

IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT,
IN AND FOR DUVAL COUNTY, FLORIDA

STATE OF FLORIDA, OFFICE OF
THE ATTORNEY GENERAL,
DEPARTMENT OF LEGAL
AFFAIRS,

Plaintiff,

v.

BEACH BLVD. AUTOMOTIVE, INC.,
a Florida Corporation, BEACH BLVD.
AUTO FINANCE, INC., a Florida
Corporation, JOHN O. KING, SR.,
individually and as owner, officer and/or
director of BEACH BLVD
AUTOMOTIVE, INC., BEACH BLVD.
AUTO FINANCE, INC., and
BARBARA KING, individually and as
an agent of BEACH BLVD.
AUTOMOTIVE, INC.,

Defendants.

Case No.: 16-2010-CA-10947

Division: CV-G

CONSENT ORDER

It is hereby ordered and decreed, pursuant to and in accordance with the Stipulation for Entry of Consent Order entered into by and between the Plaintiff, State of Florida, Office of the Attorney General, Department of Legal Affairs, and Defendants Beach Blvd. Automotive, Inc., Beach Blvd. Auto Finance, Inc. and John O. King, Sr., (collectively "BBA"), as follows:

FINDINGS

1. This Court has jurisdiction over this matter. Venue in the Fourth Judicial Circuit is proper.

2. The Complaint states a claim upon which relief may be granted against BBA under sections 501.204, 501.976, 501.976, and 559.72, Florida Statutes and 16 C.F.R. 255.5.
3. Defendant BBA has not admitted any of the allegations set forth in the Complaint, and entry of this Order is not an admission of any such allegations of wrongdoing or violation of law. Nonetheless, BBA stipulates and agrees to entry of this Order in order to settle and resolve this dispute.
4. BBA waives the right to appeal or otherwise contest the validity of this Order.
5. BBA agrees to bear its own costs and attorney's fees.

DEFINITIONS

For purposes of the Order, the following definitions apply:

General Terms

6. The terms "and" and "or" in this Order shall be construed conjunctively or disjunctively as necessary.
7. The terms "and" and "or" in this Order shall be construed to make the applicable sentence or phrase inclusive rather than exclusive.
8. The term "including" in this Order shall mean "including without limitation."
9. "Clear and Conspicuous" means that the statement, representation, or term being disclosed is of such size, color, contrast, and/or audibility and is so presented as to be readily noticed and understood by the person to whom it is being disclosed. If such statement is necessary as a modification, explanation, or clarification to other information with which it is presented, it must be presented in close proximity to the information it modifies, in a manner so as to be readily noticed and understood.

Financing of vehicles for consumers with a Named Driver Exclusion Policy

10. "Named Driver Exclusion" means a provision in a consumer's automobile insurance policy whereby specific persons are excluded from coverage if they are driving an insured motor vehicle when it is involved an accident.

11. “Third-Party Motor Vehicle Sales Finance Company” means a financial institution as defined in section 655.005(1)(i), Florida Statutes.

Retail Installment Sales Contract

12. “Downpayment” or “Pick Up Payment” or “Irregular Payment” means an amount, including the value of property used as a trade-in, paid to a seller to reduce the cash price of goods or services purchased in a credit sale transaction, as consistent with 12 C.F.R. 226.2(18) and 12 C.F.R. § 226, Supp. I, Sub pt. C. Paragraph 18(b)(1), 1.

Repossession

13. “Repossession” means a lawful repossession, conducted in accordance with section 679.609(2), Florida Statutes.
14. “Servicemember” means a member of the uniformed services, as that term is defined in 10 U.S.C. 101(a)(5).
15. “Third-Party Repossession Agents” means an agent that is not employed by BBA, and that is licensed with a Class “E” license, as defined in section 493.6401(4), Florida Statutes.
16. “Disposition” means the sale of a repossessed vehicle after default consistent with sections 679.609 through 679.627, Florida Statutes.
17. “Public Disposition” means the sale of a repossessed vehicle after default “[where] the price is determined after the public has had a meaningful opportunity for competitive bidding. ‘Meaningful opportunity’ is meant to imply that some form of advertisement or public notice must precede the sale (or other disposition) and that the public must have access to the sale (disposition).” § 679.610 cmt 7, Florida Statutes.
18. “Proceeds” means whatever moneys are received for a repossessed vehicle upon its disposition under section 679.610, Florida Statutes. It does not include charges for separately priced warranties itemized in the sales contract.
19. “Allowable Repossession Expenses” means only actual out-of-pocket expenses incurred as the result of Repossession. The expenses must be

reasonable and directly resulting from the repossessing, holding, preparing for disposition and disposing of the vehicle, and not otherwise reimbursed including but not limited to parts or warranties that are reimbursed to BBA. Allowable Repossession Expenses may include an administrative fee not to exceed \$150.00

