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FILE # ML-40828-99

May 5, 1999

I.D.# 40828

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MAY 10 1999

The Honorable John Cornyn
The Attorney General
P.O. Box 12548
Austin, TX 78711-2548

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MAY 10 1999

ATTORNEY GENERAL'S OFFICE

Liz Robinson

Opinion Committee

Re: Request for an Attorney General's Opinion on Whether the Operation of a Website Constitutes the Operator as a "Broker" under the Texas Motor Vehicle Commission Code

RQ-0065-JC

Dear Attorney General Cornyn:

This is a request for an opinion on whether the activities of the operator of a computer website are prohibited by law. The Texas Motor Vehicle Commission Code (Vernon's Texas Civil Statutes, Article 4413 (36)). Section 5.03, provides that "a person may not act as...a broker...". A "broker" is defined as a person who for a fee "arranges or offers to arrange" the sale of a new motor vehicle. The question is whether the activities of the website operator rise to the level of "broker".

The website operates as follows:

1. Franchised new car dealers agree to be listed on the site. All dealers are accepted. Each dealer specifies its own radius to receive customer inquiries.
2. A potential purchaser goes to the site and completes a "Purchase Request" as to the type of vehicle desired.
3. The operator provides the customer with a list of dealers that can provide the vehicle requested and who are located within the selected radius.
4. The customer picks one or more of the listed dealers.
5. The operator sends the customer's Purchase Request to the selected dealers by fax or E-mail. The operator charges the dealers for the transmittal of the Purchase Request.
6. The operator has no further connection with the matter unless the selected dealers do not contact the customer. The operator may re-contact the dealer or supply the names of additional dealers.
7. The Purchase Request does not discuss price of the vehicle. The MSRP and invoice price of



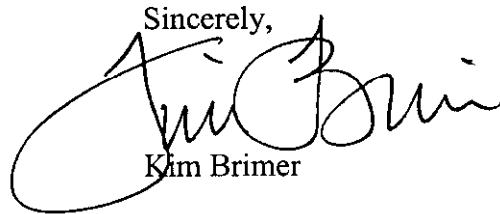
the vehicle appear elsewhere on the site. The Purchase Request asks whether the customer has a trade-in and if so, how much the customer wants for the trade-in. Also the Request asks if dealer financing is sought, and how much of a down payment is desired.

8. The operator does not know if any of the selected dealers have the particular vehicles requested nor whether a transaction occurs, and if so, on what terms.

The Motor Vehicle Division of the Texas Department of Transportation which administers the Code rendered an opinion on December 4, 1998 a copy of which is enclosed.

Your attention to this matter is greatly appreciated. If I or my staff can be of any assistance, please do not hesitate to call.

Sincerely,

A handwritten signature in black ink, appearing to read "Kim Brimer". The signature is fluid and cursive, with a large loop at the end.

Kim Brimer