen or alter Respondents' obligations with regard to statutes and rules not specifically cited in the CO.

A. ADVERTISEMENTS

12. Respondents shall not publish or cause to be published advertisements that:

- a. State or imply, directly or indirectly, that an offer of products or services applies to all automobiles where such offer is limited by specific eligibility requirements or to specific automobiles;
- b. Offer an automobile for sale after the automobile is sold;
- c. Offer an automobile for sale before the automobile's purchase is recorded in the police book;
- d. Contain any false or misleading information regarding the automobiles offered for sale;
- e. Contain footnotes or statements, which alone or in combination, contradict or confuse a principal message or that contain contradictory or ambiguous statements, which alone or in combination, contradict or confuse a principal message.

13. Respondents shall clearly and conspicuously display a hyperlink to the Consumer Bill of Rights in every internet advertisement for a second-hand automobile.

14. Respondents shall include in all advertisements offering a second-hand automobile for sale the DCA license number and the trade name, as it appears on the dealership's license.

15. Respondents shall not offer or advertise the sale or lease of "certified" used vehicles, unless the manufacturer of the used vehicle has an established inspection program for pre-owned vehicles backed by the manufacturer's warranty, and the vehicle advertised or offered for sale as a "certified" used vehicle has passed such an inspection according to the manufacturer's standards.

16. Whenever publishing advertisements offering credit that is not open end credit, Respondents shall comply with all applicable federal, state and local laws relating to consumer credit including, but not limited to, Section 144 of the federal Truth in Lending

Act, 15 U.S.C. § 1664; Section 226.24 of Regulation Z, 12 C.F.R. § 226.24; the Consumer Protection Law; and Sections 5-09 and 5-21 of the Rules.

17. Whenever publishing advertisements that promote financing terms with minimum eligibility requirements, Respondents shall disclose clearly and conspicuously the terms and conditions of qualification for such financing terms and that not all consumers qualify for financing at the advertised rate and terms.
18. Whenever publishing advertisements containing credit that is not open end credit and containing the number of payments, the amount of a payment (such as "\$100 monthly"), the amount of any finance charge or the period of repayment, Respondents shall also include in the advertisements 1) the down payment, 2) the terms of repayment, 3) the rate of the finance charge expressed as an annual percentage rate, and, if the rate may be increased after consummation.

B. SALES PRACTICES

19. Respondents shall not sell a second-hand automobile to a consumer at a price greater than the price advertised, cited, quoted, or displayed on the automobile, except that such price does not include any applicable taxes, or valid registration and title fees.
20. Respondents shall include in the price advertised, cited, quoted, or displayed on the automobile all charges connected with the sale of the second-hand automobile, except for registration, title, and taxes.
21. If Respondents do not include the price of a second-hand automobile in an advertisement and provide a verbal price quote to a consumer, Respondents shall record the date, the name of the consumer (if provided by the consumer), the vehicle identification number ("VIN"), and the price quoted in a logbook in a format developed by the Independent Monitor.
22. Respondents shall treat all consumer payments made prior to the execution of the sales contract as deposits made towards the purchase of an automobile. Respondents shall record each payment in the record of deposits and shall disclose the following information to the consumer in writing:
 - a. Description of automobile, including make, color, year of manufacture, and the VIN;
 - b. Cash-selling price and / or time selling price, finance charges and method of payment;
 - c. Allowance on automobile to be traded in, if any;
 - d. Time during which the option is binding; and
 - e. Whether the deposit is refundable and under what conditions.

23. Respondents shall not offer to sell or advertise add-on products as a bundled package with a single price but shall offer add-on products separately and disclose the price of each product. Respondents shall list each add-on product purchased and its final sales price on the sales contract.

C. SALES CONTRACTS

24. Respondents shall use the sales contract forms created by the Independent Monitor in compliance with paragraph 58 of the CO for all sales of second-hand automobiles and add-on products within two (2) weeks of being provided the form by the Independent Monitor.

25. If Respondents negotiate a contract with a consumer in Spanish, Respondents shall give the consumer the proposed contract in Spanish before the consumer signs the contract, whether or not the consumer requests it.

26. Respondents' sales contracts shall clearly and conspicuously include:

- a. The dealership's DCA license number and trade name as written on the dealership's license;
- b. All disclosures and information required by the Code and the Rules;
- c. All disclosures required by state and federal law;
- d. Description of the automobile, including make, color, year of manufacture, and the VIN.

