

DEPARTMENT OF CONSUMER AFFAIRS  
CITY OF NEW YORK

-----X  
NYC DEPARTMENT OF CONSUMER AFFAIRS,

Complainant,

-against-

QUEENS AUTO MALL, INC.  
134-01 Atlantic Avenue  
Richmond Hill, New York 11418

and

Queens Auto Mall, Inc.  
d/b/a Federal Auctioneers, Federal Auto Auction,  
New York state Auction, U.S. Federal Auto Auction,  
134-01 Atlantic Avenue  
Richmond Hill, New York 11418

and

Andreas Stylianou, aka Andrew Stylianou,  
individually,

Respondents-Licensees.  
-----X

Consent Judgment Order

Violation No. LL 5164567

License No. 0945895

License No. 1211283

License No. 0864610

License No. 1084505

Respondents Queens Auto Mall, Inc. ("QAM") and Queens Auto Mall, Inc. d/b/a Federal Auctioneers, Federal Auto Auction, New York State Auction, U.S. Federal Auto Auction ("QAM Auction House") and Andreas Stylianou aka Andrew Stylianou ("Stylianou"), individually (collectively "Respondents") consent to this Consent Judgment Order ("CJO") with the New York City Department of Consumer Affairs ("the Department" or "DCA") to settle the above-captioned Notice of Hearing.

The Department served on Respondents a Notice of Hearing, LL 5164567, charging Respondents with knowingly violating the Consumer Protection Law of 1969 ("the Consumer

Protection Law” or “CPL”), Title 20, Chapter 5, Subchapter 1 of the Administrative Code of the City of New York (“the Code”) and Title 6 of the Rules of the City of New York (“the Rules”). The Department alleges, *inter alia*, that Respondents: a) falsely and deceptively imply an affiliation with the government, b) illegally charge auction and/or destination, processing or administrative fees, c) prohibit consumer complaints as a condition to issuing refunds, d) illegally refuse to refund deposits and/or purchase prices, and e) engage in deceptive trade practices by failing to disclose material and relevant terms and conditions in their advertisements.

## I. DEFINITIONS

For the purposes of this CJO, the following definitions shall apply:

1. “Advertisement” or “advertisements” shall mean all labels, packaging, promotional materials, statements, visual descriptions or other representations of any kind disseminated in print, orally or electronically by or on behalf of Respondents to New York City (“NYC”) consumers including, but not limited to, mailings, postcards, signs, banners, billboards, newspaper print advertisements, television advertisements, radio advertisements and internet advertisements.

2. “Affected Consumers” shall mean all consumers who purchased a vehicle from Respondents or who paid a deposit to Respondents on a vehicle between January 1, 2007 and the Effective Date of this CJO.

3. “Auction” and “auction fees” refers to a live auction and not an auction conducted on the internet.

4. “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 Sections 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,

- a. 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;
- b. in website advertisements, the disclosure, representation or term shall be placed reasonably near the statement that it modifies, or made available through a hyperlink which is reasonably close to the statement, and which is labeled to make clear to consumers that the hyperlink leads to a page containing exclusions, reservations, limitations, modifications or conditions;
- c. 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;
- d. in television advertisements:
  - (1) an audio disclosure shall be made reasonably soon after the audio statement that it modifies, and at a volume and speed likely to be understood by an ordinary listener; or

(2) a video disclosure shall be made at the same time as or reasonably soon after the video statement that it modifies, in a size, quality and duration which makes it easily understood by an ordinary viewer.

5. “Effective Date” shall mean the date this CJO is signed and executed by the Department and Respondents.

6. “QAM” and “QAM Auction House” shall refer to Respondents QAM and QAM Auction House and their officers, successors, assigns and all other persons acting on their behalf, directly, or indirectly, or through any corporate or other entity.

7. “Parties” shall refer to DCA, the City of New York and Respondents.

8. “Sales Representative” shall mean any person who, through a direct employment relationship, independent contract or otherwise, sells Respondents’ goods or services to consumers or disseminates information about Respondents’ goods or services to consumers.

