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**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK**

STATE OF WASHINGTON,

Plaintiff,

v.

RGH MARKETING, INC., and ROBERT G.
HUBBARD, JR., individually and his marital
community,

Defendants.

NO.

COMPLAINT FOR INJUNCTIVE AND
OTHER RELIEF

Plaintiff, State of Washington, Office of the Attorney General, Consumer Protection Division, by and through its attorneys, Robert M. McKenna, Attorney General, and Mary C. Lobdell, Assistant Attorney General, brings this action against RGH Marketing, Inc., and Robert G. Hubbard, Jr., named herein, alleging as follows:

I. JURISDICTION AND VENUE

1.1. The State of Washington ("State") files this Complaint and these proceedings under the provisions of Chapter 19.86 RCW, Unfair Business Practices -- Consumer Protection Act; chapter 19.170.010 RCW, Promotional Advertising of Prizes Act; and chapter 46.70 RCW, Unfair Business Practices -- Dealers' Licenses Act.

1 controlled, directed, participated in, and formulated the policies relating to the acts, practices, and
2 activities of said corporation that are the subject matter of this Complaint. On information and
3 belief, Defendant ROBERT G. HUBBARD, JR., is married and all acts were done on behalf of
4 the marital community.

5
6 3.3. For purposes of this Complaint, the term "Defendants," unless otherwise specified,
7 shall refer to all Defendants; and when used in conjunction with allegations of unlawful conduct,
8 shall mean that each Defendant committed such act and/or is legally accountable for such act.

9 **IV. NATURE OF TRADE OR COMMERCE**

10 4.1. Defendants are now and have been at all times relevant to this action, engaged in a
11 trade or commerce within the meaning of RCW 19.86.020, specializing in creating and selling
12 promotional materials and direct mailings to Washington automobile dealerships.

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14 4.2. Defendants are engaged in a trade or commerce within the meaning of RCW
15 19.86.020 by creating and providing promotional advertising services, consultations and materials
16 to automobile dealers of new and used motor vehicles in the State of Washington.

17 4.3. Defendants are engaged in a business that must comply with the provisions of
18 RCW 46.70.180, the rules for advertising promulgated by the Department of Licensing in WAC
19 308-66-152, the provisions of the Unfair Business Practices of the Consumer Protection Act,
20 Chapter 19.86, and the provisions of the Prizes and Promotions Act, Chapter 19.170 RCW.

21
22 4.4. A violation of RCW 46.70.180 and chapter 19.170 are *per se* violations of the
23 Unfair Business Practices—Consumer Protection Act 19.86 RCW.

24 4.5. Defendants have been at all times relevant to this action in competition with others
25 engaged in similar business in the State of Washington.
26

1 **V. FIRST CAUSE OF ACTION AGAINST DEFENDANTS**

2 **(Advertising Violations)**

3 **5.1.** Plaintiff realleges paragraphs 1.1 through 1.8 and 4.1 through 4.5 and
4 incorporates them as if set fully herein.

5 **5.2.** The Defendants have materially misrepresented the nature of certain “sales
6 events” and failed to adhere to state and federal laws, regulations and guidelines, including but not
7 limited to, RCW 46.70.180(1); WAC 308-66-152; and Regulation Z of the Truth in Lending Act,
8 15 U.S.C. § 1601 *et seq.*, 12 C.F.R. § 226.

9 **5.3.** Defendants caused to be advertised and offered to sell vehicles that created a false
10 premise for advertised sales by representing or implying that the vehicles included in the sale are
11 from some source other than a dealer’s regular used vehicle inventory by using terms including
12 but not limited to “Test Market Event,” “Repos,” “Lease Returns,” “Prior Bank Asset,”
13 “Pre-Auction Auto Disposal Sale,” and “Bank Asset Sale.”

14 **5.4.** Defendants caused to be advertised and offered to sell vehicles that created a false
15 sense of urgency by use of terms such as “Emergency Inventory Reduction Sale,” “Bank Asset
16 Sale,” or, “Urgent Notice Huge Pre-Auction Auto Sale” when, in fact, the sales often recurred at
17 certain dealer locations and such sales were not an emergency, a bank asset sale, or a pre-auction
18 sale. Such statements created a false sense of urgency and are false, misleading, or deceptive
19 practices in violation of RCW 46.170.180(1).

20 **5.5.** The Defendants caused to be advertised and offered to sell vehicles without
21 disclosing all material limitations, including limitations related to credit, prizes and fees, used or
22 new vehicles, time limit and trade-in. Advertising any offer in connection with the sale of a
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1 vehicle or model or type of vehicle without disclosing material limitations is a violation of RCW
2 46.70.180 and WAC 308-66-152(4)(c).

