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Division of Law  
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SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION, UNION COUNTY  
DOCKET NO.: \_\_\_ -

MATTHEW J. PLATKIN, Attorney General of the State of New Jersey; and CARI FAIS, Acting Director of the New Jersey Division of Consumer Affairs,

Plaintiffs,

v.

FEDERAL AUTO BROKERS, INC. d/b/a BM MOTOR CARS; JANE AND JOHN DOES 1-10, individually and as owners, officers, directors, shareholders, founders, members, managers, employees, servants, agents, representatives, and/or independent contractors of FEDERAL AUTO BROKERS, INC. d/b/a BM MOTOR CARS; and XYZ CORPORATIONS 1-10,

Defendants.

Civil Action

**COMPLAINT**

Plaintiffs Matthew J. Platkin, Attorney General of the State of New Jersey (“Attorney General”), with offices located at 124 Halsey Street, Fifth Floor, Newark, New Jersey, and Cari Fais, Acting Director of the New Jersey Division of Consumer Affairs (“Director”), (collectively, “Plaintiffs”) with offices located at 124 Halsey Street, Seventh Floor, Newark, New Jersey, by way of this Complaint state:

## **PRELIMINARY STATEMENT**

1. Approximately five years ago, the New Jersey Division of Consumer Affairs (“Division”) entered into an administrative Consent Order (“2018 Consent Order”) with Federal Auto Brokers, Inc. d/b/a BM Motor Cars (“BM Motor Cars” or “Defendant”)—a used motor vehicle dealership located in Rahway, New Jersey. The 2018 Consent Order resolved the Division’s then-ongoing investigation into BM Motor Cars’ deceptive advertising and sales practices. Specifically, the investigation involved BM Motor Cars’ failure to clearly disclose “Gray Market Motor Vehicles” (vehicles not intended for sale in the United States), failure to properly advertise its vehicles, failure to provide or properly disclose information related to warranties, and its deceptive promotional program falsely promising consumers a television set with the purchase of a car.

2. The 2018 Consent Order required BM Motor Cars to improve certain business practices. It also provided that BM Motor Cars would be subject to enhanced civil penalties for future violations of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 to -227 (“CFA”), the Regulations Governing Motor Vehicle Advertising Practices, N.J.A.C. 13:45A-26A.1 to -A.5 (“Motor Vehicle Advertising Regulations”), and the 2018 Consent Order, which required BM Motor Cars, among other things, to provide specific disclosures to consumers regarding Gray Market Motor Vehicles and to advertise its vehicles in accordance with the Motor Vehicle Advertising Regulations.

3. The prior settlement terms have failed to deter BM Motor Cars from engaging in deceptive practices. Since the 2018 Consent Order was filed, the Division has received 31 consumer complaints regarding BM Motor Cars’ misconduct and the Division has conducted another investigation.

4. BM Motor Cars continues to violate the CFA, the Motor Vehicle Advertising Regulations, and the 2018 Consent Order, by, among other things: failing to itemize charges, failing to properly advertise its vehicles, failing to make required disclosures to consumers, selling useless products and/or services to consumers, and having consumers waive certain legal protections in an unlawful manner.

5. The Attorney General and Director therefore submit this Complaint to halt Defendant's deceptive business practices, to ensure Defendant's compliance with the previously negotiated settlement, and, most importantly, to prevent additional consumers from sustaining financial and other harm.

### **PARTIES AND JURISDICTION**

6. The Attorney General is charged with enforcing the CFA and the regulations promulgated thereunder, including the Motor Vehicle Advertising Regulations. See N.J.S.A. 52:17B-5.7. The Director is charged with administering the CFA and the regulations promulgated thereunder, including the Motor Vehicle Advertising Regulations, on behalf of the Attorney General. See N.J.S.A. 52:17B-120 to -124.

7. By this action, Plaintiffs seek monetary, injunctive and other relief for violations of the CFA and the Motor Vehicle Advertising Regulations. Plaintiffs bring this action pursuant to their authority under the CFA, specifically N.J.S.A. 56:8-8, -11, -13 and -19.

8. Venue is proper in Union County pursuant to R. 4:3-2 because it is a county in which the cause of action against Defendant arose.