## **II. INJUNCTIVE RELIEF**

9. Respondents shall comply fully with the Consumer Protection Law, the License Enforcement Law (Section 20-101 et seq. of the Code), the Second-Hand Dealer Law (Section 20-264 et seq. of the Code), the Auctioneer Law (Section 20-278 et seq. of the Code) and the Rules, as they apply to each Respondent. 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 this CJO shall be construed to lessen or alter Respondents’ obligations with regard to statutes and rules not specifically cited in this CJO.

10. QAM shall comply with the following specific terms and conditions:

**A. NO REPRESENTATION OF AFFILIATION WITH GOVERNMENT AGENCIES**

11. QAM shall not advertise utilizing the words “Federal Auto Auction” or “Federal Auctioneers” or “U.S. Federal Auto Auction.”

12. QAM shall not issue deposit receipts under the names “Federal Auto Auction” or “Federal Auctioneers” or “U.S. Federal Auto Auction” without conspicuously stating that Respondents are not affiliated with any government agency.

13. QAM shall not represent in any manner, directly or by implication, that the activities, services or goods offered by Respondents have been approved, authorized or endorsed by the Department or by any other government agency unless such representation is true and verifiable.

**B. NO ILLEGAL FEES**

14. QAM shall not charge any auction fees for cars unless sold at auction.

15. QAM shall not charge any auction fees for cars sold on days when an auction is not being held.

16. The selling price of QAM’s cars shall be the price advertised, cited, quoted, or marked thereon. It shall include all charges connected with the sale of such cars and shall be the maximum charge to the consumer, exclusive of registration, title, inspection, and taxes. This provision shall not preclude QAM from charging other fees if such fees become legally permissible under local, state, and/or federal law.

17. QAM shall not charge any service charges or fees (except those permitted in paragraph 16), house commissions or any other such illegal fees on second-hand cars.

C. **CONSUMERS' RIGHT TO REFUNDS OR CREDITS**

18. QAM shall clearly and conspicuously disclose its refund policy on all deposit slips given to consumers. QAM shall also clearly and conspicuously post its refund policy on a sign posted on each car, at each point of sale, or at each store entrance used by consumers.

19. The disclosure required in paragraph 18 of this CJO shall state whether or not it is Respondent's policy to give refunds and, if so, under what conditions, including but not limited to, whether a refund will be given only for a specified time; whether a refund will be given if the consumer is not approved for financing; in cash or as store credit only; and subject to any fees, including a restocking fee, and the dollar or percentage amount of each fee.

20. If QAM accepts a consumer deposit and then cancels the transaction or otherwise fails to deliver the purchased vehicle to the consumer at QAM's premises, QAM shall refund the consumer's deposit within three (3) business days of QAM's cancellation or failure to deliver the vehicle in accordance with QAM's refund policy.

21. QAM shall not condition a consumer's refund, settlement or credit from QAM on the consumer waiving his or her rights to initiate complaints against QAM filed with any government agency, or any private entity that receives consumer complaints, including but not limited to, the Better Business Bureau.

22. QAM shall not use any words, phrases or language in its printed materials, including but not limited to deposit slips, bills of sale, and contracts, that would indicate that a consumer who is receiving a refund, settlement or credit from QAM is prohibited from filing a complaint with any government agency, or any private entity that receives consumer complaints, including but not limited to, the Better Business Bureau.

**D. CERTIFICATION OF ROADWORTHINESS**

23. QAM shall post a sign clearly and conspicuously disclosing that consumers have the right to bring an independent inspector to inspect the vehicle prior to purchase.

24. QAM shall give to consumers a certification that the vehicle being sold has been inspected and is in condition and repair 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 New York State Vehicle and Traffic Law (“VTL”) and Section 78.13 of the New York Code of Rules and Regulations (“NYCRR”), Title 15. QAM’s provision to consumers of the New York State Department of Motor Vehicles’ retail certificate of sale, MV-50 form, shall constitute compliance with this paragraph.

