

PAULA T. DOW  
ATTORNEY GENERAL OF NEW JERSEY  
Division of Law  
124 Halsey Street - 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, New Jersey 07101  
Attorney for New Jersey Division of Consumer Affairs

**FILED**

DEC 02 2010

**Division of Consumer Affairs**

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

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

Administrative Action

\_\_\_\_\_  
:  
**IN THE MATTER OF PB** :  
**ENTERPRISES, LLC d/b/a** :  
**STATELINE HYUNDAI FORD** :  
**AND DREW E. PICON** :  
:  
\_\_\_\_\_

**ASSURANCE OF  
VOLUNTARY COMPLIANCE**

**WHEREAS** this matter having been opened by the New Jersey Division of Consumer Affairs, Office of Consumer Protection (“Division”) as an investigation into whether violations of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. (“CFA”), and the Regulations promulgated thereunder, N.J.A.C. 13:45A-1 et seq. (“CFA Regulations”), specifically the Regulations Governing Motor Vehicle Advertising Practices, N.J.A.C. 13:45A-26A.1 et seq. (“Motor Vehicle Advertising Regulations”), have been or are being committed by PB Enterprises, LLC d/b/a Stateline Hyundai Ford (“Stateline”), as well as its officers, directors, employees,

representatives, agents, successors, assigns and/or independent contractors, including its President, Drew E. Picon (collectively, "Respondents") (hereinafter referred to as the "Investigation"); and

**WHEREAS** the Division and Respondents (collectively, the "Parties") have reached an amicable agreement resolving the issues in controversy and concluding this matter without the need for further action, and Respondents having voluntarily cooperated with the Investigation and consented to the entry of the within Assurance of Voluntary Compliance ("AVC") without Respondents admitting any violations of the CFA, the CFA Regulations and/or the Motor Vehicle Advertising Regulations, and for good cause,

**IT IS** on this 22 day of November, 2010 **AGREED** as follows:

**1. EFFECTIVE DATE**

1.1 This AVC shall be effective on the date that it is entered with the Division ("Effective Date").

**2. DEFINITIONS**

As used in this AVC, the following words or terms shall have the following meanings:

2.1 "Advertise", "Advertisement" or "Advertising" shall mean any written, oral or electronic statement, illustration or depiction that is designed to create interest in the purchase of, impart information about the attributes of, publicize the availability of, or effect the sale or use of, goods or services, whether the statement appears in a brochure, newspaper, magazine, free-standing insert, circular, mailer, package insert, package label, product instructions, electronic mail, website, homepage, television, cable television, commercial or any other medium.

2.2 "Clear and Conspicuous" or "Clearly and Conspicuously" shall mean a statement that, regardless of the medium in which it is made, is presented in such size, color, contrast, duration,

location and audibility, compared to the other information with which it is presented, that it is readily apparent and understandable and in language and terms used in accordance with their common or ordinary usage and meaning. If such statement modifies, explains or clarifies other information with which it is presented, it must be presented in proximity to the information it modifies, explains or clarifies and in a manner that is readily apparent and understandable.

2.3 “Motor Vehicle” shall be defined in accordance with N.J.A.C. 13:45A-26A.3.

2.4 “State” shall refer to the State of New Jersey.

### **3. BUSINESS PRACTICES AND INJUNCTIVE RELIEF**

3.1 Respondents shall not engage in any unfair or deceptive acts or practices in the conduct of their business in the State and shall comply with all applicable State and/or Federal laws, rules and regulations as now constituted or as may hereafter be amended including, but not limited to, the CFA, the CFA Regulations and the Motor Vehicle Advertising Regulations

3.2 In their Advertisement of Motor Vehicles, Respondents shall Clearly and Conspicuously disclose any prior use and/or prior damage, as required by N.J.A.C. 13:45A-26A.5(b)2.

3.3 In their Advertisement of Used Motor Vehicles, Respondents shall make all the mandatory disclosures required under N.J.A.C. 13:45A-26A.6.

### **4. SETTLEMENT PAYMENT**

4.1 The Parties have agreed to a settlement in the amount of Twenty Thousand and 00/100 Dollars (\$20,000.00) to be paid to the Division (the “Settlement Payment”). The Settlement Payment shall be paid according to the following schedule: (a) Respondents shall pay Ten Thousand

and 00/100 Dollars (\$10,000.00) at the time they sign their consent to this AVC and (b), Respondents shall make a payment of Five Thousand and 00/100 Dollars (\$5,000.00) by December 15, 2010 and a payment of Five Thousand and 00/100 Dollars (\$5,000.00) by January 15, 2011.

If payment is not made by Stateline, Picon shall be liable to make payments.

4.2 From the Settlement Payment, the Division shall receive Eighteen Thousand Six Hundred Fifty Eight and 73/100 Dollars (\$18,658.73) as civil penalties, pursuant to N.J.S.A. 56:8-13, and One Thousand Three Hundred Forty One and 27/100 Dollars (\$1,341.27) as reimbursement of the Division's investigative costs and attorneys' fees pursuant to N.J.S.A. 56:8-11 and N.J.S.A. 56:8-19.