9. BM Motor Cars is a domestic for-profit corporation established in New Jersey on May 18, 2005. At all relevant times, BM Motor Cars has maintained a principal business address of 1453 Lawrence Street, Rahway, New Jersey 07065.

10. The registered agent in the State for BM Motor Cars is Mikahil Fidelman, who maintains a registered office address of 1453 Lawrence Street, Rahway, New Jersey 07065.

11. Upon information and belief, John and Jane Does 1 through 10 are fictitious individuals meant to represent the owners, officers, directors, shareholders, founders, members, managers, employees, servants, agents, representatives, and/or independent contractors of BM Motor Cars who have been involved in the conduct that gives rise to this Complaint, but are heretofore unknown to the Plaintiffs. As these defendants are identified, Plaintiffs shall amend the Complaint to include them.

12. Upon information and belief, XYZ Corporations 1 through 10 are fictitious corporations meant to represent any additional corporations who have been involved in the conduct that gives rise to this Complaint, but are heretofore unknown to the Plaintiffs. As these defendants are identified, Plaintiffs shall amend the Complaint to include them.

### **GENERAL ALLEGATIONS COMMON TO ALL COUNTS**

#### **A. Defendant's Business Generally**

13. Since at least May 2005, Defendant has operated a motor vehicle dealership in New Jersey and has engaged in the retail sale of used motor vehicles.

14. At all relevant times, BM Motor Cars has been engaged in the advertisement, offer for sale, and sale of used motor vehicles in the State of New Jersey ("New Jersey" or "State").

15. At all relevant times, Defendant maintained a website at [www.bmmotorcars.com](http://www.bmmotorcars.com) ("BM Motor Cars Website").

16. Defendant advertises and otherwise offers for sale used motor vehicles to consumers in this State and elsewhere through various media including, but not limited to, the BM Motor Cars Website.

**B. 2018 Investigation and 2018 Consent Order**

17. In 2018, the Division investigated Defendant to determine whether its owners, officers, directors, shareholders, founders, members, managers, employees, servants, agents, representatives, and/or independent contractors violated the CFA, the Motor Vehicle Advertising Regulations, and the Used Car Lemon Law, N.J.S.A. 56:8-67 to -80.1 (“UCLL”) (“2018 Investigation”).

18. The 2018 Investigation included, but was not limited to, BM Motor Cars allegedly: (a) distributing promotional flyers that contained false or misleading statements; (b) advertising, offering for sale and/or selling Gray Market Motor Vehicles; (c) failing to include required language in its advertisements; (d) misrepresenting the terms of a written warranty; (e) failing to provide a required warranty; and (f) failing to provide consumers with a full and accurate copy of all sales documents.

19. The Division and BM Motor Cars resolved the 2018 Investigation through entry of the 2018 Consent Order.

20. The 2018 Consent Order contained injunctive relief concerning the operation of the dealership and required BM Motor Cars to make a settlement payment of \$69,000.00.

21. Among other things, BM Motor Cars agreed to provide specific disclosures regarding Gray Market Motor Vehicles, that it would include in its advertisements language required by the Motor Vehicle Advertising Regulations, and that any future violations of the injunctive provisions, the CFA, and/or the Motor Vehicle Advertising Regulations would constitute second and succeeding violations of the CFA, specifically N.J.S.A. 56:8-13, subjecting BM Motor Cars to enhanced civil penalties.

**C. Defendant's Continuing Unlawful Business Practices**

22. Since the filing of the 2018 Consent Order, the Division has received an additional 31 consumer complaints against BM Motor Cars ("Additional Consumer Complaints"). Based upon the Additional Consumer Complaints and supporting documents, documents obtained from BM Motor Cars as part of the Division's investigation, and the BM Motor Cars Website, Defendant has continued to operate their dealership in violation of the CFA, the Motor Vehicle Advertising Regulations, and the 2018 Consent Order.

23. At varying times, Defendant sold after-sale items to consumers that duplicated or provided similar coverage to products or services included in the cost of the vehicle or that the consumer had already purchased.

24. At varying times, Defendant failed to itemize all after-sale items on both the RBO and Finance Agreement.

25. At varying times, Defendant failed to include a price on its "BM Motor Cars Advantage Policy" that consumers were required to sign.

