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DEFENDANT AND TRADE OR COMMERCE

4. Defendant Detroit Automotive Purchasing Services, Inc., (hereafter DAPS) is a corporation formed under the laws of the State of New Jersey. The address of the corporation is Fidelity Bank Building, 800 N. Kings Highway, Cherry Hill, New Jersey 08034.

5. Defendant DAPS has engaged and is continuing to engage in trade or commerce in the State of Maine as defined in 5 M.R.S.A. §206(3) in that DAPS has and is continuing to advertise, offer for sale, and sell services, property and business opportunities as a DAPS new car broker (hereafter DAPS broker) to Maine residents.

6. By advertising in newspapers and periodicals and sending mailings to Maine residents, Defendant DAPS obtains responses from Maine residents who express an interest in becoming DAPS brokers.

7. Upon receipt of a response described in paragraph 6, Defendant DAPS sends a company representative to meet the Maine resident and to discuss and sell the DAPS automobile brokerage program.

8. To become a DAPS broker, Maine residents must pay nineteen hundred fifty dollars (\$1950) to Defendant DAPS and sign a contract, a copy of which is attached as Exhibit A. Each year thereafter a DAPS broker must pay Defendant DAPS three hundred fifty dollars (\$350) to renew the contract.

9. After paying the money, the Maine resident is required to attend a one day training session presented by Defendant DAPS in Cherry Hill, New Jersey.

10. As part of the training, Defendant DAPS distributes a manual (a copy of which is attached as Exhibit B) and sales presentation (a copy of which is attached as Exhibit C) to the DAPS broker. DAPS instructs all brokers to use the manual (Exhibit B) and the sales presentation (Exhibit C).

11. Defendant DAPS tells Maine residents that the role of a DAPS broker is to "bring a buyer and a seller together."

12. A Maine resident who becomes a DAPS broker is told by DAPS to advertise in newspapers and by other means to obtain names of consumers who are interested in buying a new car.

13. Defendant DAPS requires all DAPS brokers in Maine to submit proposed advertising to Defendant DAPS for review and approval prior to publication or distribution.

14. The DAPS broker is told by DAPS to offer to negotiate the sale of a new motor vehicle.

15. The DAPS broker is told by DAPS to obtain from the consumer, who responds to a DAPS broker's advertisement, a description of the make, model and features of the vehicle the consumer is interested in purchasing.

16. The broker is told by DAPS to discuss the price and the method by which the vehicle will be acquired for the consumer and answer any questions the consumer may have.

17. The DAPS broker is told by Defendant DAPS to consult the Detroit Automotive Services, Inc., (hereafter DAS) pricing manual to determine the base price for a motor vehicle.

18. The DAPS broker is told by Defendant DAPS to add to the cost of the vehicle, commissions consisting of fifty dollars (\$50) for DAS, the DAPS broker's fee which is determined by the broker, the sum established in the manual for the automobile dealer who orders or owns the vehicle, and freight or bonded driver fees when necessary. After computing the total cost, the DAPS broker is instructed to prepare a personalized new vehicle price quotation form, a copy of which is attached as Exhibit D.

19. The DAPS broker is told by Defendant DAPS to prepare a "new vehicle purchase authorization" form, a copy of which is attached as Exhibit E, and to give a copy to the prospective purchaser.

20. Defendant DAPS instructs a DAPS broker that if, after discussing the purchase and arrangements, the prospective purchaser decides to buy a vehicle, the DAPS broker must have the purchaser sign a power of attorney to the DAPS broker and pay the DAPS broker a deposit of 5% of the total price stated on the purchase authorization form.

21. The DAPS broker is told by Defendant DAPS to send the 5% deposit and purchase authorization form to DAS. The function of DAS, a New Jersey corporation, is to contact franchised automobile dealers either in Maine or in another state to locate a vehicle similar to the one described on the purchase authorization form.

22. Upon locating a vehicle conforming to the description on the purchase authorization form, DAS sends the 5% deposit to the

franchised automobile dealer and notifies the DAPS broker of the name and address of the dealership where the vehicle is located.

23. The DAPS broker is told by Defendant DAPS to relay the name and address of the dealership where the vehicle is located to the purchaser who either visits the dealership to inspect and pay for the vehicle or who has the vehicle driven by a bonded driver to the purchaser's home or some other designated delivery point.

