

**FILED**

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**KATHERINE R. DUPUIS**  
P.J.Ch.

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Attorney for Plaintiffs

By: Jeffrey Koziar (015131999)  
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[REDACTED]

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION, UNION COUNTY  
DOCKET NO.: UNN-C-122-13

JOHN J. HOFFMAN, Acting Attorney General  
of the State of New Jersey, and STEVE C.  
LEE, Acting Director of the New Jersey  
Division of Consumer Affairs,

Plaintiffs,

v.

21<sup>st</sup> CENTURY AUTO GROUP, INC.; JANE  
AND JOHN DOES 1-10, individually and as  
owners, officers, directors, shareholders,  
founders, managers, agents, servants,  
employees, representatives and/or independent  
contractors of 21<sup>st</sup> CENTURY AUTO  
GROUP, INC.; and XYZ CORPORATIONS 1-  
10,

Defendants.

Civil Action

**FINAL CONSENT JUDGMENT**

The Parties to this Action and Final Consent Judgment (the "Parties") are plaintiffs John J. Hoffman, Acting Attorney General of the State of New Jersey ("Attorney General"), and Steve C. Lee, Acting Director of the New Jersey Division of Consumer Affairs ("Director"), (collectively,

"Plaintiffs"),<sup>1</sup> and 21<sup>st</sup> Century Auto Group, Inc. ("Defendant"). As evidenced by their signatures below, the Parties do consent to the entry of this Final Consent Judgment ("Consent Judgment") and its provisions without trial or adjudication of any issue of fact or law, and without an admission of any liability or wrongdoing of any kind. The Parties consent to the entry of this Consent Judgment to avoid the expenses and uncertainty associated with further investigation and/or litigation.

#### PRELIMINARY STATEMENT

On December 12, 2013, Plaintiffs commenced this Action, alleging that Defendant violated the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. ("CFA"), the Regulations Governing Motor Vehicle Advertising Practices, N.J.A.C. 13:45A-26A.1 et seq. ("Motor Vehicle Advertising Regulations"), the Used Car Lemon Law, N.J.S.A., 56:8-67 et seq. ("UCLL"), and the Used Car Lemon Law Regulations, N.J.A.C. 13:45A-26F.1 et seq. ("UCLL Regulations"), by, among other things: (1) failing to disclose the prior condition and/or prior use of Used Motor Vehicles; (2) failing to disclose existing mechanical defects in Used Motor Vehicles; (3) failing to Clearly and Conspicuously post the total selling price of Used Motor Vehicles; and (4) Misrepresenting that certain Used Motor Vehicles Advertised and/or offered for Sale were covered by a warranty. Defendant denied the allegations.

The Court has reviewed the terms of the Consent Judgment and based upon the Parties' agreement and for good cause shown:

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<sup>1</sup> This action was commenced on behalf of Eric T. Kanefsky, Director of the New Jersey Division of Consumer Affairs. Pursuant to R. 4:34-4, the caption has been revised to reflect the current Acting Director.

**IT IS HEREBY ORDERED, ADJUDGED AND AGREED AS FOLLOWS:**

**1. JURISDICTION**

1.1 The Parties admit jurisdiction of this Court over the subject matter and over the Parties for the purpose of entering into this Consent Judgment. The Court retains jurisdiction for the purpose of enabling the Parties to apply to this Court at any time for such further orders and relief as may be necessary for the construction, modification, enforcement, execution or satisfaction of this Consent Judgment.

**2. VENUE**

2.1 Pursuant to N.J.S.A. 56:8-8, venue as to all matters between the Parties hereto relating to or arising out of this Consent Judgment shall lie exclusively in the Superior Court of New Jersey, Chancery Division, Union County.

**3. EFFECTIVE DATE**

3.1 This Consent Judgment shall be effective on the date that it is entered with the Court ("Effective Date").

**4. DEFINITIONS**

As used in this Consent Judgment, the following words or terms shall have the following meanings, which meanings shall apply whenever the words and terms appear in the Consent Judgment:

4.1 "21<sup>st</sup> Century Website" shall refer to Defendant's website located at [www.21centuryautogroup.com](http://www.21centuryautogroup.com).