3 **5.6.** Defendants caused “advertised price” to be expressed as a combination of dollar
4 figures and words without providing all component figures and the total dollar figure expressed as
5 required by WAC 308-66-152(l).
6

7 **5.7.** Defendants caused the advertisement of financing terms without any disclosures or
8 all disclosures required by the Truth in Lending Act, 15 U.S.C. § 1601 *et seq.*, Regulation Z and
9 12 C.F.R. § 226.24 or RCW 46.70.180(1)(a)-(e).

10 **5.8.** Defendants caused the dissemination of an advertisement containing a false
11 reference price or false savings that represents a discount that does not in fact exist, such as
12 advertising 50% off the MSRP on used vehicles when the industry pricing standard for used
13 vehicles is not the MSRP.
14

15 **5.9.** Defendants advertised vehicle prices that failed to include all mandatory charges
16 for nongovernmental fees, including a documentary fee. Defendants failed to include language in
17 the advertisement that “a vehicle documentary service fee in an amount up to fifty dollars may be
18 added to the sale price of the vehicle” as required by RCW 46.70.180(2) and WAC 308-66-
19 152(4)(j). Defendants knew or should have known that dealers customarily and routinely charge
20 vehicle documentary fees.
21

22 **5.10.** Defendants caused the advertisement of “\$0 DOWN DELIVERS!,” “\$4 DOWN
23 DELIVERS ANY VEHICLE IN STOCK*,” “\$49* Delivers Brand New Cars, Trucks, Vans &
24 SUV’s,” and other similar statements in which Defendants knew or should have known that such
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1 representations are false or misleading and the dealer cannot clearly show through records of the
2 dealership the truth of these statements. Such conduct violates WAC 308-66-152(4)(p).

3 **5.11.** Defendants caused the advertisement of words, phrases and initials that were not
4 in a clear and conspicuous manner and in a type size sufficiently large to be read with reasonable
5 ease and in relative close proximity to each of the terms that require disclosure and in such color
6 and contrast so as not to be obscured.

7 **5.12.** Defendants caused the advertisement of "Every Credit Application will be
8 accepted and processed for on-the-spot delivery of the vehicle of your choice. Regardless of past
9 credit history" and other similar statements. On information and belief, Defendants RGH
10 MARKETING, INC. cannot clearly show through records of the dealership that consumers,
11 regardless of credit worthiness, received offers of credit. Such conduct violates WAC 308-66-
12 152(4)(p).

13 **5.13.** Defendants caused the advertisement of other statements that violated WAC 308-
14 66-152.

15 **5.14.** The practices described in paragraphs 5.2 to 5.12 constitute *per se* violations of
16 RCW 46.70.180(1); WAC 308-66-152 and 15 U.S.C. § 1601, Regulation Z and 12 C.F.R. §
17 226.24.

18 **5.15.** The practices described in paragraphs 5.2 to 5.12 constitute *per se* violations of the
19 Consumer Protection Act, RCW 19.86.020, under RCW 46.70.310.

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21 **VI. SECOND CAUSE OF ACTION AGAINST DEFENDANTS**
22 **(Consumer Protection Act)**

23 **6.1.** Plaintiff realleges paragraph 1.1 through 1.8 and 4.1 through 4.5 and
24 incorporates them as if set fully herein.
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1 persons acting or claiming to act for, on behalf of, or in active concert or participation with
2 Defendants from continuing or engaging in the unlawful conduct complained of herein.

3 7.4. That the Court make such orders pursuant to RCW 19.86.080 as it deems
4 appropriate to provide for consumer restitution.

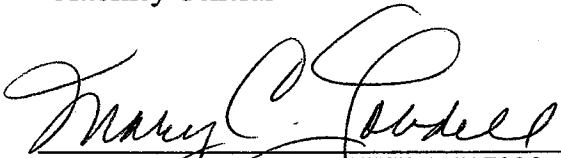
5 7.5. That the Court assess a civil penalty, pursuant to RCW 19.86.140, of two thousand
6 dollars (\$2,000) per violation for each violation of RCW 19.86.020 caused by the conduct
7 outlined in this Complaint.

8 7.6. That Plaintiff has and recovers from Defendants the costs of this action, including
9 a reasonable attorneys' fee, pursuant to RCW 19.86.080.

10 7.7. For such other relief as the Court may deem just and proper to fully and effectively
11 dissipate the effect of the conduct complained of herein or which may otherwise seem proper to
12 the Court.
13

14 DATED this 28th day of September, 2009.

15
16 ROBERT M. MCKENNA
17 Attorney General

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19 
20 MARY C. LOBDELL, WSBA #17930
21 Assistant Attorney General
22 Attorneys for Plaintiff
23 State of Washington
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