27. Respondents' sales contracts shall clearly and conspicuously disclose:

- a. The method of payment for the purchase;
- b. The cash price for the automobile (excluding fees, options, and cost of add-on products);
- c. Additions to the selling price, including:
 - i. An itemized list of costs of each add-on product; ;
 - ii. Taxes;
 - iii. Non-taxable items; and
 - iv. Additional fees that are either required or permitted by law, which must be individually itemized on the sales contract;
- d. Deductions from the selling price, including:

- i. The amount of the trade in, identifying the make, model, vehicle identification number, and mileage of the trade-in; and
 - ii. Total down payment and method of payment;
 - e. The final total sales price, clearly and conspicuously shown at the bottom of the sales contract with no other numbers below it; and
 - f. A disclaimer in a bold font next to the signature stating that all the terms are completed.
28. Respondents shall require consumers to initial next to each additional fee or charge, other than the cash selling price of the vehicle and sales tax.
29. Respondents shall not pre-print optional fees on sales contracts.
30. Respondents shall write "N/A" or zeros next to blank or missing terms, and/or draw a line from the last charge or credit to the sub-total if there are no additional charges or credits in the price column.
31. Respondents and consumers shall sign all legally binding documents in duplicate, and Respondents shall give a time-stamped copy of the document to the consumer at the time the consumer signs both the original and duplicate copy.
32. Respondents shall complete all documents and forms requiring a consumer's signature completely and accurately prior to obtaining the consumer's signature.

ADD-ON PRODUCTS

33. Respondents shall include all material terms, including price, benefits, limitations, and cancellation terms, on each contract or application for the purchase of an add-on product before presenting the contract or application to the consumer to sign.
34. Respondents shall attach a cover sheet to all contracts and applications for products and services provided or administered by any entity other than Respondents. The cover sheet shall clearly and conspicuously state:
- a. "This dealership is offering to sell you a product or service provided by another business. You are not required to purchase this product or service. If you have questions, you may call the business before signing the contract at the number below."
 - b. The name, address, and phone number of the third-party.
35. Respondents shall not charge a consumer for an add-on product unless the consumer initials beside the price term and all cancellation terms at the time the contract for the product is executed. If the contract does not include cancellation terms, Respondents shall not charge the consumer for the add-on product unless the consumer initials beside the

price term on the contract and signs a written disclosure of the third-party's cancellation and refund policy before the contract is executed.

FINANCING

36. In any sale requiring financing, Respondents shall provide to the consumer a notice that states: "You are not required to obtain financing through this dealership."
37. If a consumer agrees that Respondents will seek to obtain financing on the consumer's behalf, before providing the consumer with a retail installment contract or retail finance agreement, Respondents shall provide to the consumer a notice with the consumer's credit score, the name of the consumer credit agency or other person that provided each credit score obtained and used by the dealer and a statement that the consumer can obtain his or her own credit score at annualcreditreport.com, 1-877-322-8228.
38. If a consumer agrees to enter into a retail installment contract or retail finance agreement that includes all or part of the cost of an add-on product, Respondents shall disclose the total finance charge and the monthly installment amount for each add-on product in writing on the sales contract.
39. If a consumer agrees to finance or pay for an automobile in monthly installments, Respondents shall disclose in writing the total finance charge and the cost of each monthly installment for the purchase of the automobile without add-on products.
40. Respondents shall not execute retail installment contracts or retail finance agreements in which the interest rate is greater than the maximum rate permitted by New York General Obligations Law § 5-501(1) and New York Banking Law § 14-a.

D. ROADWORTHINESS

41. Respondents shall conduct a safety inspection of each second-hand automobile pursuant to New York VTL § 301 prior to offering it for sale. Respondents shall include any inspection fee in the automobile price that is advertised cited, quoted, or displayed on the automobile. Respondents shall not list the inspection fee as a separate charge on the sales agreement.
42. Respondents shall give to each consumer a vehicle history report from an independent provider (e.g. Carfax, AutoCheck, etc.) prior to accepting a deposit or down payment, or executing a purchase order, buyer's order, or any other agreement concerning the sale of the automobile. Respondents shall maintain a copy of the vehicle history report signed by the consumer in the consumer's deal jacket.
43. Respondents shall not sell a vehicle without giving each consumer a certification that the vehicle being sold to the consumer has been inspected and is in such condition and repair as to render, under normal use, satisfactory and adequate service upon the public highway at the time of delivery, in compliance with Section 417 of the VTL and Section 78.13 of the New York Code of Rules and Regulations ("NYCRR"), Title 15. Respondents shall

not provide this certification to a consumer if the vehicle is subject to a safety recall at the time of sale and has not been repaired.