4.2 “Action” refers to the action entitled John J. Hoffman, et al. v. 21<sup>st</sup> Century Auto Group, Inc., Superior Court of New Jersey, Chancery Division, Union County, Docket No.: UNN-C-122-13, and all pleadings and proceedings related thereto.

4.3 “Additional Consumer[s]” shall refer to any Consumer who submits to the Division directly or through another agency, after the Effective Date, a written Consumer complaint concerning Defendant’s business practices.

4.4 “ADR Unit” shall refer to the Alternate Dispute Resolution Unit of the Division.

4.5 “Advertisement” shall be defined in accordance with N.J.S.A. 56:8-1(a), for purposes of the CFA and Includes the Websites. “Advertisement” shall be defined in accordance with N.J.A.C. 13:45A-26A.3, for purposes of the Motor Vehicle Advertising Regulations, and Includes the Websites. These definitions apply to other forms of the word “Advertisement” Including, without limitation, “Advertise” and “Advertised.”

4.6 “Affected Consumer[s]” shall refer to the Consumers listed on Exhibit A.

4.7 “Attorney General” shall refer to the Attorney General of the State of New Jersey and the Office of Attorney General of the State of New Jersey.

4.8 “CALA” shall refer to Consumer Affairs Local Assistance offices within counties and/or municipalities in the State.

4.9 “Clearly and Conspicuously” shall mean a statement that, regardless of the medium in which it is made, is presented in such size, color, contrast, duration, location and audibility, compared to the other information with which it is presented, that it is readily apparent and understandable and in language and terms used in accordance with their common or ordinary usage and meaning. If such statement modifies, explains or clarifies other information with which it is

presented, it must be presented in proximity to the information it modifies, explains or clarifies and in a manner that is readily apparent and understandable.

4.10 "Consumer" shall refer to any Person who is offered Merchandise, defined in accordance with N.J.S.A. 56:8-1(c), for Sale.

4.11 "Division" refers to the New Jersey Division of Consumer Affairs.

4.12 "Documentary Service Fee" shall be defined in accordance with N.J.A.C. 13:45A-26B.1.

4.13 "Include" and "Including" shall be construed as broadly as possible and shall mean "without limitation."

4.14 "Person" shall be defined in accordance with N.J.A.C. 56:8-1(d).

4.15 "Represent" means to state or imply through claims, statements, questions, conduct, graphics, symbols, lettering, formats, devices, language, documents, messages, or any other manner or means by which meaning might be conveyed. This definition applies to other forms of the word "Represent" Including "Representation" and "Misrepresent."

4.16 "Restitution" shall refer to all methods undertaken by Respondent to resolve Consumer complaints Including the issuance of credits or refunds or the reversal or credit card or debit card charges.

4.17 "Sale" shall be defined in accordance with N.J.S.A. 56:8-1(e).

4.18 "Sales Document" shall be defined in accordance with N.J.S.A. 13:45A-26B.1.

4.19 "Service" shall refer to Carfax, or a similar Used Motor Vehicle history reporting service.

4.20 "State" shall refer to the State of New Jersey.

4.21 "Used Motor Vehicle" shall be defined in accordance with N.J.A.C. 13:45A-26F.2.

4.22 "Warranty" shall be defined in accordance with N.J.S.A. 56:8-67.

4.22 "Websites" mean the 21<sup>st</sup> Century Website and any other websites maintained by or on behalf of Respondent, or which is used by Respondent for the Advertisement of Used Motor Vehicles, Including www.ep.ebixautos.com.

## **5. BUSINESS PRACTICES AND INJUNCTIVE RELIEF**

5.1 Defendant shall not engage in any unfair or deceptive acts or practices in the conduct of its business in the State and shall comply with all applicable State and/or Federal laws, rules and regulations as now constituted or as may hereafter be amended Including the CFA, the Motor Vehicle Advertising Regulations, the UCLL and the UCLL Regulations.

