

STATE OF MAINE
KENNEBEC, SS.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-99-

STATE OF MAINE)
)
 Plaintiff)
)
 v.)
)
 BILL DODGE KIA)
)
 Defendant)
)

COMPLAINT
(Injunctive Relief Requested)

INTRODUCTION

1. The plaintiff State of Maine brings this action by and through the Attorney General pursuant to the Unfair Trade Practices Act, 5 M.R.S.A. §§ 206-214, ("UTPA") seeking a permanent injunction against deceptive advertising engaged in by Defendant Bill Dodge KIA and further seeking civil penalties, costs and attorney's fees.

PARTIES

2. Plaintiff, State of Maine, is a sovereign state and brings this action by and through its Attorney General pursuant to 5 M.R.S.A. §§ 191 and 209 and the powers vested in him by common law.

3. Defendant Bill Dodge KIA is a Maine corporation with a place of business at Exit 8, Larrabee Road in Westbrook, Maine.

JURISDICTION

4. This Court has jurisdiction over this action pursuant to 4 M.R.S.A. § 105 and 5 M.R.S.A. § 209.

STATUTORY BACKGROUND

5. Pursuant to the UTPA, 5 M.R.S.A. § 207, unfair or deceptive acts or practices in the conduct of any trade or business are unlawful.

6. Pursuant to the UTPA, 5 M.R.S.A. § 209, whenever the Attorney General has reason to believe that an unfair trade practice is being committed or is about to be committed, the Attorney General may bring an action in the name of the State of Maine against such person to restrain by temporary or permanent injunction the act or practice. The Court may also assess a civil penalty of up to \$10,000 for each intentional violation of the UTPA.

FACTS

7. Defendant Bill Dodge KIA is a car dealership with a place of business in Westbrook, Maine.

8. On or about September 9, 1999 Bill Dodge KIA placed an advertisement in the *Capital Weekly*, a weekly newspaper publication circulated in Kennebec, County. A copy of the advertisement is attached to this complaint as Exhibit A.

9. The same advertisement also appeared in the *Maine Sunday Telegram* on November 21, 1999 and the *Courier Gazette* on November 20, 1999.

10. This advertisement stated in large bold print that the starting price for a new KIA Sephia is \$6,450 and the starting price for a new Sportage is \$11,995.

11. In tiny print at the bottom of the ad, the actual starting purchase price for the Sephia is disclosed as \$8,450 and the actual starting purchase price for the Sportage is disclosed as \$14,995.

12. The small print indicates that to obtain the lower purchase price advertised in the large print, the consumer must pay \$2,000 in cash or a trade-in.

COUNT I

13. Plaintiff repeats, realleges and incorporates herein by reference the preceding paragraphs of this complaint.

14. Defendant's practice of incorrectly stating the actual cash price constitutes a violation of the Unfair Trade Practices Act, 5 M.R.S.A. § 207.

15. The Defendant's practices as described in this Count are intentional.

COUNT II

16. The Plaintiff repeats, realleges and incorporates herein by reference the preceding paragraphs of this complaint.

17. Defendant's practice of baiting customers with a low cash price in large print and then making an inconspicuous disclosure in fine print of the actual cash price is unfair and deceptive to consumers in violation of the Unfair Trade Practices Act, 5 M.R.S. A. § 207.

18. The Defendant's practices as described in this Count are intentional.

RELIEF REQUESTED

Plaintiff requests the following relief:

1. Declare the conduct of Defendant Bill Dodge KIA as described in this Complaint is in violation of the UTPA.

2. Permanently enjoin Bill Dodge KIA, its agents, servants, employees and those persons in active concert with Bill Dodge KIA who receive actual notice of the injunction from:

A. Placing the advertisement that is attached to this complaint as Exhibit A in any media.

B. Placing any advertisements that are misleading or deceptive.

C. Advertising a factory cash back amount without disclosing in the ad the actual terms and amounts of the rebate.

3. Order the Defendant Bill Dodge KIA to pay the Department of the Attorney General, pursuant to 5 M.R.S.A § 209, a civil penalty not to exceed \$10,000 for each intentional violation of 5 M.R.S.A. § 207.

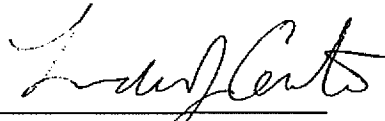
4. Order the Defendant Bill Dodge KIA to pay the Department of the Attorney General the costs of suit and investigation, including its attorney's fees.

5. Order such other and further relief as may be necessary to remedy the effects of the Defendant Bill Dodge KIA's unfair and deceptive practices.

Dated: January 14, 2000

Respectfully submitted,

ANDREW KETTERER
ATTORNEY GENERAL



LINDA J. CONTI - Maine Bar No. 3638
Assistant Attorney General
State House Station 6
Augusta, Maine 04333
Tel. (207) 626-8800

Attorney for the State of Maine

STATE OF MAINE
KENNEBEC, SS.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-99-09

STATE OF MAINE)
)
 Plaintiff)
)
 v.)
)
 BILL DODGE KIA)
)
 Defendant)

CONSENT DECREE AND ORDER

Plaintiff, State of Maine, having filed a Complaint against the Defendant, Bill Dodge KIA, and the parties having consented to the entry of this Consent Decree and Order, for purposes of settlement only, without this Decree constituting evidence against or admission by any party, and without trial of any issue or fact or law, NOW THEREFORE, upon the consent of the parties hereto IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

JURISDICTION

This Court has jurisdiction over the Plaintiff and Defendant, Bill Dodge KIA, and the subject matter of this action. The Complaint states a claim for relief under 5 M.R.S.A. § 207.

INJUNCTION

Defendant, Bill Dodge KIA, its agents, servants, officers, employees, and attorneys, and those persons in active concert or participation with Bill Dodge KIA who receive actual notice of this Consent Decree and Order are permanently enjoined from:

- a. publishing or any way disseminating the advertisement, a copy of which is attached hereto as Exhibit A; and
- b. misrepresenting to consumers the actual cash price of a vehicle;

CIVIL PENALTY

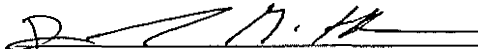
The Defendant, Bill Dodge KIA, shall pay, pursuant to 5 M.R.S.A. § 209, a civil penalty of \$1,000 to the State of Maine, Department of the Attorney General.

RETENTION OF JURISDICTION

Jurisdiction is retained by this Court for the purposes of enabling any party to this Consent Decree to apply to this Court at any time for such further orders as may be necessary for the construction, modification, or enforcement of any other provision of this Consent Decree and Injunction and for the punishment pursuant to 5 M.R.S.A. § 209, including additional civil penalties, for future violations of the provisions of this Order.

The Clerk is directed to incorporate this Order in the docket by reference pursuant to M.R. Civ. P. 79(a).

Dated: 1-12-2000



DAVID M. HIRSHON, ESQ. 1036
Thompkins, Clough, Hirshon & Langer
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P.O. Box 15060
Portland, Maine 04112-5060

Attorney for Defendant, Bill Dodge KIA

HENRY A. L. J. JUDGE

JAN 14 2000

Dated: 1-14-2000


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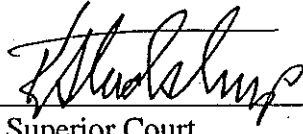
Clerk of Courts
Kennebec County

Attorney for Plaintiff, State of Maine

IT IS HEREBY ORDERED, ADJUDGED AND DECREED.

Dated:

1/19/00



Justice Superior Court