44. Respondents shall not sell any unrepaired recalled automobiles. Respondents shall check the recall status of all second-hand automobiles immediately prior to sale. Respondents shall maintain documentation demonstrating that the defect(s) subject to the recall was repaired prior to sale.
45. Respondents shall refund the purchase price of an automobile and cancel the sales contract at a consumer's request if Respondents:
 - a. Fail to certify at the time of delivery that the automobile is in condition and repair to render, under normal use, satisfactory and adequate service upon the public highway; or
 - b. Deliver an automobile that is not in the condition described in the certification.

E. CONSUMER BILL OF RIGHTS

46. Respondents shall prominently display the Consumer Bill of Rights ("Attachment A"), at multiple locations identified by the Independent Monitor. Respondents shall display the Consumer Bill of Rights on a poster at least 36 inches tall and 24 inches wide.

F. RECORD PRODUCTION AND RETENTION

47. Upon execution of this CO, Respondents shall provide to the Department, in writing, names and addresses for every second-hand automobile dealer in New York City and in which Galani is a sole owner, partner, or shareholder possessing an ownership interest of 10% or more. Respondents shall report to the Department all changes in ownership within ten (10) business days of the ownership transfer.
48. Respondents shall maintain the following documents in an electronic format in a manner that is organized and readily accessible for three years from the date of the CO:
 - a. All documents required to be maintained pursuant to §§ 1-16 and 2-103(k)(3) of the Rules;
 - b. The logbook of price quotes (See paragraph 21);
 - c. All vehicle history reports for second-hand automobiles sold by Respondents;
 - d. All deal jackets; and
 - e. All advertisement orders, advertisement mock-ups, published advertisements, electronic images of web advertisements that appear on Respondents' website or other websites, all radio and TV advertisements, and any advertisements disseminated through social media.

49. Respondents shall store internet advertisements electronically by saving a copy of each automobile's advertisement in a Portable Document Format ("PDF") that preserves images as well as text. Respondents shall save an additional PDF file every time there is a change to the automobile's price or terms.
50. Respondents shall electronically store all internet videos, labeled in a format that identifies the automobile being advertised in the video.
51. Respondents shall retain all consumer complaints received directly from consumers or from any agency or private entity that receives consumer complaints, including but not limited to, the Better Business Bureau and/or any governmental agency, including DCA. Respondents shall maintain the consumer complaints in a manner that is organized, readily accessible, and searchable by the consumer's last name.
52. If requested by the Independent Monitor or DCA, Respondents shall produce copies of all documents and records maintained pursuant to paragraphs 48 through 51 within ten (10) business days.

G. INDEPENDENT MONITOR

53. Within thirty (30) days of the date of the CO, Respondents shall submit to the Department the resumes of three candidates to serve as Independent Monitor. The Independent Monitor shall serve for a period of at least twelve (12) but not more than thirty-six (36) months, as determined by the Department. The Independent Monitor shall serve at Respondents' expense and shall have plenary authority for monitoring and auditing Respondents' compliance with the Code, the Rules, and the terms of the CO. The Department may, at its discretion, terminate the Independent Monitor provisions of the Consent Order (paragraphs 56 through 71) after the Independent Monitor has served for twelve months if Respondents demonstrate to the Department that they have complied with the Code, the Rules, and the terms of the CO.
54. Respondents shall identify candidates who have demonstrable experience relevant to consumer protection law, automobile sales, law, compliance monitoring or auditing. The Department shall review the qualifications and independence of all candidates and shall exercise its discretion in approving the Independent Monitor. If the Department determines that none of the candidates possess the requisite qualifications and independence necessary to perform the duties of Independent Monitor, the Department shall notify Respondents. Within fifteen (15) days of the date of that notice, Respondents shall submit to the Department the resumes of three additional candidates. The Department, may, in its discretion, identify additional candidates and the appropriate rate of pay for those candidates within the range of pay provided in paragraph 55 of this Consent Order. If the Department selects a candidate that was identified by the Department, Respondents shall retain that Independent Monitor at a rate of pay designated by the Department, which shall not exceed \$100,000 per year. If the parties cannot identify an appropriate candidate, then the parties may agree to modify the terms of paragraph 55.