5.2 Defendant shall not Advertise a Used Motor Vehicle as part of a plan or scheme not to sell the Used Motor Vehicle or not to sell the Used Motor Vehicle at the Advertised price, in accordance with N.J.S.A. 56:8-2.2, N.J.A.C. 13:45A-26A.4(a)1, and N.J.A.C. 13:45A-26A-10.

5.3 Defendant shall undertake a search of a Service to discern the prior use (i.e. rental) of a Used Motor Vehicle offered for Sale and to determine whether such Used Motor Vehicle has been in an accident or otherwise sustained damage. Defendant shall disclose such information to Consumers, prior to their purchase of the Used Motor Vehicle.

5.4 In its Advertisement of a Used Motor Vehicle, Defendant shall Clearly and Conspicuously disclose the Motor Vehicle's prior use, when such prior use is known or should have been known by Defendant, unless previously and exclusively owned or leased by individuals for their personal use, in accordance with N.J.A.C. 13:45A-26A.5(b)(2).

5.5 In its Advertisement of a Used Motor Vehicle, Defendant shall Clearly and Conspicuously disclose whether a Used Motor Vehicle had been previously damaged and that substantial repair or body work has been performed on it when Defendant knows or should have known of such repair or body work, in accordance with N.J.A.C. 13:45A-26A.7(a)(7).

5.6 In its Advertisement of Used Motor Vehicles, Defendant shall include the statement that "price(s) include(s) all costs to be paid by consumer, except for licensing costs, registration fees, and taxes," in accordance with N.J.A.C. 13:45A-26A.5(a)(2).

5.7 In its offering for Sale of Used Motor Vehicles, Defendant shall not Represent that a Used Motor Vehicle is sold with a Warranty, when such is not the case, as is required by N.J.S.A. 56:8-68(h).

5.8 In its offering for Sale of Used Motor Vehicles, Defendant shall not Misrepresent the terms of any written Warranty, as is required by N.J.S.A. 56:8-68(e).

5.9 Defendant shall honor the Advertised Sale price of a Used Motor Vehicle.

5.10 Defendant shall honor all terms of a negotiated deal concerning the Sale of a Used Motor Vehicle.

5.11 Defendant shall not offer for Sale and/or sell a Used Motor Vehicle for which a prior lien had not been paid off.

5.12 Defendant shall not charge Consumers for a Warranty, then fail to provide the Warranty.

5.13 Defendant shall not sell a Used Motor Vehicle without providing the Warranty required by N.J.S.A. 56:8-69.

5.14 In its offering for Sale of a Used Motor Vehicle, Defendant shall not Misrepresent the price.

5.15 Defendant shall not offer for Sale and/or sell any Used Motor Vehicle unless the total selling price is plainly marked by a stamp, tag, label or sign either affixed to the Used Motor Vehicle or located at the point where the Used Motor Vehicle is offered for Sale, in accordance with N.J.S.A. 56:8-2.5.

5.16 Defendant shall return a Consumer's trade-in motor vehicle within thirty-six (36) hours after the Consumer has cancelled the sales transaction and has not taken possession of, or has returned, the Used Motor Vehicle subject to such transaction.

5.17 Defendant shall refund monies paid by a Consumer no later than thirty-six (36) hours after the Consumer has cancelled the sales transaction and has not taken possession of, or has returned, the Used Motor Vehicle subject to such transaction.

5.18 Defendant shall provide Consumers with license plates, title and registration to a Used Motor Vehicle prior to the expiration of temporary title and/or registration.

5.19 Defendant shall not require any Consumer to sign a blank Sales Document.

5.20 At the time of Sale, Defendant shall provide a Consumer with a full and accurate copy of all Sales Documents signed by the Consumer, as required by N.J.S.A. 56:8-2.22.

5.21 Defendant shall post the Used Car Buyer's Guide either at its main entrance or in proximity to the Used Motor Vehicle or on the Used Motor Vehicle itself, as required by N.J.A.C. 13:45A-26A.9(a)3.

