



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ANDREW M. CUOMO
ATTORNEY GENERAL

DIVISION OF REGIONAL OFFICES
UTICA REGIONAL OFFICE

July 29, 2009

Al Carbone, President
Carbone Dodge-Chrysler-Jeep
5017 Commercial Drive
Yorkville, NY 13495

Dear Mr. Carbone:

This office has reviewed your July 25th advertisement in the Utica Observer-Dispatch promoting your dealership's participation in the Car Allowance Rebate System ("CARS") program. We find that the ads are likely to mislead consumers and, therefore, we request that you modify all future CARS advertising in accordance with our comments below.

The ads prominently proclaim in a banner headline "WE ARE YOUR CHRYSLER CASH FOR CLUNKERS HEADQUARTERS." It indicates various examples of the offering price of specific vehicles after a "Clunker Credit" of \$4,500, which is separately indicated, has been applied with other discounts. No asterisk appears directing the reader to look for an explanatory footnote regarding the "Clunker Credit," although other items are asterisked. However, at the beginning of a long footnote that refers to the asterisked items, the following appears: "Cash for Clunkers-Must qualify. See dealer or visit car.gov website for details." This buried reference to the CARS program is the only explication offered in the ad of the CARS program. And it is buried despite the fact that, for each vehicle offered, the advertised CARS discount of \$4,500.00 is equal to or considerably exceeds any other type of discount offered.

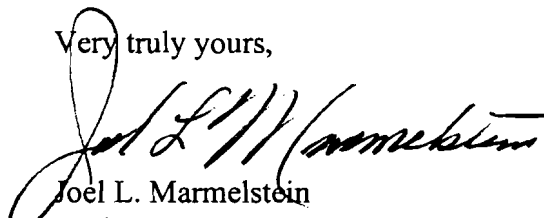
This type of misleading advertisement falls within the prohibitions contained in the New York State Attorney General's Advertising Guidelines for Auto Dealers which state, at Section 1 ("Statement of Principles"): Deception may ... result from the failure to clearly and conspicuously disclose any material facts, including limitations, disclaimers, qualifications, conditions, exclusions or restrictions."

These kinds of deceptive ads are also addressed in the Guidelines at Section III (A) (1), which prohibits the “[u]se of one or more footnotes or asterisks which alone or in combination, contradict, confuse, materially modify or unreasonably limit a principal message of the ad.” Therefore, if CARS discounts are to appear prominently in your advertising, then the ads must conspicuously disclose the most significant conditions attached to the program, preferably in the main text with any additional material appearing in properly referenced and formatted footnotes.

This office does not seek to discourage advertising that encourages New York consumers to consider taking advantage of the CARS program. However, it will not permit any auto dealership to advertise the program in a false manner that misleads consumers and places dealerships that advertise lawfully at a competitive disadvantage. The Attorney General has the authority pursuant to Executive Law §63(12) and General Business Law Article 22-A to commence legal action to enjoin deceptive or illegal business practices, and to obtain restitution, penalties and costs whenever a business is engaged in deception, fraud or illegality. In addition, General Business Law § 350 prohibits false advertising. The Attorney General is also authorized pursuant to these statutes to issue subpoenas when investigating any activity which may violate these statutes. Please ensure immediately that your advertisements, wherever they may appear – print, radio, television, online or in-store – prominently disclose the most significant limitations of the CARS program if they are to continue to prominently indicate any CARS discount.

Thank you, in advance, for your cooperation.

Very truly yours,



Joel L. Marmelstein
Assistant Attorney General In Charge

JLM;jm



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DIVISION OF REGIONAL OFFICES
UTICA REGIONAL OFFICE

July 29, 2009

Al Carbone, President
Carbone Nissan
4967 Commercial Drive
Yorkville, NY 13495

Dear Mr. Carbone:

This office has reviewed your July 22nd advertisement in the Utica Observer-Dispatch promoting your dealership's participation in the Car Allowance Rebate System ("CARS") program. We find that the ads are likely to mislead consumers and, therefore, we request that you modify all future CARS advertising in accordance with our comments below.