20. "Contract Balance" means the unpaid balance as of the date of Repossession, less any payments made thereafter, and less applicable unearned finance charges, and unearned insurance premium, plus other charges authorized by contract, and actually assessed or incurred prior to Repossession. The Contract Balance must also reflect a deduction for any warranty payments received or to be received by BBA.
21. "Right of Redemption Amount" is the monetary amount a consumer needs to tender to BBA, in order to redeem the repossessed vehicle pursuant to section 679.623, Florida Statutes. The Right of Redemption Amount shall be the sum of the Allowable Repossession Expenses and the Contract Balance, consistent with section 679.623, Florida Statutes.
22. "Deficiency" is the negative balance after the application of Proceeds of disposition consistent with section 679.615, Florida Statutes.
23. "Surplus" is the positive balance after the application of Proceeds of disposition consistent with section 679.615, Florida Statutes.

Debt Collection

24. "Debt Collection Activity" means any communication, directly or indirectly, through any medium, with a consumer regarding any "debt" or "consumer debt" as defined in section 559.55(6), Florida Statutes.
25. "Oral Telecommunication" means any oral communication with a consumer or prospective customer, in-bound, out-bound, through a mobile phone, land line, satellite phone, voice over internet protocol ("VOIP"), voice mail messages, voice recording, or voice texts.

Online Reviews

26. “Endorsement” and/or “Testimonial” shall be consistent with the definition found in the Federal Trade Commission Guides Concerning Use of Endorsements and Testimonials in Advertising. An Endorsement is defined as “any advertising message (including verbal statements, demonstrations, or depictions of the name, signature, likeness or other identifying personal characteristics of an individual or the name or seal of an organization) that consumers are likely to believe reflects the opinions, beliefs, findings, or experiences of a party other than the sponsoring advertiser, even if the views expressed by that party are identical to those of the sponsoring advertiser. The party whose opinions, beliefs, findings, or experience the message appears to reflect will be called the endorser and may be an individual, group or institution.” 16 C.F.R. 255.0 (2009). Endorsements and Testimonials are to be treated interchangeably.
27. “Material Connection” shall be consistent with the definition found in the Federal Trade Commission Guides Concerning Use of Endorsements and Testimonials in Advertising. Material Connection shall mean “[w]hen there exists a connection between the endorser and the seller of the advertised product that might materially affect the weight or credibility of the endorsement (i.e., the connection is not reasonably expected by the audience), such connection must be fully disclosed.” 16 C.F.R. 255.5 (2009).
28. “Relevant Statutes and Regulations” shall mean Florida Statutes sections 493.6404, 501.976, 520.01-520.42, 559.72, 679.609-679.616, 16 C.F.R. 255.5, 50 App. U.S.C. § 532.

INJUNCTION

It is further ordered:

29. The injunctive provisions of this Order apply to BBA, whether acting directly or indirectly through any other person, agent, employee, servant, officer,

representative, partner, sole proprietorship, corporation, limited liability company, subsidiary, branch, trust, or other entity or device and all persons acting in concert or participating with any of them. Notwithstanding the foregoing, the aforementioned shall not apply in the event of the sale of BBA or its assets to a disinterested arms-length purchaser for value. A disinterested arms-length purchaser is one that does not include John King, Sr. or any member of the King family.

30. All injunctive relief under this Order is ordered pursuant to the Court's powers as outlined in section 501.207(3), Florida Statutes.

I. Binder

It is further ordered:

31. If BBA accepts or requires a binder from a prospective customer prior to entering into a binding contract for the purchase and sale of a vehicle, BBA is immediately and permanently required to:
 - 31.1. Ensure that prospective customers are informed in writing and in a Clear and Conspicuous manner that a binder is not refundable including a prominent sign located within the premises of BBA that informs consumers that binder deposits are nonrefundable; and
 - 31.2. Ensure that prospective customers are given a receipt detailing the amount of the binder accepted by BBA, how long BBA will hold the vehicle from other sale, and that the binder is nonrefundable; and
 - 31.3. Ensure that any vehicle for which BBA has agreed to hold from other sale, through a binder or otherwise, is held until the agreed upon date; and
 - 31.4. Comply with the provisions of section 501.976(10), Florida Statutes.
32. Nothing in this section prohibits BBA from offering a prospective customer, who has placed a binder to hold a vehicle from other sale until an agreed upon date:

- 32.1. to hold the vehicle beyond the agreed upon date without requiring further monies; or
- 32.2. to use the binder amount towards a different vehicle; or
- 32.3. to use the binder amount as credit towards any vehicle after the agreed upon date.