25. QAM shall not publish advertisements offering for sale or lease “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 as a “certified” used vehicle has passed such an inspection according to the manufacturer’s standards.

26. QAM shall not refuse to refund the purchase price of a car to consumers who cancel purchases after taking possession because of QAM’s failure to comply with Section 417 of the VTL and Section 78.13 of the NYCRR requiring certification that the car is in condition and repair to render, under normal use, satisfactory and adequate service upon the public highway at the time of delivery. QAM’s failure to deliver to the consumer the required certificate, QAM’s delivery of a certificate it knows, or should know, is false, or QAM’s delivery of a false certificate without having made an appropriate inspection to determine whether the contents of such certificate are true shall constitute a violation of this provision. QAM’s delivery

of a false certificate shall entitle the consumer to a refund of the purchase price of the car and cancellation of the contract.

**E. MATERIAL DISCLOSURES AND CONDITIONS**

27. QAM shall disclose clearly and conspicuously all material terms, exclusions, reservations, limitations, modifications or conditions in its advertisements.

28. QAM shall not publish advertisements that contain footnotes or statements, which alone or in combination, contradict or confuse a principal message or that contain contradictory or ambiguous statements. All footnotes or statements shall be disclosed clearly and conspicuously.

29. QAM shall not publish advertisements that state or imply, directly or indirectly, that an offer of products or services applies to all vehicles where such offer is limited by specific eligibility requirements or to specific vehicles.

30. QAM shall disclose clearly and conspicuously all material terms, exclusions, reservations, limitations, modifications or conditions on an offer of products or services in a type size at least one-third as high and one-third as broad as the largest print used in the advertisements.

31. Except as otherwise provided herein, “clear and conspicuous” and “clearly and conspicuously” shall not be satisfied by referring the consumers to a website for a disclosure of material terms, exclusions, reservations, limitations, modifications of conditions made in any print, television or radio advertisements.

**F. FOREIGN LANGUAGE REQUIREMENTS**

32. If QAM uses any foreign languages in advertisements, QAM shall ensure that the English and foreign language messages convey substantially the same information.

33. If QAM negotiates the essential parts of an agreement with a consumer in Spanish, the contract or bill of sale, if any, must be written in Spanish, except if such document is a required document by the Department of Motor Vehicles.

**G. ADVERTISED PRICES AND FINANCING**

34. Whenever publishing advertisements that include prices of vehicles that QAM offers for sale, QAM shall disclose clearly and conspicuously the actual purchase price of a vehicle, which shall include all charges connected with the sale of the car, including but not limited to certification fees, exclusive of registration, title, inspection, and taxes and shall be the maximum charge to the consumer. QAM shall not advertise the purchase price of a vehicle after mail-in-rebate unless QAM will sell the vehicle at the advertised purchase price at the point of sale.

- a. In all advertisements (except website advertisements) that include prices of vehicles that QAM offers for sale, QAM shall disclose adjacent to the actual purchase price of the vehicle that the price includes everything except registration, title, inspection, and taxes.
- b. In all website advertisements that include prices of vehicles that QAM offers for sale, QAM shall disclose in close proximity to the actual purchase price of the vehicle that the price includes everything except registration, title, inspection, and taxes.

35. If QAM advertises or offers rebate programs, QAM shall disclose clearly and conspicuously the material terms and conditions of rebates in its advertisements including, but not limited to, the type and amount of the rebates.

36. Whenever publishing advertisements containing credit that is not open end credit, defined by Section 1602 of the federal Truth in Lending Act, 15 U.S.C. Section 1602 (“not open end credit”), QAM 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. Section 1664; Section 226.24 of Regulation Z, 12 C.F.R. Section 226.24; the Consumer Protection Law; and Sections 5-09 and 5-21 of the Rules.

37. Whenever publishing advertisements containing credit that is not open end credit, QAM shall disclose clearly and conspicuously the period of repayment, the rate of finance charge, the terms of repayment and the possibility, if such possibility so exists, that the rate of finance charge may be increased after consummation.