5.22 In its Sale of Used Motor Vehicles, Defendant shall not fail to itemize Documentary Service Fees, as required by N.J.A.C. 13:45A-26B.2(a)(2).

5.23 In its Sale of Used Motor Vehicles, Defendant shall not fail to include on Sales Documents the Consumer notice concerning Documentary Service Fees, as required by N.J.A.C. 13:45A-26B.2(a)(2).

5.24 Defendant shall collect an administrative fee of \$0.50 from each Consumer who purchases a Used Motor Vehicle, in accordance with N.J.A.C. 13:45A-26F.6(a).

5.25 By the 15<sup>th</sup> of every January, Respondent shall remit to the Division's Used Car Lemon Law Unit the administrative fees and/or documentation concerning the Used Motor Vehicles sold, in accordance with N.J.A.C. 13:45A-26F.6(b).

## **6. RESTITUTION**

6.1 Attached as Exhibit A is a list of the Affected Consumers. Prior to the Effective Date, the Division shall provide Defendant with copies of the Affected Consumers' complaints.

6.2 Designated representatives of Defendant shall review the Affected Consumers' complaints with the Division's designated representatives and make a good faith effort to agree on the Restitution due, if any, to the Affected Consumers. If the Parties agree as to Restitution, then the Division shall provide written notification to each Affected Consumer as to the recommended Restitution with a copy of said notice to be provided to Defendant. The Division shall provide such notification within ten (10) days of the Parties' agreement as to Restitution.

6.3 If the Affected Consumer agrees to the recommended Restitution, Defendant shall forward the agreed upon Restitution directly to the Affected Consumer. Defendant shall simultaneously provide the Division with copies of all documents forwarded to the Affected Consumer. Upon receipt of such documents, the complaint of the Affected Consumer shall be deemed closed.

6.4 The Division shall also deem closed the complaint of any Affected Consumer who (a) refuses the Restitution recommended by the Parties; or (b) fails to respond to the Division's written notification of the recommended Restitution within thirty (30) days thereafter.

6.5 If the Parties representatives cannot reach agreement as to the Restitution for an Affected Consumer, then the Parties agree to transfer the Affected Consumer's complaint to the ADR Unit for binding arbitration. Defendant agrees herein to consent to this arbitration process and to be bound by the arbitrator's decision. Defendant further agrees to be bound by the immunity provisions of the New Jersey Arbitration Act, N.J.S.A. 2A:23B-14, and the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq. The Division shall notify both the Affected Consumer and Defendant of the referral of the complaint to the ADR Unit. Thereafter, upon the consent of the Affected Consumers, the arbitration shall proceed in accordance with the ADR Guidelines (a copy of which are attached as Exhibit B).

6.6 If Defendant refuses to participate in the ADR program, the arbitrator may enter a default against Defendant. Unless otherwise specified in the arbitration award, Defendant shall pay all arbitration awards within thirty (30) days of the arbitrator's decision.

6.7 Defendant's failure or refusal to comply with the requirements of Sections 6.2 through 6.6 and/or participate in the arbitration process or pay an arbitration award timely shall constitute a violation of this Consent Judgment.

6.8 If an Affected Consumer refuses to participate in the ADR program, that Affected Consumer's complaint shall be deemed closed for the purposes of this Consent Judgment.

6.9 The Parties may agree in writing to alter any time periods or deadlines set forth in this Section.

## 7. ADDITIONAL CONSUMER COMPLAINTS

7.1 For a period of one (1) year from the Effective Date, the Division shall forward to Defendant copies of any Additional Consumer complaints. The Division shall forward to Defendant such complaints within thirty (30) days of the Division's receipt thereof.

7.2 Within thirty (30) days of the Effective Date, the Division shall designate a representative to facilitate the resolution of the Additional Consumer Complaints.