26. On at least 15 occasions, Defendant failed to disclose Gray Market Motor Vehicles or provided disclosures regarding Gray Market Motor Vehicles that were not compliant with the 2018 Consent Order.

27. At varying times, Defendant sold certain warranty packages to consumers who were purchasing vehicles that were over ten years old, even though the warranties did not apply to vehicles older than ten years.

28. At varying times, the BM Motor Cars Website failed to include, in the proper font size, the statement that "price(s) include(s) all costs to be paid by the consumer, except for licensing costs, registration fees, and taxes."

29. At varying times, the BM Motor Cars Website failed to include preparation charges in the vehicle price.

**D. Defendant Violated the New Jersey Motor Vehicle Certificate of Ownership Law**

30. New Jersey's Motor Vehicle Certificate of Ownership Law, N.J.S.A. 39:10-1 to -38 ("Motor Vehicle Certificate of Ownership Law"), protects New Jersey consumers by imposing certain requirements on used car dealers.

31. Specifically, the Motor Vehicle Certificate of Ownership Law states:

Any agreement of retail sale may contain a provision whereby the purchaser waives the dealer's obligation [to make all necessary repairs, without charge, or return the full purchase price to the purchaser, in the event any car purchased has a defect which results in its rejection for failure to meet the standards for issuance of a certificate of approval in New Jersey]; provided, however, a waiver shall be separately stated in the agreement of retail sale and separately signed by the purchaser, and further provided that such a waiver shall include a brief description of known defects that may need to be resolved in order to obtain a certificate of approval for the motor vehicle...."

[N.J.S.A. 39:10-29.]

32. At varying times, Defendant had consumers waive the dealer's obligation to sell a used car that meets state inspection standards without providing a separate document containing a description of any known defects impacting the ability of the vehicle to pass inspection at the time the buyer waived the dealer's obligation, in violation of the Motor Vehicle Certificate of Ownership Law.

**E. Defendant Violated the Federal Odometer Law**

33. The Federal Vehicle Information and Cost Savings Act, 49 U.S.C. § 32701 to 32711 (“Odometer Law”), is a consumer protection statute designed to protect buyers of motor vehicles from purchasing vehicles with altered or reset odometers.

34. The Odometer Law, 49 U.S.C. § 32705, requires that upon the transfer of ownership, a dealership must provide an odometer disclosure statement showing the vehicle mileage to the vehicle buyer.

35. At varying times, Defendant failed to provide a copy of the odometer disclosure statement showing vehicle mileage upon transfer of vehicle ownership to the vehicle buyer, in violation of the Odometer Law.

**COUNT I**

**VIOLATION OF THE CFA BY DEFENDANT  
(UNCONSCIONABLE COMMERCIAL PRACTICES AND DECEPTION)**

36. Plaintiffs repeat and reallege the allegations contained in the preceding paragraphs as though fully set forth herein.

37. The CFA, N.J.S.A. 56:8-2, prohibits:

The act, use or employment by any person of any commercial practice that is unconscionable or abusive, deception, fraud, false pretense, false promise, misrepresentation, or the knowing, concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise or real estate, or with the subsequent performance of such person as aforesaid, whether or not any person has in fact been misled, deceived or damaged thereby . . . .

38. The CFA defines “merchandise” as including “any objects, wares, goods, commodities, services or anything offered, directly or indirectly, to the public for sale.” N.J.S.A. 56:8-1(c).

39. At all relevant times, Defendant has engaged in the advertisement and sale of merchandise within the meaning of N.J.S.A. 56:8-1(c), specifically used motor vehicles.

40. In the operation of the used motor vehicle dealership, Defendant has engaged in the use of unconscionable commercial practices and acts of deception.

