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COPY

SEP 19 2008



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8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

9 **IN AND FOR THE COUNTY OF MARICOPA**

10 In re HYUNDAI OF TEMPE, LLC, an
11 Arizona limited liability company, d/b/a
Hyundai of Tempe,

12 Respondent.

Case No:

CV2008-022917

13 **APPROVAL OF ASSURANCE OF**
14 **DISCONTINUANCE**

15 Pursuant to A.R.S. § 44-1530, the attached Assurance of Discontinuance is approved by
16 the Superior Court of the State of Arizona in and for the County of Maricopa.

17 DATED this 18th day of Sept, 2008.

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21 
22 JUDGE OF THE SUPERIOR COURT
23
24
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26

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9 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
10 **IN AND FOR THE COUNTY OF MARICOPA**

11 In re Hyundai of Tempe, LLC, an Arizona
limited liability company, d/b/a Hyundai
of Tempe,

12 Respondent.

Case No.

**ASSURANCE OF
DISCONTINUANCE**

14 The Attorney General of the State of Arizona and Respondent, Hyundai of Tempe,
15 LLC, agree to the entry of the following Assurance of Discontinuance pursuant to Arizona
16 Revised Statutes ("A.R.S.") § 44-1530, a provision of the Arizona Consumer Fraud Act
17 ("Act").

18 1. Respondent Hyundai of Tempe, LLC ("Hyundai of Tempe") is an Arizona
19 limited liability company whose primary business is that of an automobile dealership
20 located in Tempe, Arizona.

21 2. In June 2007, an independent contractor acting on behalf of Hyundai of
22 Tempe mailed ten thousand copies of an advertisement to persons selected from Hyundai
23 of Tempe's sales and service customer database. A copy of the advertisement is attached
24 hereto as Exhibit One.

25 3. The advertisement stated that its recipients would receive 100% of the base
26 Manufacturer's Suggested Retail Price ("MSRP") on their 2005 or older vehicle that they
27

1 used as a trade-in on their purchase or lease of a "like or upgraded" 2007 or 2008 Hyundai
2 automobile from Hyundai of Tempe.

3 4. The "100% Reimbursement" statement referenced above is repeated in the
4 advertisement and is emphasized in bold, capitalized, large font size letters at the
5 beginning, middle and end of the advertisement.

6 5. The advertisement stated that the "100% Reimbursement" offer is part of
7 "[the] most aggressive Hyundai Incentive Program to hit the Arizona Market"

8 6. The advertisement contained an asterisk following the most prominent "100%
9 Reimbursement" statement that referenced a footnote, which stated in smaller type print at
10 the bottom of the advertisement: "Trade-in allowance not to exceed current NADA book
11 retail value."

12 7. The NADA book retail value is based on a vehicle's mileage and overall
13 condition.

14 8. The Attorney General contends that the use of the "NADA book retail value"
15 footnote effectively negated the more prominent "100% Reimbursement" message of the
16 advertisement.

17 9. The advertisement also included the following language: "Obviously, your
18 current vehicle must be in safe operating condition with normal wear and tear. The only
19 adjustments will be made for mileage and reconditioning." (Emphasis added.) The
20 Attorney General believes that the quoted language effectively negated the more prominent
21 "100% Reimbursement" message of the advertisement.

22 10. The Attorney General believes and therefore alleges that the "100%
23 Reimbursement" advertisement is deceptive and misleading, given that no consumer could
24 receive 100% of her base MSRP on a trade-in since deductions would be taken for mileage
25 and overall condition. Accordingly, the Attorney General contends that Hyundai of Tempe
26 violated the Arizona Consumer Fraud Act by using the advertisement in connection with
27 the sale or lease of its vehicles.

28

1 11. Hyundai of Tempe believes that the footnote and other language quoted
2 herein clarified or explained the "100% Reimbursement" message of the advertisement so
3 that the terms and conditions of the offer presented by the advertisement were reasonably
4 clear and understandable to the consumers to whom the advertisement was mailed and,
5 therefore, contends that the advertisement was not false and deceptive and that Hyundai of
6 Tempe did not violate the Act.

7 NOW, THEREFORE, Hyundai of Tempe, LLC, agrees, undertakes and assures:

8 12. Hyundai of Tempe shall not engage in any false or deceptive advertising,
9 including using language in an advertisement that contradicts or negates other language,
10 representation or offer included in the same advertisement.

11 13. Hyundai of Tempe shall clearly and conspicuously disclose all material facts,
12 terms and conditions relating to any offer it makes to the public through any medium. Any
13 disclosures or disclaimers that clarify, modify or explain any statements, representations or
14 terms in any advertisement shall be clear and conspicuous.