7.3 After forwarding to Defendant the complaints of the Additional Consumers, the Division shall notify the Additional Consumers, in writing, of the following: (a) that their complaints have been forwarded to Defendant; (b) that they should expect a response from Defendant within thirty (30) days from the date of this notice; and (c) their right to refer their complaints to the ADR Unit for binding arbitration if Defendant disputes the complaint and/or requested relief.

7.4 Within thirty (30) days of receiving the Additional Consumer complaint from the Division, Defendant shall send a written response to each Additional Consumer, with a copy sent by first class mail, fax or email to the following: New Jersey Division of Consumer Affairs, Office of Consumer Protection, Case Management Tracking Supervisor, 124 Halsey Street, P.O. Box 45025, Newark, New Jersey 07101, fax number: 973-648-3139, [cmt@dca.lps.state.nj.us](mailto:cmt@dca.lps.state.nj.us).

7.5 If Defendant does not dispute the Additional Consumer's complaint and requested relief, Defendant's written response shall so inform the Additional Consumer. Where Restitution concerns the reversal of credit or debit card charges, Defendant shall include documents evidencing that such adjustments have been made. Where Restitution concerns a refund or other payment, such

shall be made by bank check, money order or other guaranteed funds made payable to the Additional Consumer.

7.6 If Respondent disputes the Additional Consumer's complaint and/or requested relief, Defendant's written response shall include copies of all documents concerning Defendant's dispute of the Additional Consumer's complaint.

7.7 Within forty-five (45) days of receiving from the Division an Additional Consumer complaint, Defendant shall provide the Division with written notification of each Additional Consumer whose complaint has been resolved. Such notification shall also include the following:

- (a) The Restitution provided as to each such Additional Consumer;
- (b) The efforts Defendant has undertaken to locate an Additional Consumer whose Restitution was returned as undeliverable; and
- (c) Confirmation that Defendant sent all mailings to the Additional Consumer as required by this Section.

Following the Division's receipt of such notification, the complaint of each Additional Consumer who received Restitution shall be deemed closed for purposes of this Consent Judgment.

7.8 If Defendant has not notified the Division that an Additional Consumer's complaint has been resolved within sixty (60) days of receiving the Additional Consumer complaint from the Division or if an Additional Consumer refuses Defendant's offer of Restitution, the Division shall forward such Additional Consumer complaint to the ADR Unit for binding arbitration. Defendant agrees herein to consent to this arbitration process and to be bound by the arbitrator's decision. Defendant further agrees to be bound by the immunity provisions of the New Jersey Arbitration Act, N.J.S.A. 2A:23B-14, and the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq. The Division

shall notify any such Additional Consumer of the referral of the complaint to the ADR Unit. Thereafter, the arbitration shall proceed in accordance with the ADR Guidelines.

7.9 If an Additional Consumer refuses to participate in the ADR program, that Additional Consumer's complaint shall be deemed closed for the purposes of this Consent Judgment.

7.10 The Parties may agree in writing to alter any time periods or deadlines set forth in this Section.

### **8. COMPLIANCE MONITOR**

8.1 Within thirty (30) days of the Effective Date, Defendant shall retain an Independent Compliance Monitor ("Compliance Monitor") to perform the functions set forth below. Defendant shall bear all costs associated with the Compliance Monitor.

8.2 The Compliance Monitor shall be an individual whose retention is approved in advance by the Division and who is familiar with the terms of the Consent Judgment. The Compliance Monitor will serve in this capacity for a period of twelve (12) months from the date of retention ("Monitoring Period").

8.3 The Compliance Monitor shall not have any direct or indirect interest in, or relationship with, either the Division or Defendant that would impede, or reasonably be perceived to impede, the Compliance Monitor's ability to perform the services under this Consent Judgment.

8.4 The Compliance Monitor shall not be employed by or affiliated with Defendant nor any other entity owned or controlled by Defendant, for a period of at least one (1) year from the termination of the Monitoring Period.

8.5 Defendant shall incur the costs required to compensate the Compliance Monitor, which shall not exceed Twenty Thousand and 00/100 Dollars (\$20,000.00).