41. Defendant’s conduct in violation of the CFA includes, but is not limited to, the following unconscionable commercial practices and/or acts of deception:

- a. Selling after-sale items to consumers that duplicated or provided similar coverage to products or services included in the cost of the vehicle or that the consumer had already purchased;
- b. Failing to itemize all after-sale items on both the RBO and finance agreement;
- c. Failing to include a price on its BM Motor Cars Advantage Policy that consumers were required to sign;
- d. Failing to disclose or providing disclosures regarding Gray Market Motor Vehicles that were not compliant with the 2018 Consent Order;
- e. Selling warranty packages to consumers who were purchasing vehicles that were over ten years old, even though the warranties did not apply to vehicles older than ten years;
- f. Having consumers waive the dealer’s obligation to sell a used car that meets state inspection standards without providing a separate document containing a description of any known defects impacting the ability of the vehicle to pass inspection at the time the buyer waived the dealer’s obligation, in violation of the Motor Vehicle Certificate of Ownership Law;
- g. Failing to provide a copy of the signed odometer disclosure statement showing vehicle mileage upon transfer of vehicle ownership to the vehicle buyer, in violation of the Odometer Law;

- h. Failing to include, on the BM Motor Cars Website, in the proper font size, the statement that “price(s) include(s) all costs to be paid by the consumer, except for licensing costs, registration fees, and taxes”; and
- i. Failing to include preparation charges in the vehicle price.

42. Each unconscionable commercial practice and/or act of deception by Defendant constitutes a separate violation of the CFA, N.J.S.A. 56:8-2.

## **COUNT II**

### **VIOLATION OF THE CFA BY DEFENDANT (VIOLATIONS OF STATE AND FEDERAL LAW)**

43. Plaintiffs repeat and reallege the allegations contained in the preceding paragraphs as if set forth herein.

44. The CFA, N.J.S.A. 56:8-4(b), states:

In an action brought by the Attorney General, any commercial practice that violates State or federal law is conclusively presumed to be an unlawful practice under [N.J.S.A. 56:8-2] . . . .

45. In the operation of its business, Defendant violated the Motor Vehicle Certificate of Ownership Law, N.J.S.A. 39:10-1 to -38, specifically N.J.S.A. 39:10-29, by having consumers waive the dealer’s obligation to sell a used car that meets state inspection standards without providing a separate document containing a description of any known defects impacting the ability of the vehicle to pass inspection at the time the buyer waived the dealer’s obligation.

46. In the operation of its business, Defendant violated the Odometer Law, 49 U.S.C. § 32701 to 32711, specifically 49 U.S.C. § 32705, by failing to provide a copy of the signed odometer disclosure statement showing vehicle mileage upon transfer of vehicle ownership to the vehicle buyer.

47. Each violation of State and federal law by Defendant shall constitute a separate

unlawful practice and violation under the CFA, N.J.S.A. 56:8-2.

### COUNT III

#### **VIOLATION OF THE MOTOR VEHICLE ADVERTISING REGULATIONS BY DEFENDANT (FAILURE TO MAKE REQUIRED DISCLOSURES)**

48. Plaintiffs repeat and reallege the allegations contained in the preceding paragraphs as though fully set forth herein.

49. The Motor Vehicle Advertising Regulations address, among other things, general advertising practices concerning motor vehicles offered for sale in the State.

50. The Motor Vehicle Advertising Regulations provide that an advertisement offering for sale a used motor vehicle include the following:

A statement that ‘price(s) include(s) all costs to be paid by a consumer, except for licensing costs, registration fees and taxes’. If this statement appears as a footnote, it must be set forth in at least 10 point type. For purposes of this subsection, ‘all costs to be paid by a consumer’ means manufacturer-installed options, freight, transportation, shipping, dealer preparation, and any other costs to be borne by a consumer except licensing costs, registration fees and taxes;

[N.J.A.C. 13:45A-26A.5(a)2.]

51. Defendant’s conduct in violation of the Motor Vehicle Advertising Regulations includes, but is not limited to, the following:

- a. Failing to include, on the BM Motor Cars Website, in the proper font size, the statement that “price(s) include(s) all costs to be paid by the consumer, except for licensing costs, registration fees, and taxes”; and
- b. Failing to include preparation charges in the vehicle price.

52. Defendant’s conduct constitutes multiple violations of the Motor Vehicle Advertising Regulations, N.J.A.C. 13:45A-26A.5(a)2, each of which constitutes a per se violation of the CFA, N.J.S.A. 56:8-2.

**COUNT IV****VIOLATION OF THE 2018 CONSENT ORDER  
BY DEFENDANT**

53. Plaintiffs repeat and reallege the allegations contained in the preceding paragraphs as though fully set forth herein.

54. Pursuant to the terms of the 2018 Consent Order, BM Motor Cars agreed, among other things, to comply with the CFA, the Motor Vehicle Advertising Regulations, and to provide specific disclosures regarding Gray Market Motor Vehicles.

