

ANNE MILGRAM
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, NJ 07101
Attorney for New Jersey Division of Consumer Affairs

FILED

NOV 19 2009

Division of Consumer Affairs

By: Jeffrey Koziar
Deputy Attorney General
(973) 648-7819

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS

**IN THE MATTER OF AN INVESTIGATION
BY THE NEW JERSEY DIVISION OF
CONSUMER AFFAIRS**

of

Administrative Action

COLONIAL MOTORS OF MINE HILL, LLC

CONSENT ORDER

Respondent

This matter having been opened by the Division of Consumer Affairs, Office of Consumer Protection (hereinafter referred to as "Consumer Affairs" or "Division"), as an investigation in order to ascertain whether violations of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. (hereinafter referred to as "CFA" or the "Act"), have been or are being committed by Colonial Motors of Mine Hill, LLC, with a principal place of business at 379 Route 46, Mine Hill, New Jersey 07803 (hereinafter referred to as the "Respondent") and it appearing that the parties have reached an amicable agreement thereby resolving the issue in controversy and concluding this matter without the need for further action, and without an

admission of liability or wrongdoing of any kind, Respondent having voluntarily cooperated and consented to the entry of the within Order and for good cause shown,

IT IS on this 19th day of Nov., 2009, ORDERED and AGREED as follows:

1. BUSINESS PRACTICES

- 1.1 Respondent, its principals, officers, agents, representatives and employees shall not engage in any unfair or deceptive acts or practices in the conduct of their business in the State of New Jersey and shall comply with such state laws, rules and regulations as now constituted or as may hereafter be amended, including but not limited to, the CFA, in connection with automotive service, sales and advertising.
- 1.2 Respondent shall disclose that a motor vehicle had been previously damaged and that substantial repair or body work has been performed on it when such prior repair or body work is known or should have been known, as required by N.J.A.C. 13:45A-26A.7(a)7. For the purposes of this subsection, "substantial repair or body work" shall mean repair or body work having a retail value of \$1,000 or more.
- 1.3 If Respondent has sold or offered for sale three (3) or more used motor vehicles in the previous twelve (12) month period, Respondent shall collect an administrative fee of \$0.50 from each consumer who purchases a used motor vehicle and shall make yearly payments to the Division's Used Car Lemon Law Unit in the amount equal to the total sum of administrative fees collected during the preceding twelve (12) month period, as required by N.J.S.A. 56.8-80 and N.J.A.C. 13:45A-

26F.6(a)-(b).

1.4 Respondent shall by the 15th of every January submit to the Used Car Lemon Law Unit the following as required by N.J.A.C. 13:45A-26F.6(b):

- 1) A check or money order made payable to the "New Jersey Division of Consumer Affairs" the amount equal to the sum of administrative fees collected during the preceding year; and
- 2) A completed "Certification of Administrative Fees" form indicating the number of used cars sold each month by the dealer during the preceding calendar year.

2. RESTITUTION

2.1 Respondent shall pay restitution in the sum of \$2,700.00 to consumer Weston Vander Vliet, in full satisfaction of his complaint, within 10 days of the effective date of this Order. A copy of the check or money order shall be submitted to the Division of Consumer Affairs, attention: Investigator, Todd Applegate.

COPY
ENCLOSED
A.B.

3. SETTLEMENT PAYMENT

3.1 Respondent agrees to pay the Division the sum of \$1,500.00 as a civil penalty pursuant to N.J.S.A. 56:8-13 for failing to disclose prior damage to a motor vehicle. This amount shall be suspended for a period of 12 months from the effective date of this Order, and shall, at the expiration of said period, automatically be vacated provided Respondent does not engage in any acts or practices which constitute a violation of the Consumer Fraud Act, the Regulations or this Consent Order. In the event that Respondent fails to comply with the

foregoing provision, the entire suspended amount of \$1,500.00 shall be due and immediately payable upon notice by the Division.

3.2 Respondent agrees to pay the Division the sum of \$3,250.00 as a civil penalty pursuant to N.J.S.A. 56:8-13 for failing to submit Used Car Lemon Law administrative fees for the years 2006, 2007 and 2008, as required by N.J.A.C. 13:45A-26F.6(b). This amount shall be suspended, provided Respondent pays, within 10 days of the effective date of this Order, the total sum of all Used Car Lemon Law administrative fees for the number of used vehicles sold in the years 2006, 2007 and 2008 and submits a "Certification of Administrative Fees" form for each year indicating the number of vehicles which have been sold. The suspended penalty amount shall be automatically vacated upon receipt of the outstanding administrative fees.

MAILED
\$570.00
CK# 10461
10/29/09
AB

3.3 Respondent shall pay the Division of Consumer Affairs the total sum of \$600.00 for reimbursement of investigative costs pursuant to N.J.S.A. 56:8-11, within 10 days of the effective date of this Order.

ENCLOSE
MS

4. GENERAL PROVISIONS

- 4.1 The Division has advised the Respondent to seek the advice of an attorney prior to entering into this agreement but Respondent declined to do so.
- 4.2 Nothing contained in this Order shall be construed to limit or affect the rights of any persons or entities who are not parties to this Consent Order with respect to any of the matters contained herein.
- 4.3 Nothing contained herein shall in any manner or fashion be construed to limit or

affect any position that the parties may take in any future or pending action not specifically encompassed herein.

- 4.4 This Consent Order resolves all claims and causes of action against Respondent for violation of the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., and the regulations promulgated pursuant thereto, which were known by the Division through October 27, 2009.
- 4.5 The parties represent that an authorized representative of each has signed this Consent Order with full knowledge, understanding and acceptance of its terms and that this person has done so with the authority to legally bind the respective parties.
- 4.6 This Consent Order constitutes the entire agreement between the parties hereto and shall bind the parties hereto and their respective officers, directors, agents, employees, successors and assigns.
- 4.7 This Consent Order constitutes a final agency Order and shall be effective upon filing.

5. NOTICES UNDER THIS CONSENT ORDER

- 5.1 Except as otherwise provided herein, any notices or other documents required to be sent to the Division or Respondent pursuant to this Consent Order shall be sent by United States mail, Certified Mail Return Receipt Requested, or other nationally recognized courier service that provides for tracking services and identification of the Person signing for the documents. The notices and/or documents shall be sent to the following addresses:

For the Division:

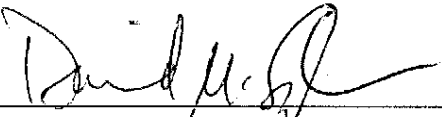
Executive Director
Office of Consumer Protection
New Jersey Division of Consumer Affairs
124 Halsey Street
P.O. Box 45025
Newark, New Jersey 07101

For Respondent:

Nicholas Saracco
Colonial Motors of Mine Hill, LLC
379 Route 46
Mine Hill, NJ 07803

**THE PARTIES CONSENT TO THE FORM, CONTENT AND ENTRY OF THIS
CONSENT ORDER ON THE DATES UNDER THEIR RESPECTIVE SIGNATURES.**

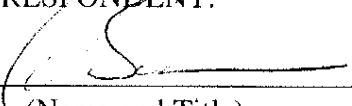
ANNE MILGRAM
ATTORNEY GENERAL OF NEW JERSEY

By: 

DAVID M. SZUCHMAN, DIRECTOR
DIVISION OF CONSUMER AFFAIRS

Dated: 11/19, 2009

FOR RESPONDENT:

By: 

(Name and Title)
NICK SARACCO GENERAL MEMBER

Dated: 11/16, 2009