55. Respondents shall retain the Independent Monitor within ten (10) business days of approval of the candidate by the Department. Respondents shall execute a contract with the Independent Monitor that shall include terms consistent with the CO including, but not limited to, the responsibilities of the Independent Monitor. Respondents shall pay the Independent Monitor no less than \$32 per hour and no more than \$80 per hour, or if contracted on an annual basis, between \$40,000 and \$100,000 per year, as well as reasonable and necessary expenses incurred by the Independent Monitor in fulfillment of its responsibilities. Respondents shall require the Independent Monitor to work onsite at least twenty-five (25) hours per week, including at least four (4) hours of work after 7:00 pm on weekdays and six (6) hours of work on weekends.
56. Respondents shall provide the Independent Monitor with a workstation at each of Respondents' dealerships. Respondents shall provide the Independent Monitor with unlimited access to all records, electronic files, paper files, principals, officers and agents. Respondents shall make a fully-enclosed office space or room available for use by the Independent Monitor to privately interview consumers and employees without being observed or recorded by anyone. Respondents shall not monitor or intervene in any manner with the Independent Monitor's duties and shall not retaliate against employees for communicating or providing information to the Independent Monitor. Respondents shall not employ the Independent Monitor to perform any work other than the duties of the Independent Monitor as described in this Consent Order.
57. If Galani opens any new second-hand automobile dealerships in New York City within three (3) years of the Date of the CO, the Independent Monitor shall divide monitoring time among all of Respondents' second-hand automobile dealerships unless the Department has terminated the Independent Monitor provisions pursuant to paragraph 53 above.
58. The Independent Monitor shall review and revise Planet Automotive contract forms and templates, including but not limited to contracts for financing, warranties, and other add-on product sales; deposit receipts; and disclosures, to ensure that all documents are in compliance with the Code, the Rules, and the CO. The Independent Monitor shall complete the revision of all documents within 60 days of the date the Independent Monitor is retained. The Department reserves the right to require, at any time, specific, reasonable modifications on any Planet Automotive contract form or template to ensure that it complies with this CO and all applicable laws and regulations. Respondents shall change Planet Automotive's contract forms and templates as directed by the Department within fifteen (15) days of the Department's request to do so.
59. The Independent Monitor shall develop and deliver to Planet Automotive policies, procedures, and training on the following subjects within 60 days of the date the Independent Monitor is retained:
 - a. Advertising;
 - b. Second-hand Automobile Sales Practices;

- c. Sales Contracts;
 - d. Add-on Product Sales Practices;
 - e. Document Management and Record Keeping;
 - f. Internal Compliance Monitoring and Reporting.
60. The Independent Monitor, or other party approved by the Department, shall conduct training for all Sales Representatives, employees, managers, and agents consistent with the terms of the CO and within 90 days of the date that the Independent Monitor is retained.
61. The Independent Monitor shall maintain attendance sheets for all employee trainings, and each employee shall attend at least one training session every six months. All Sales Representatives hired subsequent to the first training shall be provided with training prior to selling, financing, or offering for sale second-hand automobiles or add-on products.
62. The Independent Monitor shall review the following to assess Respondents' compliance with the Code, the Rules and the CO:
- a. All advertisements, prior to publication or dissemination;
 - b. All second-hand automobile transactions within five (5) business days of the transaction;
 - c. All reports and record books maintained by Respondents including, but not limited to, the police book, the record of deposits, and the logbook of price quotes;
 - d. All automobile inspection and service records;
 - e. Video footage and audio recordings of all consumer-employee interactions if Respondents record the interactions;
 - f. All consumer complaints made to Respondents, the Department, the Independent Monitor, the Better Business Bureau, or other agency;
 - g. All litigation including small claims court actions filed against Respondents;
 - h. All performance reviews and personnel documentation; and
 - i. Consumer and transaction records including, but not limited to, electronic journal entries and deal jackets to ensure that files are properly maintained, complete, and compliant with the CO.
63. The Independent Monitor may interview providers of third-party add-on products; consumers regarding their experience negotiating the purchase of an automobile, the representations made to the consumers by Sales Representatives, and the consumers'

comprehension of all signed contracts; and employees regarding their practices, their knowledge of policies and procedures, and their compliance with the Code, the Rules, and the requirements of the CO.