8.6 The Compliance Monitor shall be compensated at a quarterly rate of not more than Five Thousand and 00/100 Dollars (\$5,000.00), which shall include all costs incurred by the Compliance Monitor, and he/she shall submit a quarterly invoice to Defendant for that amount. Defendant shall pay each invoice within thirty (30) days upon receipt.

8.7 The Compliance Monitor shall perform the following functions: (a) monitor Defendant's compliance with the terms of this Consent Judgment as well as with all applicable State and/or Federal laws, rules and regulations as now constituted or as may hereafter be amended including, but not limited to, the CFA, the Motor Vehicle Advertising Regulations, the UCLL and the UCLL Regulations; (b) monitor Defendant's compliance with its own internal policies and procedures; (c) evaluate the adequacy of Defendant's internal policies and procedures to ensure compliance with all applicable State and/or Federal laws and to recommend any changes to those policies and procedures that the Compliance Monitor deems reasonably necessary to achieve such compliance; (d) facilitate the resolution of Additional Consumer Complaints in accordance with Section 7; and (e) provide to the Division written quarterly reports.

8.8 The Compliance Monitor's quarterly reports referenced in Section 8.7 shall include the following: (a) the Compliance Monitor's findings with respect to Defendant's compliance with all applicable State and/or Federal laws, Defendant's own policies and procedures, and this Consent Judgment, including an identification of any compliance deficiencies; (b) the Compliance Monitor's recommendations for curing such deficiencies; and (c) a summary of the disposition of Additional Consumer Complaints.

8.9 Within thirty (30) days of the Effective Date, Defendant shall send to the Division the full name, business address (street and mailing), telephone number, facsimile number and electronic mail address of the Compliance Monitor.

### 9. SETTLEMENT PAYMENT

9.1 The Parties have agreed to a settlement of the Action in the amount of One Hundred Thirty Thousand and 00/100 Dollars (\$130,000.00) ("Settlement Payment").

9.2 The Settlement Payment comprises One Hundred Thousand Five Hundred Thirteen and 00/100 Dollars (\$100,513.00) in civil penalties, pursuant to N.J.S.A. 56:8-13, and Twelve Thousand Three Hundred Thirty-Seven and 00/100 Dollars (\$12,337.00) as reimbursement of the Plaintiffs' investigative costs, pursuant to N.J.S.A. 56:8-11, and Seventeen Thousand One Hundred Seventy-Fifty and 00/100 Dollars (\$17,150.00) as reimbursement of the Plaintiffs' attorneys' fees, pursuant to N.J.S.A. 56:8-19.

9.3 Defendant shall make the Settlement Payment according to the following schedule:

- (a) Thirty Thousand and 00/100 Dollars (\$30,000) on or before the Effective Date; and
- (b) Eighteen monthly payments of Five Thousand Five Hundred Fifty Five and 55/100 Dollars (\$5,555.55) on the first day of each month from January 1, 2015 through June 1, 2016.

9.4 All payments made in satisfaction of the Settlement Payment shall be made by a certified or cashier's check or other guaranteed funds made payable to "New Jersey Division of Consumer Affairs" and forwarded to:

Jeffrey Koziar, Deputy Attorney General  
State of New Jersey  
Office of the Attorney General  
Department of Law and Public Safety

Division of Law  
Consumer Fraud Prosecution Section  
124 Halsey Street-5th Floor  
P.O. Box 45029  
Newark, New Jersey 07101

9.5 Upon making the Settlement Payment, Defendant shall immediately be fully divested of any interest in, or ownership of, the monies paid and all interest in the monies, and any subsequent interest or income derived therefrom shall inure entirely to the benefit of the Plaintiffs pursuant to the terms herein.

9.6 In the event Defendant fails to comply with Section 9.3, the outstanding portion of the Settlement Payment shall be immediately due and payable upon notice by the Plaintiffs. In any such notice, however, Plaintiffs shall provide Defendant with the specific details of the alleged noncompliance and Defendant shall be afforded a fifteen day (15) day period within which to cure any such noncompliance. In the event of Defendant's failure to cure any such noncompliance, Plaintiffs may move on short notice or by Order to Show Cause to have a Judgment entered for the outstanding portion of the Settlement Payment.