II. Pre-Delivery Inspection Fee

It is further ordered BBA is immediately and permanently required to:

- 32.4. Only charge consumers a Pre-Delivery Inspection fee when a Pre-Delivery Inspection has been performed; and
- 32.5. Ensure that consumers are advised in writing evidencing the work completed as part of the Pre-Delivery Inspection if a Pre-Delivery Inspection is performed; and
- 32.6. Ensure that the Pre-Delivery Inspection Fee is Clearly and Conspicuously disclosed; and
- 32.7. Include a copy of the Pre-Delivery Inspection checklist in each deal jacket; such completed checklists must be readily available to the Attorney General for inspection as set out in paragraph 64, below; and
- 32.8. Ensure compliance with section 501.976(18), Florida Statutes.

III. Financing of vehicles for consumers with a Named Driver Exclusion Policy

It is further ordered:

- 33. BBA is immediately and permanently required to:
 - 33.1. Inquire prior to execution of the contract for purchase of a vehicle about whether a consumer will have a Named Driver Exclusion as part of the automobile insurance policy; and
 - 33.2. Not finance any vehicle purchase where the consumer purchasing a vehicle will have a Named Driver Exclusion as part of the automobile insurance policy unless BBA has executed a waiver of its right to

repossess pursuant to an excluded driver provision with respect to the named excluded driver therein; and

- 33.3. Clearly and conspicuously disclose, in writing, to consumers prior to the consummation of the financing of any vehicle, that adding a Named Driver Exclusion to the consumer's insurance policy constitutes a breach of the BBA loan agreement and subjects the consumer to Repossession.
34. Nothing in this section prohibits BBA from allowing a third-party motor vehicle sales finance company from financing a vehicle purchase where the consumer purchasing a vehicle will have a Named Driver Exclusion as part of the automobile insurance policy.

IV. Retail Installment Sales Contract ("RISC")

It is further ordered:

35. BBA is immediately and permanently required to ensure that any deferred Downpayment or "pick up payment:"
 - 35.1. is to be included as part of the Downpayment in the RISC disclosure; and
 - 35.2. That does not meet the criteria in paragraph 12 or, if BBA chooses to not include the deferred Downpayment or "pick up payment" in the Downpayment, should be included as part of the amount financed in the RISC disclosure.

V. Financial Records

It is further ordered:

36. BBA is immediately and permanently required to:
 - 36.1. Ensure that any consumer paying in cash is provided a receipt; and
 - 36.2. Ensure that any consumer that makes an "interest-only payment" is given a receipt that reflects the new maturity date; and
 - 36.3. Comply with section 520.34(9), Florida Statutes.

VI. Repossession

It is further ordered:

37. For all financed vehicles, BBA is immediately and permanently required to:

37.1. Concurrently with the execution of the retail installment sales contract, Clearly and Conspicuously disclose to consumers the material terms for default, which would subject a consumer to Repossession, including but not limited to:

37.1.1. The failure to have and provide proof of appropriate automobile insurance coverage during the term of any financing period; and

37.1.2. The number of past-due regularly scheduled payments owed to BBA and any applicable grace periods; and

37.1.3. The number of past-due regularly deferred downpayments owed to BBA and any applicable grace periods; and

37.1.4. The vehicle being forfeited in a government action or other public or private seizure or impound.

37.2. Prior to engaging in any Repossession of a vehicle:

37.2.1. BBA must ensure that the reason for default, entitling BBA to engage in Repossession, was disclosed to the consumer as the type of default that may subject the consumer to Repossession; and

37.2.2. BBA must ensure that for any Repossession where the default is based on failure to make payments, that all grace periods are honored; and

37.2.3. Within fifteen (15) days of any default for nonpayment which may provide a basis for repossessions, BBA must send notice to a consumer advising the consumer of the default and Clearly and Conspicuously disclose the reason for default; and