55. The 2018 Consent Order provides, in pertinent part, that “any future violations of the injunctive provisions of this Consent Order, the CFA, the Motor Vehicle Advertising Regulations [and/or] the UCLL . . . shall constitute a second and succeeding violation pursuant to N.J.S.A. 56:8-13, and that [BM Motor Cars] may be liable for enhanced civil penalties.”

56. As set forth herein, BM Motor Cars’ conduct violates the 2018 Consent Order resulting in second and subsequent violations of the CFA and/or the Motor Vehicle Advertising subjecting BM Motor Cars to enhanced civil penalties pursuant to N.J.S.A. 56:8-13.

**PRAYER FOR RELIEF**

WHEREFORE, based upon the foregoing allegations, the Plaintiffs respectfully request that the Court enter judgment against Defendant:

- (a) Finding that the acts and practices of Defendant constitute multiple instances of unlawful practices in violation of the CFA, N.J.S.A. 56:8-1 to -227, the Motor Vehicle Advertising Regulations, N.J.A.C. 13:45A-26A.1 to -A.5, and the 2018 Consent Order;
- (b) Permanently enjoining Defendant and its owners, officers, directors, shareholders, founders, managers, agents, servants, employees, representatives, independent contractors, corporations, subsidiaries, affiliates, successors, assigns and all other persons or entities directly under their control, from engaging in, continuing to engage in, or doing any acts

or practices in violation of the CFA, N.J.S.A. 56:8-1 to -227, the Motor Vehicle Advertising Regulations, N.J.A.C. 13:45A-26A.1 to -A.5, and/or the 2018 Consent Order including, but not limited to, the acts and practices alleged in the Complaint;

- (c) Directing Defendant to restore to any affected person, whether or not named in this Complaint, any money or real or personal property acquired by means of any practice alleged herein to be unlawful and found to be unlawful, as authorized by the CFA, N.J.S.A. 56:8-8;
- (d) Directing Defendant to pay the maximum statutory civil penalties for each and every violation of the CFA, in accordance with N.J.S.A. 56:8-13;
- (e) Directing Defendant to pay the maximum statutory civil penalties for each and every violation of the 2018 Consent Order and second and subsequent violations of the CFA and the Motor Vehicle Advertising Regulations, in accordance with N.J.S.A. 56:8-13;
- (f) Directing Defendant to pay costs and fees, including attorneys' fees, for the use of the State, as authorized by the CFA, N.J.S.A. 56:8-11 and N.J.S.A. 56:8-19; and
- (g) Granting such other relief as the interests of justice may require.

MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs

By: /s/ Renee Cadmus  
Renee Cadmus  
Deputy Attorney General  
Consumer Fraud Prosecution Section

Dated: June 14, 2023  
Newark, New Jersey

**RULE 4:5-1 CERTIFICATION**

I certify, to the best of my information and belief, that the matter and controversy in this action involving the aforementioned violations of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 to -227, the Motor Vehicle Advertising Regulations, N.J.A.C. 13:45A-26A.1 to -A.5, and the 2018 Consent Order is not the subject of any other action pending in any other court of this State. I further certify, to the best of my information and belief, that the matter in controversy in this action is not the subject of a pending arbitration proceeding in this State, nor is any other action or arbitration proceeding contemplated. I certify that there is no other party who should be joined in this action at this time.

MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs

By: /s/ Renee Cadmus  
Renee Cadmus  
Deputy Attorney General  
Consumer Fraud Prosecution Section

Dated: June 14, 2023  
Newark, New Jersey

**RULE 1:38-7(c) CERTIFICATION OF COMPLIANCE**

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs

By: /s/ Renee Cadmus  
Renee Cadmus  
Deputy Attorney General  
Consumer Fraud Prosecution Section

Dated: June 14, 2023  
Newark, New Jersey

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to Rule 4:25-4, Deputy Attorney General Renee Cadmus is hereby designated as trial counsel on behalf of Plaintiffs in this action.

MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs

By: /s/ Renee Cadmus  
Renee Cadmus  
Deputy Attorney General  
Consumer Fraud Prosecution Section

Dated: June 14, 2023  
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