#### **10. GENERAL PROVISIONS**

10.1 This Consent Judgment is entered into by the Parties as their own free and voluntary act and with full knowledge and understanding of the obligations and duties imposed by this Consent Judgment.

10.2 This Consent Judgment shall be governed by, and construed and enforced in accordance with, the laws of the State

10.3 The Parties have negotiated, jointly drafted and fully reviewed the terms of this Consent Judgment and the rule that uncertainty or ambiguity is to construed against the drafter shall not apply to the construction or interpretation of this Consent Judgment.

10.4 This Consent Judgment contains the entire agreement among the Parties. Except as otherwise provided herein, this Consent Judgment shall be modified only by a written instrument signed by or on behalf of the Division and Defendant.

10.5 Except as otherwise explicitly provided in this Consent Judgment, nothing herein shall be construed to limit the authority of the Attorney General to protect the interests of the State or the people of the State.

10.6 If any portion of this Consent Judgment is held invalid or unenforceable by operation of law, the remaining terms of this Consent Judgment shall not be affected.

10.7 This Consent Judgment shall be binding upon Defendant as well as its owners, officers, directors, shareholders, founders, managers, agents, servants, employees, representatives, successors and assigns, and any person through which it may now or hereafter act, as well as any Persons who have authority to control or who, in fact, control and direct its business.

10.8 This Consent Judgment shall be binding upon the Parties and their successors in interest. In no event shall assignment of any right, power or authority under this Consent Judgment be used to avoid compliance with this Consent Judgment.

10.9 This Consent Judgment is entered into by the Parties for settlement purposes only. Neither the fact of, nor any provision contained in this Consent Judgment shall be construed as: (a) an approval, sanction or authorization by the Attorney General, the Division or any other governmental unit of the State of any act or practice of the Defendant; or (b) an admission by

Defendant that any of its acts or practices described in or prohibited by this Consent Judgment are unfair or deceptive or violate the CFA, the Motor Vehicle Advertising Regulations, the UCLL and/or the UCLL Regulations. Neither the existence of, nor the terms of this Consent Judgment shall be deemed to constitute evidence or precedent of any kind except in: (a) an action or proceeding by one of the Parties to enforce, rescind or otherwise implement or affirm any or all of the terms herein; or (b) an action or proceeding involving a Released Claim (as defined in Section 11) to support a defense of res judicata, collateral estoppel, release or other theory of claim preclusion, issue preclusion or similar defense.

10.10 Unless otherwise prohibited by law, any signatures by the Parties required for entry of this Consent Judgment may be executed in counterparts, each of which shall be deemed an original, but all of which shall together be one and the same Consent Judgment.

10.11 The Parties represent and warrant that their signatories to this Consent Judgment have authority to act for and bind the respective Parties.

## **11. RELEASE**

11.1 In consideration of the injunctive relief, payments, undertakings, mutual promises and obligations provided for in this Consent Judgment and conditioned on Defendant providing Restitution in the manner specified in Sections 6 and 7, and making the Settlement Payment in the manner specified in Section 9, Plaintiffs hereby agree to release Defendant from any and all civil claims or Consumer related administrative claims, to the extent permitted by State law, which Plaintiffs could have brought prior to the Effective Date against Defendant for violations of the CFA, the Motor Vehicle Advertising Regulations, the UCLL and/or the UCLL Regulations as

alleged in the Action, as well as matters specifically addressed in this Consent Judgment (“Released Claims”).

11.2 Notwithstanding any term of this Consent Judgment, the following do not comprise Released Claims: (a) private rights of action, provided, however, that nothing herein shall prevent Defendant from raising the defense of set-off against any Affected Consumer or Additional Consumer who has received Restitution; (b) actions to enforce this Consent Judgment; and (c) any claims against Defendant by any other agency or subdivision of the State.