- 37.2.3.1. If the default is due to failure to make payments, the notice must include the amount the account is past due; and
- 37.2.3.2. The notice should include instructions on how to cure the default and how to engage in a voluntary surrender; and
- 37.2.3.3. The notice must be sent in an envelope with BBA's name and address printed on the return address; and
- 37.2.3.4. The notice is presumed sent by BBA upon mailing the notice by first class mail; and
- 37.2.4. If the insurance on a BBA insured vehicle should lapse, BBA must give the consumer at least five (5) days notice of BBA's intent to repossess for failure to maintain insurance and that the consumer has five (5) days to reinstate insurance on the vehicle and provide BBA with written proof of the reinstatement of insurance within five (5) days of the lapse or it is subject to Repossession; and
- 37.2.5. In situations other than voluntary surrenders, only a BBA employee other than John King, Sr. or a Third-Party Repossession Agent may conduct Repossessions on behalf of BBA; and
- 37.2.6. BBA may not breach the peace in any Repossession; and
- 37.2.7. BBA will comply with all applicable regulations in the Repossession of any vehicle that is subject to the provisions of the Servicemembers Civil Relief Act, 50 App. U.S.C. § 532.
- 37.2.8. If a consumer brings a vehicle onto the premises of BBA and BBA has the legal right to repossess the vehicle, any

employee of BBA, except John O. King, Sr., may take possession of the vehicle on BBA's premises.

37.3. After engaging in the Repossession of any vehicle after default, where BBA seeks to dispose of the collateral:

37.3.1. BBA must dispose of all collateral through a Disposition, consistent with section 679.610, Florida Statutes; and

37.3.2. BBA must notify the consumer of the Disposition, prior to the disposition of the vehicle, consistent with section 679.614, Florida Statutes; and

37.3.3. BBA will ensure that the disposition of collateral is conducted in a commercially reasonable manner consistent with section 679.627, Florida Statutes; and

37.3.4. BBA will document and keep copies of all Allowable Repossession Expenses, including any preparation for disposition of collateral; such documentation will be available to the Attorney General for inspection; and

37.4. After the Disposition of the vehicle that was repossessed by BBA:

37.4.1. BBA must ensure that the application of Proceeds after disposition of collateral is consistent with section 679.615, Florida Statutes.

37.4.2. BBA must ensure uniform repossession accounting procedures, for use in determining for each vehicle, the Right of Redemption Amount and the existence and amount of any Surplus and of any Deficiency sought. The repossession accounting procedures shall provide that:

37.4.2.1. Expenses other than Allowable Repossession Expenses are not to be included in calculating the Right of Redemption Amount; and

- 37.4.2.2. Expenses other than Allowable Repossession
Expenses are not to be deducted in calculating
Surpluses and Deficiencies sought.
- 37.4.3. For any customer that purchased any insurance, such as credit
life insurance or credit disability insurance, or a Guaranteed
Asset Protection (“GAP”) product, BBA must ensure all
policies are cancelled and that all unearned premiums and
unearned fees are credited to the consumer’s account, without
requiring the consumer to request a credit.
- 37.4.4. BBA will provide an "explanation" to consumers about the
amount of Surplus or Deficiency consistent with section
679.616, Florida Statutes.
 - 37.4.4.1. In the event a Disposition results in a Surplus,
BBA must send the written explanation of Surplus
along with payment within thirty (30) days of the
disposition of collateral; and
 - 37.4.4.2. In the event a Disposition results in a Deficiency,
BBA must send a written notice of Deficiency at
least thirty (30) days prior to filing a lawsuit to
collect the Deficiency.
- 37.4.5. BBA agrees not to seek a Deficiency if BBA or BBAF
purchases the repossessed vehicle.
- 37.4.6. BBA will accurately report the amount of the debt remaining
after repossession on the consumer’s credit report.
- 37.4.7. BBA must ensure compliance with the statutes governing the
disposition of collateral under sections 679.610-679.616,
Florida Statute.

VII. Global Positions System (“GPS”) Devices

It is further ordered that:

38. BBA is immediately and permanently required to:
 - 38.1. Clearly and Conspicuously disclose to consumers prior to the consummation of the sale that BBA is installing a GPS device on the consumer’s car for purposes of determining the location of the consumer’s car should the consumer breach the terms of its financing agreement with BBA; and
 - 38.2. Never obtain, access, or use any information relating to a consumer’s use of a vehicle when that information was secured using GPS or other electronic surveillance technology in any manner except as follows:
 - 38.2.1. When the equipment is used by Defendants only for the purpose of repossessing a vehicle in default; or
 - 38.2.2. In response to a specific request from law enforcement or pursuant to a subpoena or search warrant.
39. BBA consents to and agrees to sign an authorization to allow the Attorney General to directly contact any and all GPS providers to retrieve all information pertaining to BBA’s use of the GPS to contact a consumer’s vehicle.
40. If BBA places GPS or other electronic surveillance technology in a vehicle:
 - 40.1. BBA must Clearly and Conspicuously inform the prospective customer that a GPS or similar device may be installed in the consumer’s vehicle; and
 - 40.2. BBA must Clearly and Conspicuously inform the prospective customer of the ways in which those devices are to be used; and
 - 40.3. BBA must ensure that the devices are installed properly to avoid any mechanical failure, electrical failure, damage to the consumer’s vehicle that must be repaired, or damage that renders the consumer’s vehicle inoperable.