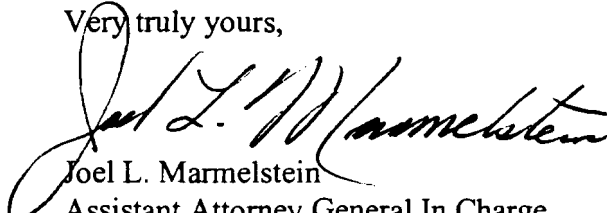
The ad prominently proclaims in a banner headline "CASH FOR CLUNKERS HEADQUARTERS." It indicates various examples of the offering price of two specific vehicles after a "CARS" rebate of \$4,500, which is separately indicated, has been applied with other discounts. The ad clearly implies that \$4,500 will be given in every case which is not true and fails to mention any other of the major conditions of the CARS program so that consumers may make a determination as to whether the transactions they are considering might qualify them for the rebate. This type of misleading advertisement falls within the prohibitions contained in the New York State Attorney General's Advertising Guidelines for Auto Dealers which state, at Section 1 ("Statement of Principles"): Deception may ... result from the failure to clearly and conspicuously disclose any material facts, including limitations, disclaimers, qualifications, conditions, exclusions or restrictions."

This office does not seek to discourage advertising that encourages New York consumers to consider taking advantage of the CARS program. However, it will not permit any auto dealership to advertise the program in a false manner that misleads consumers and places dealerships that advertise lawfully at a competitive disadvantage. The Attorney General has the authority pursuant to Executive Law §63(12) and General Business Law Article 22-A to commence legal action to enjoin deceptive or illegal business practices, and to obtain restitution,

penalties and costs whenever a business is engaged in deception, fraud or illegality. In addition, General Business Law § 350 prohibits false advertising. The Attorney General is also authorized pursuant to these statutes to issue subpoenas when investigating any activity which may violate these statutes. Please ensure immediately that your advertisements, wherever they may appear – print, radio, television, online or in-store – prominently disclose the most significant limitations of the CARS program if they are to continue to prominently indicate any CARS discount.

Thank you, in advance, for your cooperation.

Very truly yours,



Joel L. Marmelstein
Assistant Attorney General In Charge

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July 29, 2009

Joseph Steet, President
Steet-Ponte Chevrolet
Route 28
Herkimer, NY 13350

Dear Mr. Steet:

This office has reviewed your recent advertisement in the Utica Observer-Dispatch promoting your dealership's participation in the Car Allowance Rebate System ("CARS") program. We find that the ads are likely to mislead consumers and, therefore, we request that you modify all future CARS advertising in accordance with our comments below.

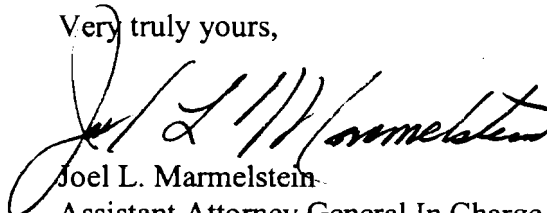
The ads indicate various examples of the offering price of six specific vehicles after a "Cash For Clunkers" rebate of \$4,500, which is separately indicated, has been applied with other discounts. Only the ad appearing on July 23rd indicates that the rebate is "up to" \$4,500. The July 27th ad makes no such reference and clearly implies that \$4,500 will be given in every case. Neither ad mentions any other of the major conditions of the CARS program so that consumers may make a determination as to whether the transactions they are considering might qualify them for the rebate. This type of misleading advertisement falls within the prohibitions contained in the New York State Attorney General's Advertising Guidelines for Auto Dealers which state, at Section 1 ("Statement of Principles"): Deception may ... result from the failure to clearly and conspicuously disclose any material facts, including limitations, disclaimers, qualifications, conditions, exclusions or restrictions."

This office does not seek to discourage advertising that encourages New York consumers to consider taking advantage of the CARS program. However, it will not permit any auto dealership to advertise the program in a false manner that misleads consumers and places dealerships that advertise lawfully at a competitive disadvantage. The Attorney General has the authority pursuant to Executive Law §63(12) and General Business Law Article 22-A to commence legal action to enjoin deceptive or illegal business practices, and to obtain restitution,

penalties and costs whenever a business is engaged in deception, fraud or illegality. In addition, General Business Law § 350 prohibits false advertising. The Attorney General is also authorized pursuant to these statutes to issue subpoenas when investigating any activity which may violate these statutes. Please ensure immediately that your advertisements, wherever they may appear – print, radio, television, online or in-store – prominently disclose the most significant limitations of the CARS program if they are to continue to prominently indicate any CARS discount.

Thank you, in advance, for your cooperation.