24. Upon accepting delivery of the vehicle, the purchaser pays the dealer the remaining 95% of the total vehicle cost.

25. The automobile dealer forwards the commission for DAS and the DAPS broker to DAS, and DAS forwards the broker's commission to the DAPS broker.

26. The Maine resident who becomes a DAPS broker operates his brokerage business in the manner stated in paragraphs 10 through 25 of this Complaint.

27. In December 1978, the Attorney General of the State of Maine through Assistant Attorney General Rae Ann French sent a letter to Defendant DAPS advising it that DAPS brokers in Maine had to be licensed under 29 M.R.S.A. §342 as automobile dealers. A copy of this letter is attached as Exhibit F.

28. DAPS through its attorney responded in a letter, a copy of which is attached as Exhibit G, and stated in part: "We are familiar with the provisions of subchapter III-A of Title 29, and especially §342 which requires licensing of anyone engaged 'in the

business of buying, selling or offering to negotiate a sale of any vehicle.' In our view, DAPS brokers perform none of these functions."

29. By letter dated January 5, 1979, a copy of which is attached as Exhibit H, Defendant DAPS was again notified that DAPS automobile brokers in Maine had to be licensed pursuant to 29 M.R.S.A. §342.

30. Since receiving the letters described in paragraphs 27 and 29 from the Attorney General of the State of Maine, Defendant DAPS had advertised, solicited and sold DAPS brokerages to Maine residents.

#### UNFAIR AND DECEPTIVE ACTS OR PRACTICES

→ ✓ 31. Defendant DAPS fails to disclose to prospective DAPS brokers and to DAPS brokers in Maine that 29 M.R.S.A. §342 requires DAPS brokers in Maine to be licensed by the Secretary of State of the State of Maine as automobile dealers if they offer to negotiate the sale of more than five (5) motor vehicles in any 12 month period.

✓ 32. Defendant DAPS falsely represents directly or indirectly to prospective DAPS brokers and DAPS brokers in Maine that DAPS brokers in Maine do not have to be licensed as automobile dealers under Maine law.

✓ 33. Defendant DAPS falsely represents directly or indirectly to prospective DAPS brokers and DAPS brokers in Maine that a DAPS broker in Maine has a "minimal investment"; is not limited to selling one or two makes of vehicles; is not required to have a showroom;

is not required to hire personnel; and has low overhead. In fact 29 M.R.S.A. §343 requires an applicant for a Maine automobile dealer's license to have facilities for the display of vehicles, facilities for the repair of two vehicles simultaneously, sufficient tools and equipment for servicing of the vehicles, a suitable office, and at least one qualified mechanic. In addition 29 M.R.S.A. §345 imposes the special requirement that applicants seeking a license to deal in new vehicles have written authorization from the manufacturer of the new vehicles.

#### REQUEST FOR RELIEF

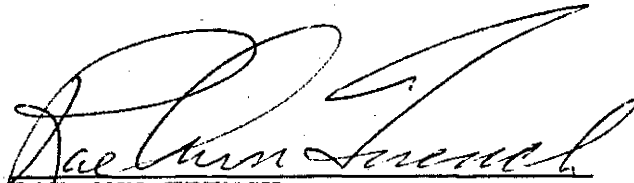
WHEREFORE, Plaintiff respectfully requests this court to:

- A. Adjudge that 29 M.R.S.A. §342 requires DAPS brokers in Maine to be licensed by the Secretary of State of the State of Maine, if they offer to negotiate the sale of more than 5 motor vehicles in any 12 month period.
- B. Declare that the acts and practices described in paragraphs 31, 32 and 33 are unfair or deceptive acts or practices in trade or commerce in violation of 5 M.R.S.A. §207.
- C. Enjoin the Defendant DAPS preliminarily and permanently from engaging in the acts and practices alleged in this Complaint.
- D. Order the Defendant DAPS to restore to consumers the money or property the Defendant DAPS or its agents acquired as a result of the illegal acts described herein and to pay the Attorney General's investigative costs and costs of suit.

E. Grant such other and further relief as this court may deem just and equitable.

Dated: Janaury 9, 1980

RICHARD S. COHEN  
Attorney General

A handwritten signature in cursive script, appearing to read "Rae Ann French", written over a horizontal line.

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