VIII. Debt Collection

It is further ordered:

41. BBA when engaging in Debt Collection Activity is immediately and permanently enjoined and restrained from violating any portion of the prohibited practices found in the Florida Consumer Collection Practices Act (“FCCPA”), section 559.72, Florida Statutes. Notwithstanding the foregoing, when engaging in Debt Collection Activity, BBA is immediately and permanently enjoined and restrained from:
 - 41.1. Stating to any person, from whom BBA is trying to acquire location information about a consumer, that the consumer owes a debt; and
 - 41.2. Communicating more than once per default with any person (other than the debtor, co-maker or guarantor), for the purpose of obtaining location information about the consumer, unless requested to do so by the person; and
 - 41.3. Communicating with a consumer at times or places known to be inconvenient, without the consumer’s prior consent; and
 - 41.4. Communicating with a consumer by calling the phone number of the consumer’s place of employment once the consumer has told BBA he or she cannot or does not want to receive calls from BBA at the consumer’s place of employment; and
 - 41.5. Misrepresenting, expressly or by implication, the nature and purpose of any collection call to a consumer, including by disguising or concealing the telephone number from which the call is made; and
 - 41.6. Falsely threatening to take any action that cannot legally be taken or that is not intended to be taken; and
 - 41.7. Using false information or deceptive means to collect or attempt to collect a debt or obtain information concerning a consumer; and
 - 41.8. Leaving recorded messages, such as on the voicemail, answering machine, or messaging service of any person, in which BBA states

both: (1) the first and last name of the debtor, and (2) disclose it is a debt collector, is attempting to collect a debt; or that the debtor owes a debt.

42. BBA is restricted from discussing the debt but may identify the person calling, the business calling, and the contact information for the person or business calling when communicating about the debt with persons other than the consumer, the consumer's spouse, parent (if the consumer is a minor), guardian, executor, or administrator, the consumer's attorney, a consumer reporting agency, or BBA's own attorneys unless the consumer's prior consent is given to BBA, a court of competent jurisdiction grants express permission, or as reasonably necessary to effectuate a post-judgment judicial remedy.
43. BBA agrees to record and maintain an audio file of all debt collection calls made to or received from consumers for a period of one year from the date of the call. The Attorney General has the right to request and review these audio files at any time. BBA shall have sixty (60) days from the entry of this Order to implement a phone system capable of recording and storing the incoming and outgoing debt collection calls.
44. BBA agrees to regularly train its employees engaged in debt collection on behalf of BBA of the requirements contained in this Order and the Florida Consumer Collection Practices Act.

IX. Online Reviews

It is further ordered that:

45. BBA is immediately and permanently enjoined and restrained from:
 - 45.1. Misrepresenting, directly or indirectly, expressly or by implication, including through the use of an Endorsement or Testimonial:
 - 45.1.1. Any Material Connection that exists between the person creating the Endorsement or Testimonial and BBA; and

- 45.1.2. That any person has provided an Endorsement for such product, or service, or that such Endorsement represents the actual and current opinions, findings, beliefs, or experiences of the endorser; and
- 45.1.3. Any fact material to a consumer's decision to purchase any product, or service.
- 45.2. BBA shall not post or create any content on the Internet for the purposes of advertising, recommending, or endorsing BBA without Clearly and Conspicuously disclosing the fact that BBA is responsible for the posting and/or content.
- 45.3. BBA shall not allow for any person to post or create any content on the Internet, using their computers or Internet Protocol ("IP") address, for the purposes of advertising, recommending, or endorsing BBA without Clearly and Conspicuously disclosing any Material Connection that exists between the person and BBA.
- 45.4. In the event that BBA provides consideration to any third-party to post or create any content on the Internet for the purposes of advertising, recommending, or endorsing BBA, it shall require that the third-party Clearly and Conspicuously disclose the consideration and relationship with BBA whenever advertising, recommending, or endorsing BBA.
- 45.5. Notwithstanding the foregoing, nothing in the prior section prohibits BBA from engaging in advertising.
- 45.6. BBA will ensure that any Endorsement or Testimonial complies with 16 C.F.R. section 255.5, the FTC Guides Concerning Use of Endorsements and Testimonials in Advertising.