4.3 All payments made on account of the Settlement Payment shall be in the form of bank check made payable to "New Jersey Division of Consumer Affairs" and forwarded to:

Jeffrey Koziar, Deputy Attorney General  
State of New Jersey  
Office of the Attorney General  
Department of Law and Public Safety  
Division of Law  
124 Halsey Street-5th Floor  
P.O. Box 45029  
Newark, New Jersey 07101

## **5. GENERAL PROVISIONS**

5.1 This AVC is entered into by the Parties as their own free and voluntary act and with full knowledge and understanding of the obligations and duties imposed by this AVC.

5.2 This AVC shall be governed by, and construed and enforced in accordance with, the laws of the State.

5.3 The Parties have negotiated, jointly drafted and fully reviewed the terms of this AVC and the rule that uncertainty or ambiguity is to construed against the drafter shall not apply to the construction or interpretation of this AVC.

5.4 This AVC contains the entire agreement among the Parties. Except as otherwise provided herein, this AVC shall be modified only by a written instrument signed by or on behalf of the Division and Respondents.

5.5 If any portion of this AVC is held invalid or unenforceable by operation of law, the remaining terms of this AVC shall not be affected.

5.6 This AVC shall be binding upon the Parties and their successors in interest. In no event shall assignment of any right, power or authority under this AVC be used to avoid compliance with this AVC.

5.7 Nothing in this AVC shall preclude a right of action by any Person not a Party hereto.

5.8 Unless otherwise prohibited by law, any signatures by the Parties required for entry of this AVC may be executed in counterparts, each of which shall be deemed an original, but all of which shall together be one and the same AVC.

## **6. RELEASE**

6.1 In consideration of the monetary and non-monetary relief, undertakings, mutual promises and obligations provided for in this AVC and conditioned on Respondents making the Settlement Payment in the manner specified in Section 4, the Division hereby agrees to release Respondents from any and all civil claims or consumer related administrative claims, to the extent permitted by State law, which the Division could have brought prior to the Effective Date against

Respondents arising from the Investigation as well as the matters addressed in this AVC (the “Released Claims”).

6.2 Notwithstanding any term of this AVC, the following do not comprise Released Claims: (a) private rights of action; and (b) any claims against Respondents by any other agency or subdivision of the State.

## **7. PENALTIES FOR FAILURE TO COMPLY**

7.1 The Parties agree that if Respondents engage in any acts or practices in violation of this AVC, Respondents shall be liable for enhanced civil penalties pursuant to N.J.S.A. 56:8-13.

## **8. COMPLIANCE WITH ALL LAWS**

8.1 Except as provided in this AVC, no provision herein shall be construed as:

- (a) Relieving Respondents of their obligation to comply with all State and Federal laws, regulations or rules, or as granting permission to engage in any acts or practices prohibited by such laws, regulations or rules; or
- (b) Limiting or expanding any right the Division may otherwise have to obtain information, documents or testimony from Respondents pursuant to any State or Federal law, regulation or rule, or limiting or expanding any right Respondents may otherwise have pursuant to any State or Federal law, regulation or rule, to oppose any process employed by the Division to obtain such information, documents or testimony.

## **9. NOTICES UNDER THIS AVC**

9.1 Except as otherwise provided herein, any notices or other documents required to be sent to the Division or Respondents pursuant to this AVC 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:

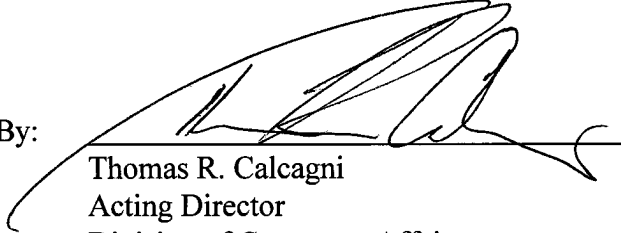
Jeffrey Koziar, Deputy Attorney General  
State of New Jersey  
Office of the Attorney General  
Department of Law and Public Safety  
Division of Law  
124 Halsey Street - 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, New Jersey 07101

For Respondents:

Drew E. Picon  
630 Memorial Parkway  
Philipsburg, New Jersey 08865

PAULA T. DOW  
ATTORNEY GENERAL OF NEW JERSEY

By:

  
Thomas R. Calcagni  
Acting Director  
Division of Consumer Affairs

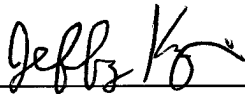
12/2/10

**THE PARTIES CONSENT TO THE FORM, CONTENT AND ENTRY OF THIS AVC ON THE DATES APPEARING BY THEIR RESPECTIVE SIGNATURES.**

FOR THE DIVISION:

PAULA T. DOW  
ATTORNEY GENERAL OF NEW JERSEY

By:



Dated:

11/23

, 2010

Jeffrey Koziar  
Deputy Attorney General  
124 Halsey Street - 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, New Jersey 07101  
Telephone: (973) 648-7819


FOR RESPONDENTS

  
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Drew E. Picon

Dated: Nov 22, 2010

PB ENTERPRISES, LLC d/b/a STATELINE HYUNDAI

By:   
\_\_\_\_\_

Drew E. Picon  
President

Dated: Nov 22, 2010