Very truly yours,



Joel L. Marmelstein
Assistant Attorney General In Charge

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July 29, 2009

Don Carbone, President
Don's Superstore
5712 Horatio Street
Utica, NY 13501

Dear Mr. Carbone:

This office has reviewed your July 23rd advertisement in the Utica Observer-Dispatch promoting your dealership's participation in the Car Allowance Rebate System ("CARS") program. We find that the ads are likely to mislead consumers and, therefore, we request that you modify all future CARS advertising in accordance with our comments below.

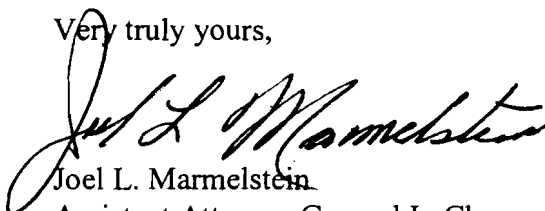
The ad indicates various examples of the offering price of two specific vehicles after a "Cash For Clunkers" rebate of \$4,500, which is separately indicated, has been applied with other discounts. The ad clearly implies that \$4,500 will be given in every case which is not true and fails to mention any other of the major conditions of the CARS program so that consumers may make a determination as to whether the transactions they are considering might qualify them for the rebate. This type of misleading advertisement falls within the prohibitions contained in the New York State Attorney General's Advertising Guidelines for Auto Dealers which state, at Section 1 ("Statement of Principles"): Deception may ... result from the failure to clearly and conspicuously disclose any material facts, including limitations, disclaimers, qualifications, conditions, exclusions or restrictions."

This office does not seek to discourage advertising that encourages New York consumers to consider taking advantage of the CARS program. However, it will not permit any auto dealership to advertise the program in a false manner that misleads consumers and places dealerships that advertise lawfully at a competitive disadvantage. The Attorney General has the authority pursuant to Executive Law §63(12) and General Business Law Article 22-A to commence legal action to enjoin deceptive or illegal business practices, and to obtain restitution,

penalties and costs whenever a business is engaged in deception, fraud or illegality. In addition, General Business Law § 350 prohibits false advertising. The Attorney General is also authorized pursuant to these statutes to issue subpoenas when investigating any activity which may violate these statutes. Please ensure immediately that your advertisements, wherever they may appear – print, radio, television, online or in-store – prominently disclose the most significant limitations of the CARS program if they are to continue to prominently indicate any CARS discount.

Thank you, in advance, for your cooperation.

Very truly yours,



Joel L. Marmelstein
Assistant Attorney General In Charge

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July 29, 2009

Donald Davidson, President
Davidson Chevrolet Cadillac Buick Pontiac GMC of Rome
7019 East Dominick Street
Rome, NY 13440

Dear Mr. Davidson:

This office has reviewed your recent July 24th advertisement in the Rome Daily Sentinel promoting what appears to be your dealership's participation in the Car Allowance Rebate System ("CARS") program. We find that the ads are likely to mislead consumers and, therefore, we request that you modify all future CARS advertising in accordance with our comments below.

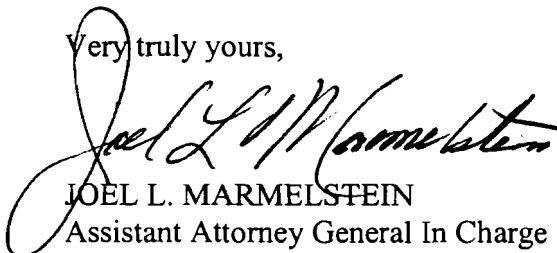
The ad prominently proclaims in a banner headline a "GET UP TO \$10, 333 OFF!" It indicates various examples of the offering price of four specific vehicles after a "Cash for Clunkers" credit of \$4,500 credit, which is separately indicated, has been applied with other discounts. It inconspicuously includes in a small footnote a general disclaimer which indicates that "To qualify for Cash for Clunkers incentive see dealer for details." Nowhere are any of the major conditions of the CARS program disclosed so that consumers may make a determination as to whether the transactions they are considering might qualify them for the \$4,500.00 discount. The fact that more information about the CARS discount is available on your website is of little consequence since readers are not informed of this fact or invited to the website for this purpose but rather only to "Check out (your) inventory...."