X. Handling of Complaints

It is further ordered that:

- 46. Defendants are immediately and permanently required to:

MONETARY AMOUNT AND CONSUMER REDRESS

XI. Equitable Monetary Relief

It is further ordered that BBA will provide redress to all consumers with covered accounts as follows:

47. "Covered Accounts": The class of consumers eligible for redress shall include individuals (1) whose vehicles were repossessed by BBA, or a Third-Party Repossession Agent on behalf of BBA, at any time between October 7, 2007 and the date of this Order, (2) whose vehicles were disposed of by BBA and, (3) the Disposition resulted in a Deficiency.
48. The value of this equitable monetary relief equals \$5,122,048.02.
49. Within sixty (60) days of entry of the Order, for all Covered Accounts:
 - 49.1. BBA will waive the individual's deficiency balance; and
 - 49.2. BBA will not file a lawsuit to recover the Deficiency; and
 - 49.3. BBA will not attempt to collect any portion of the Contract Balance, or Allowable Repossession Expenses, or the Deficiency; and
 - 49.4. If BBA has not yet reported the individual's account to a credit report agency, BBA will not report the account to a credit reporting agency; and
 - 49.5. If BBA has reported the balance to any credit reporting agency, BBA will advise all individuals with covered accounts how to dispute the tradeline for the debt with the credit reporting agencies, and BBA will respond to any request by the credit reporting agencies for information or confirmation of the amount of the debt by advising the credit reporting agency that the debt has been waived; and
 - 49.6. BBA will not sell the account; and
 - 49.7. For all covered accounts, where a lawsuit by BBA to recover the Deficiency has been filed and BBA has not obtained a judgment, BBA will file a voluntary motion to dismiss with prejudice; and

- 49.8. For all covered accounts, where a lawsuit by BBA to recover the Deficiency has been filed and BBA has obtained a judgment, BBA will file a satisfaction of judgment in the official record in the county where the judgment was obtained; and
- 49.9. BBA will notify the individuals of any covered account under this subsection by:
- 49.9.1. Within ninety (90) days BBA or its agent shall mail, by first class mail, address correction service requested, a letter notifying the consumer of the debt waiver, dismissal of lawsuit or the satisfaction of judgment, as applicable, and how to dispute the debt with the credit reporting agencies. The contents of the letter, shall be approved by the Attorney General and include no other material. Prior to mailing, BBA shall make reasonable efforts to obtain current location information for any individual that qualifies as a covered account under this section, including by consulting with the Postal Service's National Change of Address database; and
- 49.9.2. For any letter returned to BBA within sixty (60) days of mailing, BBA shall retain a record of all individuals whose letters were undeliverable and, within thirty (30) days, provide to the Attorney General a list of all consumers BBA was unable to successfully serve with the letter along with all last known contact information for the consumers.

XII. Monetary Relief, Civil Penalty and Attorney's Fees and Costs

It is further ordered that:

50. BBA is ordered to pay to Plaintiff \$2,500.00 dollars for consumer redress.
51. BBA is ordered to pay to Plaintiff, by making payment to the Legal Affairs Revolving Trust Fund, pursuant to section 501.2101(1), Florida Statutes. All

funds for consumer redress paid pursuant to this Order shall be deposited into a fund administered by the Attorney General or its agent to be used for equitable relief for consumers who placed a binder on a vehicle or financed a vehicle from BBA and who allege to be aggrieved by the acts or practices outlined in the complaint. Such payment must be made within seven (7) days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of the Attorney General.

52. In the event that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the Attorney General may apply any remaining funds to attorney's fees and court costs. BBA shall have no right to challenge the Attorney General's choice of remedies under this section. BBA shall have no right to contest the manner of distribution chosen by the Attorney General.
53. BBA is ordered to pay to Plaintiff \$288,611.10 for attorney's fees and court costs.
54. BBA is ordered to pay to Plaintiff, by making payment of the attorney's fees and costs to the Legal Affairs Revolving Trust Fund under sections 501.2101(1), and 16.53, Florida Statutes. Such payment must be made within seven (7) days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of the Attorney General.

DATA

XIII. Cooperation with the Attorney General

55. It is further ordered that BBA shall provide the Attorney General and/or its designated agent, within thirty (30) calendar days after receiving a written request by the Attorney General or its designated agent, with all information, including but not limited to consumer contact information and consumer

contracts, reasonably required to administer redress. BBA shall provide reasonable access to the requested data.