38. 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, QAM 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.

39. Whenever publishing advertisements that promote financing terms with minimum eligibility requirements, QAM shall disclose clearly and conspicuously the terms and conditions of qualification for such financing terms.

40. QAM shall not advertise financing offers using terms that state or imply that all consumers qualify for the advertised credit and financing terms, including but not limited to “Sign and Drive,” “All you need to drive home is \$2000 down and YOUR SIGNATURE!!!,” “Millions of dollars are waiting to be lent out, all it takes is a signature to take home the car you’ve been waiting for!,” “SIGN and DRIVE PROGRAM is here. With \$1995 down and a job you are driving home!,” and “Need money? You work, you drive – all approved!” QAM may advertise credit and financing offers using the term “Sign and Drive” or similar terms, only if QAM clearly and conspicuously discloses all terms and conditions of qualification for such advertised credit and financing offers that comport with all other requirements of this CJO.

**H. POLICIES, PROCEDURES AND TRAINING**

41. Within thirty (30) days of the Effective Date, QAM shall develop and implement a written policies and procedures manual consistent with the terms of this CJO and with the law and rules governing second-hand auto dealers and auction houses in New York City.

42. QAM shall train all employees using the new written policies and procedures manual within fifteen (15) days of its development. Employees hired after the date of such training(s) shall be provided with training within fifteen (15) days of their start dates. QAM shall maintain attendance sheets for all employee trainings.

43. QAM shall provide all employees with a copy of the QAM Employee Compliance Guidelines, annexed to this CJO as Exhibit 1, and ensure that the employees comply with the requirements of this CJO and the laws and rules applicable to QAM in New York City.

44. QAM shall provide a copy of the Used Car Advertiser Guidelines, annexed to this CJO as Exhibit 2, to all independent contractors and other individuals and entities responsible for developing QAM's NYC advertisements.

45. QAM's Sales Representatives shall not make any statements to NYC consumers that substantially conflict with the material requirements of this CJO.

46. QAM's policies shall provide that QAM implement appropriate disciplinary measures against employees who fail to comply with material requirements of this CJO.

### **III. COMPLIANCE**

47. For a period of three (3) years from the Effective Date, DCA shall monitor compliance with the terms of this CJO as set forth below.

48. Upon execution of this CJO, QAM shall appoint a compliance officer who shall, on a quarterly basis for the first year, and then annually thereafter prepare and send to DCA a notarized affidavit that:

- a. Details the actions QAM has taken to ensure adherence to the laws, rules, policies, procedures, trainings, and practices set forth in this CJO. QAM shall append to the first notarized affidavit the written policies and procedures manual referenced in paragraph 43.;
- b. Contains the dates, times and locations of all advertising in any media directed toward NYC consumers during that period, including (a) the names, dates and page numbers, for all newspaper advertisements; (b) the names of each party with which QAM contracts for all postcards, flyers and mailings, the dates of the

contracts, and the quantity of postcards, flyers, and mailings; (c) the names of each party with which QAM contracts for all banners, signs, billboards and kiosks, the dates of the contracts, and the locations of all banners, signs, billboards and kiosks; (d) the air time and station name for advertisements broadcast over television and radio; and (e) the web addresses and dates, for all web advertisements contracted by QAM. The compliance officer shall append to the notarized affidavit copies of all printed advertisements.; and

- c. Contains the dates, times and locations of any car auctions held by QAM for the time frame between the last notarized affidavit submitted, and the current notarized affidavit being submitted.
- d. Copies of proof that all employees received a copy of the QAM Employee Compliance Guidelines annexed to this CJO as Exhibit 1. An employee signature of receipt shall constitute sufficient proof.
- e. Copies of any enforcement actions taken by the New York State Attorney General and the Federal Trade Commission and the results of those actions.