## **12. FORBEARANCE ON EXECUTION AND DEFAULT**

12.1 Defendant agrees to pay all reasonable attorneys’ fees and costs including, but not limited to Court costs, associated with any successful collection efforts by Plaintiffs pursuant to this Consent Judgment.

12.2 On or before the Effective Date, and continuing until its obligations under this Consent Judgment are completed, Defendant shall provide Plaintiffs with a writing containing its current address, telephone number and facsimile number for service of any document in the event of default. Within five (5) days of relocating to a new address or obtaining new telephone or facsimile numbers, Defendant shall provide such information in writing to the Plaintiffs.

12.3 In the event of Defendant’s default under Sections 6, 7, and/or 9 of this Consent Judgment, service upon Defendant shall be effective upon mailing a notice via First Class Mail to its most current address and sending the same notice by facsimile transmission. Alternatively, Plaintiffs may effect service in the manner provided under Section 15.1.

### **13. PENALTIES FOR FAILURE TO COMPLY**

13.1 The Attorney General (or designated representative) shall have the authority to enforce the injunctive provisions of this Consent Judgment or to seek sanctions for violations hereof or both.

13.2 The Parties agree that any future violations by Defendant of the injunctive provisions of this Consent Judgment, the CFA, the Motor Vehicle Advertising Regulations, the UCLL and/or the UCLL Regulations shall constitute a second and succeeding violation pursuant to N.J.S.A. 56:8-13, and that Defendant may be liable for enhanced civil penalties.

### **14. COMPLIANCE WITH ALL LAWS**

14.1 Except as provided in this Consent Judgment, no provision herein shall be construed as:

- (a) Relieving Defendant of its obligation to comply with all State and Federal laws, regulations or rules, as now constituted or as hereafter may be amended, or as granting permission to engage in any acts or practices prohibited by such laws, regulations or rules; or
- (b) Limiting or expanding any right the Plaintiffs may otherwise have to obtain information, documents or testimony from Defendant pursuant to any State or Federal law, regulation or rule, as now constituted or as hereafter may be amended, or limiting or expanding any right Defendant may otherwise have pursuant to any State or Federal law, regulation or rule, to oppose any process employed by the Plaintiffs to obtain such information, documents or testimony.

### **15. NOTICES UNDER THIS CONSENT ORDER**

15.1 Except as otherwise provided herein, any notices or other documents required to be sent to the Plaintiffs or Defendant pursuant to this Consent Judgment shall be sent by United States mail, Certified Mail Return Receipt Requested, or other nationally recognized courier service that

provides for tracking services and identification of the Person signing for the documents. The notices and/or documents shall be sent to the following addresses:

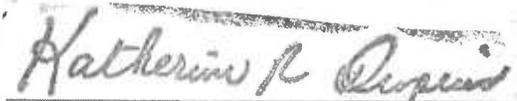
For the Plaintiffs:

Jeffrey Koziar, Deputy Attorney General  
State of New Jersey  
Office of the Attorney General  
Department of Law and Public Safety  
Division of Law  
Consumer Fraud Prosecution Section  
124 Halsey Street - 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, New Jersey 07101

For Defendant:

Leonard A. Bellavia, Esq  
Bellavia Blatt, Andron & Crossett, PC  
200 Old Country Road, Suite 400  
Mineola, New York 11501

IT IS ON THE 3rd DAY OF October, 2014 SO  
ORDERED, ADJUDGED AND DECREED



HON/ KATHERINE R. DUPUIS, P.J. CH.

JOINTLY APPROVED AND SUBMITTED FOR ENTRY:

FOR THE PLAINTIFFS:

JOHN J. HOFFMAN  
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Admitted to  
Practice Pro Hac Vice  
For The purposes of  
This Litigation

21 CENTURY AUTO GROUP, INC.

By: Dmitri Zeldin Dated: 9/29, 2014  
Dmitri Zeldin  
(Title)  
(Address)