

SECOND JUDICIAL DISTRICT COURT  
COUNTY OF BERNALILLO  
STATE OF NEW MEXICO

ENDORSED  
FILED IN MY OFFICE THIS

APR 27 2009

*Guarita M. Duran*  
CLERK DISTRICT COURT

STATE OF NEW MEXICO, *ex rel.*  
GARY K. KING, Attorney General,  
Plaintiff,

*Deana Reed*

v.

NO. 0202-CV-2005-01732

ZANGARA DODGE, INC., a New Mexico Corporation  
Defendant.

**ORDER OF CONTEMPT**

THIS MATTER comes before the Court on Plaintiff's Motion for Order of Contempt. Plaintiff is represented by Assistant Attorney General William S. Keller. Defendant is represented by the Law Offices of Allan L. Wainwright, P.A.

The Court finds that:

1. On April 11, 2006, the Court entered a Consent Decree and Permanent Injunction which was agreed to and signed by Kenneth B. Zangara, president and principal of Defendant Zangara Dodge, Inc., and by then-Attorney General Patricia A. Madrid (by Joel Cruz-Esparaza, Assistant Attorney General).

2. The Consent Decree and Permanent Injunction includes Section I, Paragraph 5:

Defendants Zangara shall comply with New Mexico law and shall not violate any provision of the Unfair Practices Act, NMSA 1978, § 57-12-1 *et seq.* (1967), and shall not engage in any other acts, practices or methods that violate the New Mexico Attorney General's Requirements for the Advertising and Sale of Motor Vehicles (12.2.4.1 *et seq.*, NMAC), the New Mexico Dealers Franchising Act, NMSA 1978, § 57-16-1 *et seq.* (1973), or the Motor Vehicle Sales Finance Act, NMSA 1978, § 58-19-1 *et seq.* (1963). This is not intended to confer upon the Court jurisdiction over every alleged consumer complaint under the above referenced laws.

3. Defendant will not contest that Defendant knew or should have known that it closed certain new and used vehicle transactions with consumers that included trade-ins that had loan balances due, representing to the consumers that it would pay off the trade-in loan from the sale proceeds, and then failing to do so, possibly resulting in the consumers becoming in default on those loans, being dunned by the creditors and having their credit ratings adversely affected.

4. Defendant will not contest that Defendant knew or should have known that it failed to forward certain vehicle registration documents and fees to the Motor Vehicle Division within thirty days as required by NMSA 1978, § 66-3-107(A) (1981, 2007). As a result of Defendant's acts and omissions, certain vehicles were not registered in the names of their purchasers and certain purchasers did not receive their permanent license plates.

The Court hereby concludes that:

5. It has jurisdiction over the subject matter and over the parties, and that it has retained jurisdiction for enforcement purposes pursuant to Section II, ¶ D, of the Consent Decree and Permanent Injunction.

6. Defendant will not contest Plaintiff's claim that Defendant is in violation of the New Mexico Unfair Practices Act, NMSA 1978, § 57-12-2(D), and of the Motor Vehicle Dealers Franchising Act, NMSA 1978, § 57-16-4, and of Section I, Paragraph 5 of the Consent Decree and Permanent Injunction, for the acts and omissions described in ¶ 3, above.

7. Defendant will not contest Plaintiff's claim that Defendant is in violation of the New Mexico Unfair Practices Act, NMSA 1978, § 57-12-2(D), and of the Motor

Vehicle Dealers Franchising Act, NMSA 1978, § 57-16-4, and of Section I, Paragraph 5 of the Consent Decree and Permanent Injunction, for the acts and omissions described in ¶ 4, above.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendant Zangara Dodge, Inc., is in civil contempt of the Court.

After reviewing the information supplied by Defendant, Plaintiff may request a hearing to determine whether Defendant acted willfully, to determine the scope and extent of Defendant's violations, to determine the appropriate consequences for Defendant's violations, and such further matters as may come before the Court.

If another hearing is scheduled and subject to his availability, IT IS ORDERED FURTHER that Defendant's President, Kenneth Zangara, as signatory to the Consent Decree and Permanent Injunction on behalf of Defendant, shall appear at the hearing as Defendant's agent and representative.

IT IS ORDERED FURTHER that:

1. Within five days of the entry of this Order Defendant shall provide Plaintiff with a list of the names of all customers whose trade-in liens or whose Motor Vehicle Division registration fees it did not pay, and will cooperate with Plaintiff obtaining access to all deal jackets for 2008 and 2009 so Plaintiff can ascertain further who paid for additional contracts or services (e.g., service or extended warranty contracts, or lifetime tire agreements) that it did not pay to providers. The list shall identify the approximate amount of the registration fee and/or trade in payoff that Defendant did not pay, and the amount that it received from the customer that was not paid on behalf of the customer, and the name, address and telephone number of any assignee of the purchase agreement.

Defendant shall cooperate with Plaintiff in obtaining access to copies of the transaction documents that establish the foregoing information.

2. Within 20 days after entry of this Order, Defendant will provide every customer whose trade-in lien was not paid within a reasonable period and whose credit rating was or may have been adversely affected, a letter advising that the failure to pay was Defendant's fault or the fault of third parties or events over which Defendant or the consumer had no control, rather than the consumer's. The cover letter to each consumer will provide the information necessary for the consumer to submit the explanation letter to the credit reporting agencies and/or each consumer's lender or creditor. Defendant will provide copies of the letter provided to each consumer to Plaintiff. Upon any such consumer's request, Defendant shall provide any further assistance or documentation which is in its possession or control and is that not readily available to the consumer as may be required by any credit reporting agency in order to repair the consumer's credit rating. In the cover letter referenced in this paragraph, Defendant shall provide notice to the consumer of the name, address and telephone number its agent or representative assigned this responsibility, and shall advise the consumer that he or she may contact the agent or representative if he or she requires further assistance.

3. Within seventy-two hours of the entry of this order Defendant will provide full financial disclosure available to Defendant for the past twenty-four months to the Plaintiff.

WILLIAM F. LANG

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WILLIAM F. LANG  
District Judge

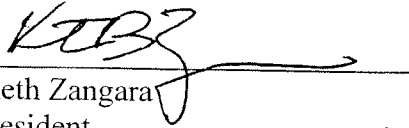
Stipulated and Agreed:

GARY K. KING  
Attorney General

Approved electronically on 4/24/09  
William S. Keller  
Assistant Attorney General  
Attorney for Plaintiff

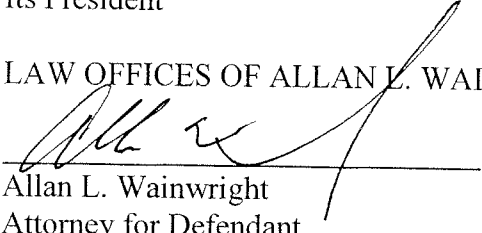
ZANGARA DODGE, INC.

By

  
Kenneth Zangara

Its President

LAW OFFICES OF ALLAN L. WAINWRIGHT PA

  
Allan L. Wainwright  
Attorney for Defendant