1 2 3 4 5 6 7 STATE OF WASHINGTON PIERCE COUNTY SUPERIOR COURT 8 STATE OF WASHINGTON, 9 NO. 11252 Plaintiff. 10 CONSENT DECREE 11 MCCANN MOTORS, INC., 12 Defendant. 13 14 I. JUDGMENT SUMMARY 15 1.1 **Judgment Creditor:** State of Washington 16 1.2 **Judgment Debtor:** McCann Motors, Inc. 17 1.3 **Principal Judgment Amount:** \$12,000.00 18 19 1.4 Costs and Attorneys' Fees: \$12,000.00 20 1.5 **Total Judgment:** \$ 12,000.00 21 1.6 **Attorney for Judgment Creditor:** Douglas D. Walsh, Senior Counsel 22 1.7 **Attorney for Judgment Debtor:** Peter Steilberg, Attorney at Law 23 1.8 Unpaid Principal Judgment Amount Shall Bear Interest at: 12% per annum 24 25 Plaintiff, State of Washington, commenced this action pursuant to 19.86 RCW, the 26 Consumer Protection Act.

Defendant, McCann Motors, Inc., has waived service of the Summons and Complaint in this matter.

Plaintiff, appearing by and through its attorneys, Robert McKenna, Attorney General, and Douglas D. Walsh, Senior Assistant attorney General; and Defendant, appearing by and through its attorney, Peter Steilberg, has waived Notice of Presentation of this Consent Decree. Plaintiff and Defendant named above has stipulated to venue in Pierce County Superior Court and that the Defendant, for the purpose of this action only, does not contest a basis for the adjudication of the matters alleged in the Complaint herein and to the entry of this Consent Decree without need for trial or adjudication of any issue of fact or law.

Pursuant to CR 54(b), the Court, finding no just reason for delay, hereby ORDERS, JUDGES, AND DECREES as follows:

II. GENERAL

- **2.1** <u>Authority for Action.</u> The Attorney General has authority to bring this action under the provisions of RCW 19.86.020 and 19.118 RCW.
- **2.2** <u>Defendant.</u> For purposes of this Consent Decree, the term "Defendant," where not otherwise specified, shall mean McCann Motors, Inc.
- 2.3 <u>Notice.</u> Defendant shall inform its officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them of the provisions of this Consent Decree and shall direct those persons to comply with this Consent Decree.
- 2.4 <u>Non-Endorsement.</u> Under no circumstances shall this Decree or the names of the State of Washington, the Office of the Attorney General, the Consumer Protection Division, or any of their employees or representatives, be used by Defendant, its agents, servants, employees,

attorneys, or other persons acting in concert or participation with them in connection with any selling, advertising, or promotion of products or services as an endorsement or approval of any of the Defendant's acts, practices, or methods of conducting business. Nothing contained herein shall prevent the Defendant from responding in a truthful manner to any press release issued by the Office of the Attorney General in this matter.

2.5 <u>Non-Admission.</u> Defendant, by entering into this Consent Decree, admit to no wrongdoing, and this Consent Decree does not constitute evidence or an admission regarding the existence or non-existence of any issue, fact, or violation of any law alleged by the State.

III. BUSINESS PRACTICES

- 3.1 Application of Business Practices Requirements. The provisions of this section of the Consent Decree shall apply to the Defendant and its successors, assigns, transferees, officers, agents, servants, employees, representatives, and all other persons in active concert or participation with Defendant.
- 3.2 <u>Changed Business Practices.</u> Defendant and its successors, assigns, officers, agents, servants, employees, representatives, and all other persons or entities in active concert or participation with them stipulate and agree that they are hereby permanently enjoined and restrained in the state of Washington from directly or indirectly engaging in the following acts or practices in the course of any sale or transfer of a motorized vehicle:
- a) Failing to timely obtain the required vehicle resale documents from the Washington State Lemon Law Administrator as required by RCW 19.118.061(3), WAC 44.10.221(3)(a)-(b), and WAC 44.10.223 (1)-(4);

- b) Failing to disclose and have the consumers timely sign the required notice forms as required by RCW 19.118.061(3), WAC 44.10.221(3)(a)-(b, and WAC 44.10.223(1)-(4); and
- c) Failing to timely comply with RCW 19.118.061(3), WAC 44.10.221(3)(a)-(b), and WAC 44.10.223(1)-(4).