49. Within twenty (20) days of execution of this CJO, QAM's compliance officer shall submit to DCA documents showing the names, addresses and phone numbers of all Affected Consumers who paid an administration, processing, destination, and/or deposit fee to QAM. Such documents shall include bills of sale, deposit slips, and all other necessary documents in QAM's care, custody, or control.

50. Upon the effective date of this CJO, QAM shall comply fully with all provisions in this CJO with the exception of paragraphs 34 and 39 with which QAM shall comply fully by December 22, 2010.

51. QAM's compliance officer shall have no testimonial privileges and any documents created by QAM's compliance officer shall not be entitled to any privilege.

#### **IV. RECORD RETENTION**

52. QAM shall maintain on its premises, in a manner that is organized and readily accessible, copies of all printed advertisements and electronic images of web advertisements that appear on QAM's website or that appear on websites other than QAM's website for a period of three (3) years for inspection within fifteen (15) days notice by DCA. QAM shall store the web advertisements electronically by saving templates of each web page and thumbnail image of a vehicle ("thumbnail image") every time the template for each web page and thumbnail image is altered in any way. QAM shall save each template web page and thumbnail image electronically as a complete and separate file using the web browser by clicking on "File" and then clicking on "Save As."

- a. Each web page shall contain a file name using the date the template of the web page is altered and the title of the web page in the following format: year in four digits, month in two digits, day in two digits and the title of the web page. QAM shall save each file using the "htm" or "html" file extension with the Western European (Windows) encoding. For example, if QAM's template of the web page

entitled “Bargains” is altered on January 1, 2011 then the file shall be named “20110101bargains.htm” or “20110101bargains.html.”

- b. Each thumbnail image shall contain a file name using the date the template of the thumbnail image is altered and the make, model, and year of the vehicle in the thumbnail image in the following format: year in four digits, month in two digits, day in two digits and the make, model, and year of the vehicle in the thumbnail image. QAM shall save each file using the “htm” or “html” file extension with the Western European (Windows) encoding. For example, if QAM’s template of the thumbnail image of a 2009 Acura TSX is altered on January 1, 2011 then the file shall be named “20110101AcuraTSX2009.htm” or “20110101AcuraTSX2009.html.”

53. QAM shall maintain all documents demonstrating disciplinary action QAM takes in response to any employee’s noncompliance with this CJO and produce such documents to DCA within fifteen (15) days upon written request.

54. QAM shall maintain files of all consumer complaints it receives from any NYC residents, directly or via any private entity that receives consumer complaints, including but not limited to, the Better Business Bureau and/or any governmental agency, including DCA, in a manner that is organized and readily accessible, and shall produce copies of such records upon DCA’s request. Said files shall contain copies of the complaints, QAM’s responses and any other paperwork related to the complaints.

## V. MONETARY RELIEF

55. Respondents shall pay to DCA the total sum of four hundred twenty five thousand dollars (\$425,000.00) according to the payment schedule below in paragraph 56. Half of the total payment – two-hundred twelve-thousand five-hundred dollars (\$212,500.00) – shall be allocated to Affected Consumers as consumer restitution. One-hundred ninety-two thousand five-hundred dollars (\$192,500.00) shall be allocated for civil penalties. Twenty-thousand dollars (\$20,000.00) shall be allocated for administration of restitution.

56. The payments shall be remitted via checks made payable to “New York City Department of Consumer Affairs,” and sent to the New York City Department of Consumer Affairs c/o Research & Investigations, New York City Department of Consumer Affairs, 42 Broadway, 9<sup>th</sup> Floor, New York, NY 10004, according to the following payment schedule:

- a. Respondents shall pay to DCA one-hundred twenty-five thousand dollars (\$125,000) on December 6, 2010. Such payment shall be made to DCA in two separate checks: one check for one-hundred five-thousand dollars (\$105,000) and one check for twenty-thousand dollars (\$20,000).
- b. Respondents shall pay to DCA eighty-seven thousand five-hundred dollars (\$87,500) on or before March 1, 2011.
- c. Respondents shall pay to DCA all subsequent payments in seven-thousand five-hundred dollar (\$7,500) monthly installments, with the exception of the final payment of two-thousand five-hundred dollars (\$2,500), beginning April 1, 2011.