64. The Independent Monitor shall conduct:

- a. Bi-weekly inspections of Respondents' records and premises for compliance with the Code, the Rules and the CO;
- b. Undercover and unscheduled inspections at least once per quarter and as needed to evaluate Respondents' ongoing compliance with the Code, the Rules, and the CO.

65. Within three months of being retained, and every three months thereafter, the Independent Monitor shall prepare and send to DCA and counsel for the Respondents a report on the Independent Monitor's activities and Respondents' compliance with the CO. The report shall include, but not be limited to, the following:

- a. The results of the undercover and unscheduled inspections;
- b. A summary of all consumer complaints, and their resolution, for all complaints made to Respondents, the Independent Monitor, or an outside agency in the three (3) months prior to the report;
- c. The Independent Monitor's assessment of Respondents' compliance with the CO including a separate evaluation of Respondents' compliance with each requirement contained in paragraphs 11-51, 56, 70-72, and 74 of the CO;
- d. The Independent Monitor's assessment of Respondents' compliance with the laws and rules governing second hand auto dealers.

66. The Independent Monitor shall send the following documents to DCA and counsel for Respondents with the Independent Monitor's report:

- a. Copies of all training documents and written policies and procedures provided to employees in the three (3) months prior to the report;
- b. Copies of all new or amended templates and forms for all contracts and other documents provided to consumers in the three (3) months prior to the report;
- c. Copies of training attendance sheets for all training conducted in the three (3) months prior to the report;

67. The Department may meet with, or request information from the Independent Monitor at any time.

68. The Independent Monitor shall promptly report to the Department any possible violations of the Code, the Rules, or the CO.

69. The Independent Monitor shall, if requested by the Department, testify as necessary at adjudication hearings.
70. If Respondents know, or have reason to know of violations of the Code, the Rules or the terms of this CO by a Sales Representative, employee, or agent, Respondents shall immediately report the violation to the Independent Monitor.
71. Respondents shall promptly report all consumer complaints to the Independent Monitor, and make all possible efforts in good faith to resolve all consumer complaints, regardless of source, within twenty (20) days of receipt of the complaints. If a complaint is not resolved to the satisfaction of the Independent Monitor, or the Independent Monitor determines that the complaint may involve violations of the Code, the Rules, or the CO; the Independent Monitor shall promptly refer the complaint to the Department.
72. Respondents shall remedy all violations of the Code, the Rules or the CO identified by the Independent Monitor within 20 days of being notified of any such violations.
73. The Department may issue a Notice of Hearing to any or all of Respondents for any violation reported to it.
74. Respondents shall take appropriate disciplinary measures against Sales Representatives, employees, or agents who fail to comply with the requirements of the CO.

V. CONSUMER RESTITUTION

75. Respondent shall pay a total of \$283,777.32 for restitution to the consumers listed in Attachment B. Within 20 days of the date of the CO, Respondents shall submit to the Department a check or money order in the amount of \$98,777.32 made payable to “New York City Department of Consumer Affairs.”
76. The Department will distribute payments from the escrow account to each consumer as provided in Attachment B, after the consumer executes a general release from liability for damages resulting from Planet Automotive’s violation of the Code and Rules in its sale of the automobile referenced in the consumer’s complaint. The Department will provide a copy of each general release signed by the consumers listed in attachment B to Respondents.
77. If any funds remain in the escrow account three years after the Date of the CO, the remaining funds shall revert as civil penalties to the Department.

VI. PENALTIES

78. Respondents shall pay a fine of \$157,000, by bank check, certified check, or money order payable to “New York City Department of Consumer Affairs” as follows:
 - a. \$53,000 prior to November 30, 2014;
 - b. \$52,000 prior to March 31, 2015;

c. \$52,000 prior to July 31, 2015.