In addition, the New York State Attorney General's Advertising Guidelines for Auto Dealers prohibit, at Section III (A) (1), the "[u]se of one or more footnotes or asterisks which alone or in combination, contradict, confuse, materially modify or unreasonably limit a principal message of the ad." Therefore, if CARS discounts are to appear prominently in your advertising, then the ads must conspicuously disclose the most significant conditions attached to the program, preferably in the main text with additional details, if appropriate, in a footnote.

This office does not seek to discourage advertising that encourages New York consumers to consider taking advantage of the CARS program. However, it will not permit any auto dealership to advertise the program in a false manner that misleads consumers and places dealerships that advertise lawfully at a competitive disadvantage. The Attorney General has the authority pursuant to Executive Law §63(12) and General Business Law Article 22-A to commence legal action to enjoin deceptive or illegal business practices, and to obtain restitution, penalties and costs whenever a business is engaged in deception, fraud or illegality. In addition, General Business Law § 350 prohibits false advertising. The Attorney General is also authorized pursuant to these statutes to issue subpoenas when investigating any activity which may violate these statutes. Please ensure immediately that your advertisements, wherever they may appear – print, radio, television, online or in-store – prominently disclose the most significant limitations of the CARS program if they are to continue to prominently indicate any CARS discount.

Thank you, in advance, for your cooperation.

Very truly yours,

A handwritten signature in black ink, reading "Joel L. Marmelstein". The signature is written in a cursive style with a large, looping initial "J".

JOEL L. MARMELSTEIN
Assistant Attorney General In Charge

JLM;jm



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July 29, 2009

David Cooper, President
Cooper Kia
5056 Commercial Drive
Yorkville, NY 13495

Dear Mr. Cooper:

This office has reviewed your recent July 24th advertisement in the Utica Observer-Dispatch promoting what appears to be your dealership's participation in the Car Allowance Rebate System ("CARS") program. We find that the ad is likely to mislead consumers and, therefore, we request that you modify all future CARS advertising in accordance with our comments below.

The ad prominently proclaims in a banner headline a "COOPER KIA HAS BEEN DESIGNATED AS A SITE TO CONDUCT THIS SPECIAL U.S. OFFER." It includes the CARS logo. It then purports to set forth the major conditions of the program in a chart, which is captioned "Car Allowance Rebate System (CARS) at a Glance," and which provides CARS program information, such as that a new passenger car must have a combined fuel efficiency of at least 22 mpg to qualify. This statement is deceptive because, while it purports to disclose key elements of the program, it omits the most far reaching of its limitations, namely the requirement that the combined mpg of any trade-in not exceed 18 mpg. This type of misleading advertisement falls within the prohibitions contained in the New York State Attorney General's Advertising Guidelines for Auto Dealers which state, at Section 1 ("Statement of Principles"): "Deception may ... result from the failure to clearly and conspicuously disclose any material facts, including limitations, disclaimers, qualifications, conditions, exclusions or restrictions."

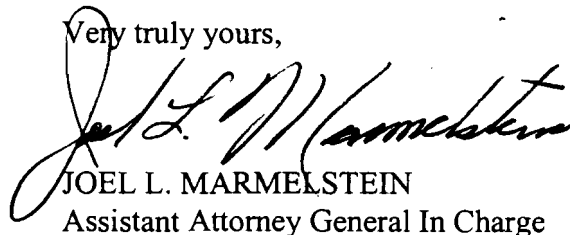
While some additional information is provided in a footnote, no asterisk appears directing the reader to look there. Further, the Guidelines, at Section III (A) (1), prohibit the “[u]se of one or more footnotes or asterisks which alone or in combination, contradict, confuse, materially modify or unreasonably limit a principal message of the ad.” The print size used in the footnote is also questionable in light of Section III (A)(2) which prohibits the “[u]se of any print in type size so small as to be not easily readable.” Therefore, if CARS discounts are to appear prominently in your advertising, then the ads must conspicuously disclose the most significant conditions attached to the program, preferably in the main text with additional details, or if appropriate, in a footnote utilizing print of sufficient size.

Finally, the prices given for the four vehicles shown seem to reflect various credits up to \$10,000 including either \$3,500 or \$4,500 under CARS. If true, such prices would only be available if the buyer qualified for all rebates and discounts offered. The ad creates a deceptive inference in violation of Guidelines Section I.