57. If any of Respondents’ payments provided in ¶ 56.c. is more than ten (10) days late, and if not cured within ten (10) days after written notice under this CJO shall be due

immediately. Respondents' failure to immediately submit the entire balance due shall result in the automatic revocation of Respondents' licenses with the Department and Respondents will continue to owe the entire balance due.

58. DCA shall direct the administration of restitution to the Affected Consumers and shall be the sole and final arbiter of the validity of Affected Consumers' claims for restitution under this CJO.

59. Any and all money remaining after the processing of restitution claims to Affected Consumers shall revert to DCA as civil penalties no later than nine months from the date of appointment of the administrator of restitution claims.

### **III. RELEASE**

60. In consideration of the injunctive relief, payments, undertakings and acknowledgements provided for in this CJO, DCA agrees to release Respondents and their subsidiaries, affiliates, successors and the officers, directors, agents, employees, insurers and assigns of each with prejudice, from any and all civil or consumer-related administrative claims that arise directly from violations or alleged violations of the Consumer Protection Law with respect to any and all matters addressed in this CJO which occurred or may have accrued up to the Effective Date.

61. Each Affected Consumer who submits a claim for restitution under this CJO shall sign a document releasing Respondents, Respondents' officers, directors, agents and employees from any and all claims against Respondents for any violations of the federal, New York State and New York City law for charging administration, processing, destination, and/or deposit fees

to the consumer between January 1, 2007 and the Effective Date of this CJO. Such release shall not be binding until restitution payment is made to the consumer and the check has been negotiated.

## **VII. IDENTITY THEFT**

62. QAM shall dispose of records containing personal identifying information such as social security numbers, driver's license numbers, non-driver identification card numbers, mother's maiden names, financial services account numbers or codes, savings account numbers or codes, checking account numbers or codes, debit card numbers or codes, automated teller machine numbers or codes, electronic serial numbers, and/or personal identification numbers by:

- a. Shredding the records before disposal;
- b. Destroying the personal identifying information contained in the record; and/or
- c. Modifying the record to make the personal identifying information unreadable.

63. QAM shall shorten (truncate) the account information on electronically printed credit and debit card receipts given to consumers. QAM shall not include more than the last five digits of the credit or debit card number, and shall delete the card's expiration date.

64. Nothing in this agreement shall be construed as waiving or abrogating QAM's responsibilities under federal, state or local law concerning record-keeping or record maintenance.

## VIII. BREACH

65. Respondents acknowledge that any material breach of a provision of this CJO shall, if proven: (i) be deemed grounds for suspension or revocation of Respondents' licenses; (ii) be assessed at the maximum penalties allowed by law pursuant to the Licensing Law, the Consumer Protection Law, the Second-hand Dealer Law, the Auctioneer Law and the Rules; and/or (iii) be deemed proof that any person with an equity interest of more than ten (10) percent or more in QAM, or significant managerial responsibility for the operation of QAM's business, is not possessed of the integrity, honesty, and fair dealing required of persons who hold a license issued by the Department.

66. Respondents agree that any of the following conduct may be evidence of a breach:

- a. Failure to pay the amounts to DCA as described in this CJO in a timely manner or within a cure period, if there is an applicable cure period;
- b. Failure to submit compliance affidavits as described in this CJO;
- c. Charging a fee not permitted pursuant to this CJO on a vehicle sold;
- d. Charging an auction fee on a vehicle not sold at auction;
- e. Failure to return refunds as described in this CJO;
- f. Three advertisements, in any six month period, evidencing any one of the practices prohibited by this CJO; and
- g. Failure to train new employees or monitor their compliance with the policies and procedures described in this CJO.