79. Respondents shall mail or hand deliver each payment to Department of Consumer Affairs, Legal Division, 42 Broadway, 9th Floor, New York, New York 10004.
80. If Respondents default in any of the payments required by paragraph 78, and fail to remedy any such default after 10 day written notice to cure to Respondents and their counsel, the entire remaining unpaid amount of the fine shall become immediately due and owing.
81. Respondents shall be jointly and severally liable for payment of the penalties and restitution required by this CO.

VII. BREACH

82. If, following a hearing, Respondents are found to have breached the CO, Respondents shall pay a fine of \$1000 for each breach. Respondents shall pay \$1000 per vehicle or advertisement per day for violating Subsection A of Section IV of the CO. Specific breaches of the CO shall, in addition to a breach of the CO, constitute independent and separate violations of any applicable laws and rules. If the same conduct gives rise to both a breach of the CO and a breach of the applicable laws and rules, Respondents shall pay two (2) penalties: a \$1000 fine for breach of the CO and the maximum penalty for violation of the applicable law or rule. Nothing in this paragraph shall be construed to limit in any way Respondents' right to appeal a Tribunal decision.
83. If, following a hearing, any of Respondents is found to have violated any provision of the Consumer Protection Law and Rules, the violation shall be treated as a knowing violation. Nothing in this paragraph shall be construed to limit in any way Respondents' right to appeal a Tribunal decision.
84. Any violation of the Code and Rules or breach of the CO by Respondents shall, if proven at a hearing: (i) be grounds for suspension or revocation of Respondents' licenses, and (ii) be deemed proof that Respondents do not possess the standards of integrity, honesty, and fair dealing required of licensees.
85. Respondents' failure to submit the entire balance due pursuant to the terms of paragraphs 75 and 78 of the CO shall result in the automatic revocation of Respondents' licenses with the Department, and Respondents will continue to owe the entire balance due.
86. If any Respondent, or anyone acting on behalf of any Respondent, makes a false statement, misrepresentation, or omission of material fact on any application or document submitted to the Department, all licenses held by that Respondent shall be immediately and automatically revoked, and the person making the false statement, misrepresentation, or omission of material fact shall be found permanently unfit to hold any license issued by the Department.
87. Respondents' failure to produce any of the documents or records required by the Code, the Rules, or the CO shall constitute prima facie evidence at a hearing that Respondents

have failed to maintain those documents and records and that Respondents have violated the CO. If Respondents present a reasonable explanation to the Department for not producing documents or records, the Department shall consider that explanation before charging Respondents with failing to maintain those documents or records.

VIII. MISCELLANEOUS

88. Within twenty (20) days of the date of the CO, Respondents shall provide a copy of the CO to all employees and independent contractors, and individuals and entities responsible for developing Respondents' advertisements published in New York City.
89. Within twenty (20) days of the date of the CO, Respondents shall provide a copy of the CO to all third-party providers and administrators of warranties, insurance or other products and services sold by Respondents to consumers.
90. Respondents waive the right to a hearing on, or appeal of, the violations alleged in the above-captioned Notices of Hearing.
91. The acceptance of the CO by the Department shall not be deemed approval by the Department of any of Respondents' business practices, and Respondents shall make no representation to the contrary.
92. This CO is not intended for use by any third party in any other proceeding. The CO is neither intended as nor should it be construed as an admission of liability by Respondents.
93. The Department does not waive its right to bring new charges against Respondents for violations occurring after the date of the CO or to seek restitution on behalf of any complainant who does not receive restitution pursuant to this agreement. The Department shall not seek civil penalties or revocation of Planet Automotive's license for violations occurring prior to the signing of this Consent Order.
94. A scanned or electronic copy of this Consent Order shall have the full force and effect of an original signature.

This Space Is Intentionally Left Blank

95. Susan Mauro, as Attorney for Planet Automotive and Galani, is authorized to enter into the CO on their behalf.

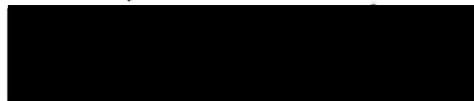
Dated: 9/23/14

Agreed to for Respondents by:

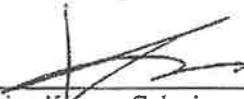


Susan Mauro, Esq.
Attorney for Respondents

Accepted for the Department of Consumer Affairs by: James Hurst



Agency Attorney



Kanhiya Kinney Galani
President of Planet Automotive Inc.