IV. RESTITUTION

4.1 Defendant, in lieu of restitution, will contact each of 79 identified consumers and offer resolution in a manner acceptable to the Attorney General. The offer letters will be mailed on an evenly spaced rolling basis over the 90 days following entry of this Consent Decree. Defendant shall attempt in good faith to resolve the matter with each consumer within 120 days. Defendant will file a report with the Lemon Law Administration—Office of the Attorney General within 230 days of entry of this Consent decree, identifying the number of resolved claims, the number of unresolved claims and will state the reasons for each unresolved claim.

V. ATTORNEYS' FEES AND COSTS AND OTHER RELIEF

- 5.1 <u>Attorneys' Fees and Costs and Other Relief.</u> Defendant shall pay the State of Washington \$12,000.00 as costs and fees pursuant to 19.86 RCW. Amounts required to be paid under this section shall be paid in accordance with the terms set forth in paragraph VI. "TERMS OF PAYMENT".
- 5.2 <u>Enforcement Fees and Costs.</u> Defendant shall bear all of State's reasonable costs, including reasonable attorneys' fees and costs of collection and of enforcing this Consent Decree if Defendant is found by the Court to be in violation of any provision set forth herein.

VI. TERMS OF PAYMENT

6.1 Payment of \$12,000.00 shall be made by check, made payable to the Attorney General--State of Washington, and shall be delivered to the Office of the Attorney General, 800 Fifth Avenue, Suite 2000, Seattle, Washington 98104, Attention: Cynthia Lockridge, Administrative Office Manager, at the time this Consent Decree is entered.

VII. ENFORCEMENT

- 7.1 <u>Violation.</u> Pursuant to RCW 19.86.140, any violation of the equitable relief provisions of this Decree may form the basis for further enforcement proceedings, including but not limited to contempt of court proceedings and forfeiture of a civil penalty up to \$25,000.00 for any violation committed after the date of this Decree.
- 7.2 <u>Jurisdiction.</u> The parties stipulate and agree that the Superior Court for Pierce County shall have jurisdiction and venue for enforcing the provisions of this Consent Decree, including but not limited to injunctive relief and enforcement of the civil penalties described in paragraph 7.1, *supra*.
- 7.3 <u>Private Action.</u> Nothing in this Consent Decree shall be construed as a limit or bar to any consumer in the pursuit of other available remedies against Defendant.
- 7.4 <u>Compliance.</u> For the purpose of determining or securing compliance with this Consent Decree, representatives of the Office of the Attorney General shall be permitted for a period of one (1) year from the date of filing of this Consent Decree, upon reasonable notice to Defendant of not less than five (5) days, to have access for inspection and copying to all documents

1	
2	
3	
4	
5	relating to any matters contained in this Consent Decree. Nothing in this section shall be interpreted
. 6	to limit the Civil Investigative Demand authority granted to the Office of the Attorney General in
7	RCW 19.86.110.
8	DONE IN OPEN COURT this 8th day of August, 2007.
9	
10	MEAGAN FOLEY
11	MEAGAN FOLEY JUDGE/COURT COMMISSIONER
12	
13	Approved for entry and presented by: Approved for entry, Notice of Presentation waived:
14	ROBERT M. MCKENNA Attorney General
15	ala
16	DOUGLAS D. WALSH, WSBA #11554 PETER STEILBERG, WSBA # 22190
17	Senidr Assistant Attorney General Attorney for Defendant, McCann Motors, Inc. Attorneys for Plaintiff
18	State of Washington
19	
20	MARY OF SPORT WORD WITCH
21	MARY C/LOBDELL, WSBA #17930 Assistant Attorney/General Attorneys for Plaintiff
22	State of Washington
23	
24	
25	
26	
ا ۵	