Except as provided in this CJO, the Administrative Tribunal, shall have exclusive jurisdiction over all provisions of this CJO and over any and all disputes of any kind relating in any way to, or arising in any way out of, this CJO. The Court shall retain jurisdiction over this matter for the purpose of effectuating such relief as it deems necessary to carry out and effectuate the terms thereto. Nothing herein shall be deemed to preclude any appeal pursuant to Article 78 of the CPLR.

### **IX. MISCELLANEOUS**

67. Respondents shall make all possible efforts in good faith to resolve all consumer complaints filed with DCA within twenty (20) days of receipt of copies of said complaints, but in all instances, Respondents shall respond in writing to DCA regarding such consumer complaints within twenty (20) days of receipt of any complaints as required by Section 1-13 of the Rules.

68. The Parties agree to cooperate fully and execute any and all supplementary documents and to take all additional actions which may be necessary or appropriate to give full force and effect to the terms and intent of this CJO.

69. The Parties may execute this CJO in counterparts, and the execution of counterparts shall have the same effect as if the parties had signed the same instrument. Facsimile and email signatures shall be considered as valid signatures as of the date of the CJO, but the original signature pages shall be subsequently appended to the CJO and filed with the Administrative Tribunal.

70. This CJO contains the entire, complete and fully integrated statement of each and every term and provision agreed to by the Parties, shall supersede all other prior agreements between the Parties regarding the matters set forth herein, and is not subject to any condition not

provided for in this CJO. The CJO shall not be modified in any material respect except in writing signed and executed by all the Parties to this CJO and adopted by the Administrative Tribunal. In entering this CJO, neither of the Parties has made or relied upon any warranty or representation not specifically set forth in this document.

71. The acceptance of this CJO by DCA shall not be deemed approval by DCA of any of Respondents' business practices and Respondents shall make no representation to the contrary.

72. This CJO shall not constitute an admission regarding the existence or non-existence of any issue, fact or violation of any Rule or Law.

73. This CJO shall not constitute a bar to the renewal of Respondents' licenses issued by the Department.

74. Respondents have had the opportunity to consult with counsel regarding the terms and execution of this CJO. Counsel for the Parties have reviewed and revised this CJO, and any rule of construction, by which any ambiguities are to be resolved against the drafting party, shall not be applied in the interpretation of the CJO.

75. If a court of competent jurisdiction declares any provision of the CJO invalid or determines that any of the provisions encompassed by the CJO are unconstitutional, then any such provisions so affected will become void, but the remainder of the CJO shall remain in place. Nothing herein shall be construed to limit the authority of DCA to exercise its enforcement powers under Chapter 1, Title 20, Chapter 2, Title 20, or Chapter 5, Title 20 of the Administrative Code.



## **EXHIBIT 1**

# **QUEENS AUTO MALL EMPLOYEE COMPLIANCE** **GUIDELINES**

These Guidelines are intended to be observed by all employees of Queens Auto Mall. Your conduct, when performed in the course of your employment, may be attributed to Queens Auto Mall, and in such case, Queens Auto Mall may be responsible for your conduct. Strict adherence to these Guidelines is a material condition of employment of all employees of Queens Auto Mall.

You must comply with, and not act in any way that violates, or contributes to a violation of the following:

1. The Consumer Protection Law, the License Enforcement Law (Section 20-101 et seq. of the Code);
2. The Second-Hand Dealer Law (Section 20-264 et seq. of the Code); and
3. 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.

Copies of these laws and regulations are attached to these Guidelines. These Guidelines shall include any amendments to these laws and regulations. You must also comply with, and not act in any way that violates, or contributes to a violation any future federal, state or city law which applies to the business conducted by Queens Auto Mall.

You must not represent in any manner, directly or by implication, to any consumer, that Queens Auto Mall is affiliated with any governmental agency and that the activities, services or goods offered by Queens Auto Mall have been approved, authorized or endorsed by the Department of Consumer Affairs or by any other government agency unless such fact is in fact true and verifiable.