COMPLIANCE AND MONITORING

XIV. Distribution of Order and Relevant Provisions

56. It is further ordered that, for a period of three (3) years from the execution of this Order, BBA shall deliver copies of this Order as follows:

- 56.1. For current personnel, delivery should be within thirty (30) days of execution of this Order. BBA shall deliver a copy of this Order to (1) all current principals, officers, directors, and managers; (2) to all current employees, agents, and representatives having responsibilities relating to the subject matter of this Order.
- 56.2. For all future personnel, delivery should be within thirty (30) days of the start of employment. BBA shall deliver a copy of this Order to (1) all future principals, officers, directors, and managers; (2) to all future employees, agents, and representatives having responsibilities relating to the subject matter of this Order.
- 56.3. Excepting an arms-length transfer of assets to a third party which does not include John King, Sr. or any member of the King family, for any successor business entity resulting from any change in structure, merger, or transfer of assets, delivery shall be at least ten (10) days prior to the change in structure.

XV. Acknowledgement of Receipt of Order and Relevant Provisions

57. It is further ordered that BBA obtain acknowledgments of receipt of this Order, and Relevant Provisions, as directed below:

- 57.1. BBA is to submit to the Attorney General an acknowledgement of receipt sworn under penalty of perjury within seven (7) days of entry of this Order;

- 57.2. BBA must secure a signed and dated statement acknowledging receipt of the Order, within thirty (30) days of delivery, from all persons, receiving a copy of the Order, other than BBA, pursuant to this section.

XVI. Training

58. It is further ordered that BBA shall for the next three (3) years after the execution of this Order, provide training to all current and future employees, agents, and representatives having responsibilities relating to the collection of debts:

- 58.1. Ensure training is provided on the requirements and prohibitions of the FCCPA, section 559.72, Florida Statutes, prior to the employee engaging in any Debt Collection Activity.

59. It is further ordered that BBA shall for the next three (3) years after the execution of this Order, provide training to all current and future, employees, agents, and representatives:

- 59.1. Ensure training is provided on the requirements and prohibitions of the Federal Trade Commission Guides Concerning Use of Endorsements and Testimonials in Advertising, 16 C.F.R. 255.5(b).

XVII. Inspection of Deal Jackets

60. It is further ordered that BBA shall submit to the Attorney General for the next three (3) years after the execution of this Order copies of three complete deal jackets at six month intervals. The Attorney General has the right to request additional deal jackets at its discretion for monitoring purposes.

XVIII. Recordkeeping

61. It is further ordered that, in addition to records required to be created and maintained pursuant to paragraphs 31 (Binder), 32 (Pre-Delivery Inspection Checklist), 33 (Named Driver Exclusion waiver & disclosure), 35 (RISC), 36 (Financial Records), 37 (Repossession), 38 (Repossession disclosure), 43

(Debt Collection calls), 46.1.5 (Consumer Complaints), above, BBA must create certain records for four (4) years after entry of the Order, and retain each record for four (4) years, unless otherwise indicated. Records may be kept in either hard copy or electronic format and must be kept in such a way that they can be made available to the Attorney General within fourteen (14) days of a request for inspection. Specifically, BBA must create and retain the following records:

- 61.1. Records of all documents given to any prospective customer from whom BBA accepts or requires a binder from prior to entering into a binding contract for the purchase and sale of a vehicle, including documents that evidence the outcome of the use or non-use of the binder towards any vehicle and records of forfeited binders will be kept separately; and
- 61.2. Copies of the forms that outline the work performed as part of the Pre-Delivery Inspection for any vehicle where a consumer is being charged a Pre-Delivery Inspection Fee; and
- 61.3. Copies of all documents that evidence a consumer's purchase of a vehicle using a Third-Party Motor Vehicle Sales Finance Company; and
- 61.4. Copies of all documents that evidence Clear and Conspicuous disclosure of the conditions that would subject a consumer to Repossession, as outlined previously in this Order; and
- 61.5. Copies of all documents related to any Repossession, including any documents given to BBA by the Third-Party Repossession Agent, any correspondence with the consumer prior to Repossession, any correspondence with the consumer after Repossession, all documents evidencing the disposition of collateral, documents of all Allowable Repossession Expenses, including any preparation for disposition of collateral; and

- 61.6. Copies of all documents related to use of any GPS device, including any documents given to BBA by a third-party; and
- 61.7. Records of all written complaints and all correspondence, including electronic correspondence regarding those complaints, in a customer's file; and
- 61.8. Copies of all training materials and policy manuals; and
- 61.9. Create and maintain tape records of all Oral Telecommunications between BBA and anyone it contacts in collecting a debt for a period of one year. Provided however, that BBA obtains consent from the consumer or prospective customer and records Oral Telecommunications in accordance with section 934.03, Florida Statutes; and
- 61.10. Create and maintain records of all correspondence, including but not limited to messages, e-mail messages, text messages, sms messages, mms messages, and electronic messages through mobile applications, between BBA and anyone it contacts in collecting a debt for a period of one year; and
- 61.11. All records and as required by each provision of this Order, including but not limited to, copies of acknowledgments of receipt of this Order required by the Sections titled "Distribution of Order and Relevant Provisions" and "Acknowledgement of Receipt of Order and Relevant Provisions" and all reports submitted to the Attorney General pursuant to the Section titled "Compliance Reporting."