This office does not seek to discourage advertising that encourages New York consumers to consider taking advantage of the CARS program. However, it will not permit any auto dealership to advertise the program in a false manner that misleads consumers and places dealerships that advertise lawfully at a competitive disadvantage. The Attorney General has the authority pursuant to Executive Law §63(12) and General Business Law Article 22-A to commence legal action to enjoin deceptive or illegal business practices, and to obtain restitution, penalties and costs whenever a business is engaged in deception, fraud or illegality. In addition, General Business Law § 350 prohibits false advertising. The Attorney General is also authorized pursuant to these statutes to issue subpoenas when investigating any activity which may violate these statutes. Please ensure immediately that your advertisements, wherever they may appear – print, radio, television, online or in-store – prominently disclose the most significant limitations of the CARS program if they are to continue to prominently indicate any CARS discount.

Thank you, in advance, for your cooperation.

Very truly yours,



JOEL L. MARMELSTEIN
Assistant Attorney General In Charge

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July 29, 2009

Paul J. Uvanni, President
Victory Chrysler Dodge Jeep
5827 Rome Taberg Road
Rome, NY 13440

Dear Mr. Uvanni:

This office has reviewed your recent July 24th advertisement in the Rome Daily Sentinel promoting what appears to be your dealership's participation in the Car Allowance Rebate System ("CARS") program. We find that such ads are likely to mislead consumers and, therefore, we request that you modify all future CARS advertising in accordance with our comments below.

The ad prominently proclaims in a banner headline a "DOUBLE CASH FOR YOUR OLD CAR." It states "Turn in your old car and you'll get up to \$4,500 toward a new Chrysler, Dodge or Jeep." Also included is the popular "CARS" symbol which correctly defines it as the "car allowance rebate system." The ad indicates various examples of the offering price of six specific vehicles after a "CARS Rebate" of "up to" \$4,500, which is separately indicated, has been applied with other discounts. It includes in the smallest print on the ad, (smaller than the stock number for the six vehicles mentioned) the following statement: "CARS credit is in addition to all other incentives when you turn in your vehicle with 18 'new' combined mpg or less and you purchase an eligible more fuel efficient new vehicle. Program ends when government funding has been exhausted or Nov. 1, 2009, whichever comes first. For complete program rules or eligibility see dealer or visit cars-gov." These statements are deceptive for the following reasons.

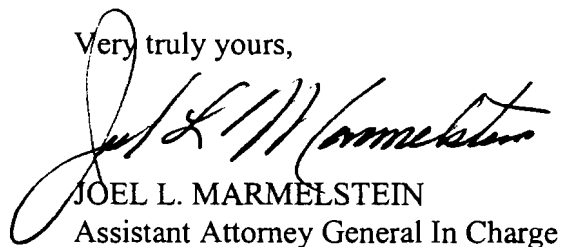
While the ad purports to disclose key elements of the program, it omits several significant limitations. It fails to adequately inform the reader that the credit depends on the type of vehicle being traded in, the type of vehicle being purchased and how much the fuel efficiency of the new vehicle exceeds that of the trade-in; that the trade-in vehicle must have been insured and registered to the current owner for at least one year prior to the trade-in; and that yours is a duly registered dealership authorized to participate in the CARS program.

In addition, the New York State Attorney General's Advertising Guidelines for Auto Dealers prohibit, at Section III (A) (2), the "[u]se of any print in type size so small as to be not easily readable." The lengthy statement set forth above is not easily readable.

This office does not seek to discourage advertising that encourages New York consumers to consider taking advantage of the CARS program. However, it will not permit any auto dealership to advertise the program in a false manner that misleads consumers and places dealerships that advertise lawfully at a competitive disadvantage. The Attorney General has the authority pursuant to Executive Law §63(12) and General Business Law Article 22-A to commence legal action to enjoin deceptive or illegal business practices, and to obtain restitution, penalties and costs whenever a business is engaged in deception, fraud or illegality. In addition, General Business Law § 350 prohibits false advertising. The Attorney General is also authorized pursuant to these statutes to issue subpoenas when investigating any activity which may violate these statutes. Please ensure immediately that your advertisements, wherever they may appear – print, radio, television, online or in-store – prominently disclose the most significant limitations of the CARS program if they are to continue to prominently indicate any CARS discount.

Thank you, in advance, for your cooperation.

Very truly yours,



JOEL L. MARMELESTEIN
Assistant Attorney General In Charge

JLM;jm