You must not represent in any manner, directly or by implication, to any consumer, that the refund policy of Queens Auto Mall is anything other than the policy that is posted and disclosed in writing by Queens Auto Mall.

You must not represent to any consumer that any return of a deposit, refund or credit is conditioned on the consumer waiving his or her rights to file a complaint with any governmental agency or with the Better Business Bureau.

If there is any reason for you to believe that a car that is being sold to a consumer is not in a condition and repair to render, under normal use, satisfactory and adequate service upon the public highway at the time of delivery, you must notify management.

If you negotiate the essential parts of a sale, such as the price, of a vehicle, in the Spanish language, you must use a Bill of Sale which is written in the Spanish language.

## EXHIBIT 2

### **USED CAR ADVERTISER GUIDELINES**

As a party which may be or is involved in the development of advertising for Queens Auto Mall, Inc., the following guidelines are presented in order to ensure Queens Auto Mall, Inc.'s compliance with certain laws, rules and regulations of the City of New York, including the New York City Consumer Protection Law (Title 20, Chapter 5, Subchapter 1 of the Administrative Code of the City of New York), and implementing rules (Title 6 of the Rules of the City of New York):

All material terms, exclusions, reservations, limitations, modifications or conditions must be "clearly and conspicuously" disclosed – defined as readily apparent and understandable by an ordinary person and which complies with Sections 5-06 and 5-09 of Title 6 of the Rules of the City of New York. They must be in a type size at least one-third as high and one-third as broad as the largest print used in the advertisements. "Clearly and conspicuously" shall not be satisfied by referring the consumers to a website for a disclosure of material terms, exclusions, reservations, limitations, modifications of conditions made in any print, television or radio advertisements. 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.

Footnotes or statements, alone or in combination, must not contradict or confuse a principal message or contain contradictory or ambiguous statements which could undercut the effectiveness of the principal message. All footnotes or statements shall be disclosed clearly and conspicuously.

Advertisements must not state or imply, directly or indirectly, that an offer of products or services applies to all vehicles where such offer is limited by specific eligibility requirements or to specific vehicles.

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.

In website advertisements, the disclosure, representation or term shall be placed reasonably near the statement that it modifies, or made available through a hyperlink which is reasonably close to the statement, and which is labeled to make clear to consumers that the hyperlink leads to a page containing exclusions, reservations, limitations, modifications or conditions.

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.

In television advertisements: (a) an audio disclosure shall be made reasonably soon after the audio statement that it modifies, and at a volume and speed likely to be understood by an ordinary listener; or (b) a video disclosure shall be made at the same time as or reasonably soon after the video statement that it modifies, in a size, quality and duration which makes it easily understood by an ordinary viewer.

## EXHIBIT 2

In any advertisements that are in two or more languages, the English and foreign language messages shall convey substantially the same information.

Whenever publishing advertisements (other than internet advertising) that include prices of vehicles that Queens Auto Mall, Inc. offers for sale, such advertising shall disclose adjacent to the actual purchase price of the vehicle that the price includes everything except registration, title, inspection, and taxes. In internet advertising, such disclosure shall be in close proximity to the actual purchase price.

Whenever publishing advertisements or offers of rebate programs, the material terms and conditions of rebates, including, but not limited to, the type and amount of the rebates shall be disclosed clearly and conspicuously.

Whenever publishing advertisements containing credit that is not open end credit, defined by Section 1602 of the federal Truth in Lending Act, 15 U.S.C. Section 1602 (“not open end credit”), the advertisement 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. Section 1664; Section 226.24 of Regulation Z, 12 C.F.R. Section 226.24; the Consumer Protection Law; and Sections 5-09 and 5-21 of the Rules. The advertisement shall disclose clearly and conspicuously the period of repayment, the rate of finance charge, the terms of repayment and the possibility, if such possibility so exists, that the rate of finance charge may be increased after consummation.

Whenever publishing advertisements that promote financing terms with minimum eligibility requirements, the advertisements shall disclose clearly and conspicuously the terms and conditions of qualification for such financing terms.