XIX. Compliance Monitoring

62. It is further ordered that, for the purpose of monitoring BBA's compliance with this Order:

- 62.1. Within thirty (30) days of receipt of a written request from a representative of the Attorney General, BBA must submit additional

compliance reports or other requested information, which must be sworn under penalty of perjury; and produce documents for inspection and copying. The Attorney General is authorized to obtain discovery using any of the procedures prescribed by section 501.206, Florida Statutes; Fla. R. Civ. P. 1.280, 1.310, 1.320, 1.340, 1.350, 1.370, 1.410, and 1.550; and

- 62.2. For matters concerning this Order, BBA must permit representatives of the Attorney General to interview any employee or other person affiliated with BBA who has agreed to such an interview. The person interviewed may have counsel present; and
- 62.3. The Attorney General may use all other lawful means including posing, through its representatives, as consumers, or other individuals or entities, to BBA or any individual or entity affiliated with BBA without the necessity of identification or prior notice. Nothing in this Order limits the Attorney General's lawful use of its compulsory process, pursuant to Section 501.206, Fla. Stat., to obtain any documentary, material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices (within the meaning of Sections 501.203-501.204, Florida Statutes).

XX. Notices

- 63. It is further ordered that unless otherwise communicated by the Attorney General, all submissions, requests, communications, consents, or other documents relating to this Order shall be in writing and shall be sent as follows:

- 63.1. All communications shall be addressed to:
Office of the Attorney General
Consumer Protection Division
Attention: Jacek Stramski

PL-01, The Capitol
Tallahassee, FL 32399

- 63.2. All communications shall be sent by overnight courier (not the U.S. Postal Service), provided however, that BBA may send such reports or notifications by first-class mail, but only if Respondent contemporaneously sends an electronic version of such report or notification to jacek.stramski@myfloridalegal.com and cpenforcement@myfloridalegal.com.

XXI. Effective Date and Scope of Order

64. This Order shall be binding and effective upon entry by the Court, and the clerk is ordered to enter the Order immediately upon filing. The settlement of this action shall act as a bar only to further actions by the Attorney General against BBA based on the specific violations asserted in the Complaint, through the date of entry of this Order. Actions to enforce this Order are not barred.

XXII. No Authorization of Conduct

65. Nothing contained herein shall be construed as relieving BBA of the obligation to comply with all state and federal laws, regulations, or rules.
66. Neither BBA nor anyone acting on its behalf shall state or imply or cause to be stated or implied that the Attorney General or any state agency or officer has approved, sanctioned, or authorized any practice, act or conduct of the Defendants.

XXIII. No Limitation of Remedies

67. The remedies provided herein do not limit any other remedies Defendants' customers may have under law.

XXIV. Retention of Jurisdiction

68. It is further ordered that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

So ordered this _____ day of _____, _____:

Circuit Judge

Approved as to Form and Content:

STATE OF FLORIDA, OFFICE OF THE ATTORNEY GENERAL,
DEPARTMENT OF LEGAL AFFAIRS

Pamela Jo Bondi
Attorney General

Patricia A. Conners

Patricia A. Conners
Deputy Attorney General

Victoria Butler

Victoria Butler
Division Director – Consumer Protection

Laura Boeckman

Laura Boeckman
Bureau Chief – North Region

Johanna Nestor 4/16/07

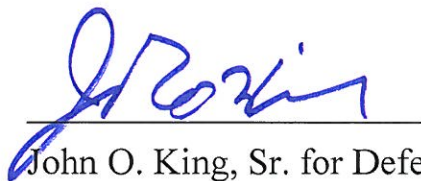
Johanna Nestor
Assistant Attorney General

Attorneys for Plaintiff

State of Florida, Office of the Attorney General, Department of Legal Affairs

Dated: May 2, 2016⁷

DEFENDANTS




John O. King, Sr. for Defendants Beach Blvd. Automotive, Inc., Beach Blvd. Auto Finance, and himself

Dated: Nov 8TH, 2016

Attorneys for Defendants

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