HUDSON COOK

Minnesota Settles Deceptive Conduct Claims Against Used Car Dealership

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On August 31, Minnesota Attorney General Keith Ellison announced the settlement of a case brought against Midwest Car Search, a used car dealership, and its owner, Scott Spiczka. Under the terms of the settlement, Midwest and Spiczka agreed to reform the dealership's sales practices and pay $100,000 to resolve allegations that the dealership violated Minnesota's Used Car Rule and the state's general consumer protection statutes. Here's what happened.

In April 2024, the Minnesota AG brought an action alleging that Midwest: (1) misrepresented that its used cars were certified when they were not; (2) illegally added expensive vehicle service contracts to consumers' purchases without their consent; (3) refused to provide warranties that it was required to provide by law; (4) failed to make accurate Buyer's Guide disclosures and provide those disclosures in Spanish, as required by law; and (5) conducted business under an unregistered trade name that heavily targeted and exploited Spanish speakers.

The bulk of the allegations centered around alleged violations of Minnesota's UCR. The UCR requires, among other things, that dealerships selling used vehicles comply with various statutory requirements, including that a dealership:

- provide buyers of used vehicles with an express warranty in writing, subject to limited exceptions. The scope of the statutory warranty is dependent on the number of miles on the used vehicle and generally applies if the vehicle is less than eight years old, is sold for more than $3,000, and has fewer than 200,000 miles;
- comply in all respects with the Federal Trade Commission's Used Motor Vehicle Trade Regulation Rule; and
- satisfy certain statutory obligations before advertising or selling a used vehicle as certified. Vehicles may not be certified if they are sold as is.

According to the state, Midwest repeatedly violated the UCR by failing to disclose on Buyer's Guides the applicable state-required vehicle warranty and its terms. Further, the complaint alleged that Buyer's Guides generally were completed by marking the box indicating "AS-IS – NO DEALER WARRANTY." These practices, among others, supported general allegations that Midwest failed to offer and honor state-required statutory warranties and falsely represented that the vehicles were certified.

With respect to the allegation that Midwest illegally added vehicle service contracts to consumers' purchases without their consent, the state also relied in part on completed Buyer's Guides. The

complaint noted that the FTC's Buyer's Guide form requires dealerships to clearly and conspicuously disclose to consumers that service contracts may be available for purchase for an additional fee. Dealerships are required to check a box on the Buyer's Guide if a service contract is available to purchase for the vehicle. It appears that Midwest routinely failed to check this box for its used motor vehicle transactions. Minnesota argued that, by not checking the box, Midwest represented that no service contract was available for purchase, yet it nonetheless added service contracts to consumers' purchases. According to the state, disclosing service contract purchases on other forms "buried within a large volume of documents presented to consumers at the time of sale" was legally insufficient under the UCR.

Midwest also marketed and sold vehicles to a predominantly Spanish-speaking market but allegedly only provided documents in English. This practice allegedly violated the UCR because the FTC's UMVTRR requires that if a sale is conducted in Spanish, the dealership must provide the Buyer's Guide in Spanish.

Finally, Minnesota alleged that the above practices also violated general prohibitions against deceptive and fraudulent practices, including those in Minnesota's Uniform Deceptive Trade Practices Act, False Statement in Advertising Act, and Prevention of Consumer Fraud Act.

In addition to the payment of a $100,000 settlement sum, Midwest and Spiczka agreed that:

- Midwest will not advertise, market, or represent that vehicles are certified;
- Midwest will not sell service contracts without properly completing the Buyer's Guide and informing customers clearly and conspicuously, verbally and in writing, that the purchase of such contracts is optional;
- Midwest will accurately and fully disclose, in writing, Minnesota's required express warranties, including on the Buyer's Guide;
- Midwest will provide consumers with

Spanish-translated copies of all consumer-facing sales documents, including the Buyer's Guide, arbitration agreement, buyer's order, conditional delivery agreement, and retail installment contract for sales conducted in Spanish;

- Midwest will adopt detailed written policies and procedures to ensure compliance with the settlement and implement an initial and ongoing employee training program to ensure compliance with these policies and procedures;
- Midwest will investigate all complaints involving matters subject to the settlement and report the results to the AG after the first full quarter of the settlement and annually for four years after the settlement date; and
- Midwest will not conduct business under any unregistered trade name.

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