Businesses licensed by the Department of Consumer Affairs (DCA) are required to comply with all relevant local, state and federal laws. Copies of New York City licensing and consumer protection laws are available in person at DCA's Licensing Center, located at 42 Broadway, 5th Floor, New York, NY, by calling 311, New York City's 24 hour Citizen Service Hotline, or by going online at www.nyc.gov/consumers.

Attachment A



Department of
Consumer Affairs

YOUR RIGHTS WITH THIS DEALER

Car Safety

- The dealer may not sell a used car to you "as is."
- This dealer must give you a vehicle history report that tells you whether the car was in an accident or damaged.
- You can check whether the manufacturer has recalled the car because of a safety defect by checking the National Highway Traffic Safety Administration's website, accessible at: www.safercar.gov.
- You may test drive and have your own mechanic check a car before you buy it.

Financing

- You are not required to get financing through this dealer. You may choose to get a loan from any bank or credit union.
- You may qualify for a lower interest rate than the dealer is offering you. The rate offered may include a markup to include a fee to the dealer.
- If you get financing through this dealer, this dealer must provide to you in writing the price of the car and the finance charges when you pay a deposit on the car.
- You do not need to buy any additional services or products to get the lowest advertised price or qualify for a loan.
- The dealer must tell you the prices of options, additional warranties, services and add-on products. Anything you purchase will be included on the contract with the price listed.
- If you agree to have the dealer find a loan for you, this dealer must give you your credit score and the name of the credit rating agency. You may check your own credit score at annualcreditreport.com or 1-877-322-8228.
- If the sale is negotiated in Spanish and you are financing the purchase, the dealer must provide contracts in Spanish upon your request.



General Tips

- Read every document carefully before you sign it. If you do not understand a document, do not sign it. If you do not understand a charge or fee, ask the dealer about it.
- You can obtain copies of all documents you sign. The dealer must give you a copy of every document that you sign when you sign it.
- You can refuse to sign any blank, partially blank or unclear contract or form.
- You have until 48 hours to look over a contract while the dealer holds the car.
- If you have a question or complaint, contact the NYC Department of Consumer Affairs at **311** or www.nyc.gov/dca.

Licensee: Planet Automotive, Inc.

Type of License: Second-Hand Automobile Dealer

License #: (Insert new license number)

Attachment B

PLANET AUTOMOTIVE, INC. RESTITUTION DAMAGES CHART

| Complaint No. | Consumer Name | Restitution Owed |
|--------------------------|---------------|---------------------|
| 500115578 | | \$12,331.36 |
| 500118481 | | \$5,569.14 |
| 500120624 | | \$2,054.19 |
| 500123213 | | \$3,000.00 |
| 500123214 | | \$1700.00 |
| 500124045 | | \$3,680.00 |
| 500124678 | | \$8,746.33 |
| 500125636 | | \$7,203.79 |
| 500127150 | | \$7,762.64 |
| 500128040 | | \$6,907.89 |
| 500128633 | | \$4,052.05 |
| 500130880 | | \$4,783.55 |
| 500131451 | | \$5,091.80 |
| 500131982 | | \$5,851.97 |
| 500132427 | | \$6,924.86 |
| 500132933 | | \$7,869.31 |
| 500133316 | | \$6,816.81 |
| 500133405 | | \$5,807.32 |
| 500133475 | | \$8,104.33 |
| 500133684 | | \$8,541.81 |
| 500134066 | | \$9,453.23 |
| 500134199 | | \$14,416.16 |
| 500134662 | | \$7,510.45 |
| 500134973 | | \$6,669.29 |
| 500135804 | | \$3,064.40 |
| 500136484 | | \$2890.46 |
| 1732-2013 | | \$6,188.73 |
| 1478-2013 | | \$6841.24 |
| 4035-2014 & 500127727 | | \$12,668.86 |
| 12029-2014 | | \$9146.62 |
| 706-2014 | | \$12,152.79 |
| BBB8793667 | | \$11,376.98 |
| BBB8897974 | | \$14,463.64 |
| BBB9050415 | | \$6,869.27 |
| BBB8144620 | | \$6,890.70 |
| BBB9265718 | | \$7,355.94 |
| BBB8768830 | | \$4,882.36 |
| BBB9311300 | | \$6903.03 |
| BBB8848462 | | \$11,234.08 |
| TOTAL | | \$283,777.32 |