15 14. The agreements, undertakings and assurances contained in this Assurance of
16 Discontinuance shall apply to Hyundai of Tempe, LLC, any successor entity or entities,
17 whether by acquisition, merger or otherwise, to the extent they are operating a motor
18 vehicle dealership in Arizona, and (during such time as such individuals are affiliated with
19 Hyundai of Tempe) to Hyundai of Tempe's current or future officers, directors, managerial
20 or supervisory employees, and to any other employees or agents having responsibilities
21 with respect to the subject matter of the Assurance, but only in their representative, and not
22 their individual, capacity; provided, however, that successor entities shall not include any
23 bona fide third party purchasers of assets from Hyundai of Tempe (even if done for the
24 purpose of operating a motor vehicle dealership in Arizona) who are not at the time of such
25 purchase or thereafter owned or controlled by Hyundai of Tempe or by any person or entity
26 affiliated through common ownership or management with Hyundai of Tempe, LLC or any
27 of its affiliates or subsidiaries.

28

1 15. Within fifteen (15) days from the date of this Assurance is approved by the
2 Court, Hyundai of Tempe shall provide a copy of the Statement attached to this Assurance
3 as Exhibit Two to the Attorney General and to all Hyundai of Tempe employees involved
4 in the preparation and/or approval of Hyundai of Tempe's advertisements, as well as any
5 third party marketing company that has been hired, retained or otherwise engaged by
6 Hyundai of Tempe to prepare its advertising, including direct mail solicitations.

7 16. Hyundai of Tempe shall pay to the Attorney General's Office the amount of
8 fifteen thousand dollars (\$15,000.00) for attorneys' fees and costs of investigation, pursuant
9 to A.R.S. § 44-1530. The payment described herein shall be made by cashier's check,
10 payable to the Office of the Arizona Attorney General, and is to be delivered to that office
11 within three business days after execution of this Assurance of Discontinuance.

12 17. The parties understand and agree that this Assurance of Discontinuance shall
13 not be construed as an approval of or sanction by the Attorney General of Hyundai of
14 Tempe's business or of its past, present or future business practices, and Hyundai of Tempe
15 is prohibited from making any representations to the contrary.

16 18. Hyundai of Tempe understands that a violation of this Assurance of
17 Discontinuance within six (6) years of the filing thereof constitutes prima facie evidence of
18 a violation of A.R.S. § 44-1522. This court shall therefore retain jurisdiction over the
19 parties and the subject matter for purposes of enabling the State of Arizona to apply to the
20 court for the enforcement of and Respondent's compliance with the Assurance of
21 Discontinuance.

22 19. The parties agree that this Assurance of Discontinuance shall not be
23 considered an admission of a violation of the Act for any purpose.

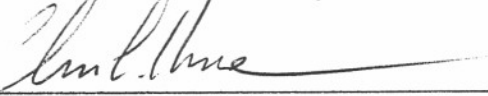
24 20. The person signing below on behalf of Hyundai of Tempe, LLC represents
25 and declares that he or she is authorized to do so.

SACKS TIERNEY P.A., LAWYERS
4250 NORTH DRINKWATER BOULEVARD
FOURTH FLOOR
SCOTTSDALE, ARIZONA 85251-3693

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DATED this 2 day of September, 2008.

TERRY GODDARD, Attorney General

BY: 

Cherie L. Howe
Assistant Attorney General


Hyundai of Tempe, LLC

By: _____

Its: Member.

Approved as to form and content:



Brian E. Ditsch, Esq.
Attorney for Respondent

EXHIBIT ONE



BUY-BACK PROGRAM

HYUNDAI
Drive, our way™

HYUNDAI
AUTO
U.S. POSTAGE PAID
HAYWARD, CA
PERMIT NO. 533

PAD / CPA

APR 23 2008

David Smith,
RECEIVED
100% REIMBURSEMENT
FOR YOUR TRADE-IN!

This is the most aggressive Hyundai Incentive Program to hit the Arizona Market and it's only available to 2005 or older Model Year Trade-in Owners in your area. Any customer trading in a 2005 or older model will receive 100% of the factory full base model MSRP when new on a like or upgraded 2007- 2008 Hyundai. A fresh shipment of new Hyundais have arrived for the special program.

100% REIMBURSEMENT FOR YOUR TRADE-IN!*

David, just bring in your vehicle to the factory authorized location below. Pick out the Hyundai model you want to buy or lease. Your authorized dealer has been provided by the N.A.D.A. with the factory's base model MSRP List Price on the vehicle you are currently driving. All customers will receive 100% of the base model MSRP in trade toward a new Hyundai. Similar arrangements will be made for lease customers.

This assistance program is designed exclusively for customers in your area. Obviously, your current vehicle must be in safe operating condition, with normal wear and tear. The only adjustments will be made for mileage and reconditioning. We are not here to 'nitpick' your trade-in; we are here to sell new Hyundais at prices that are much, much lower than you would normally expect. Due to this event, Hyundai has allowed us to offer 0%** APR on select new vehicles.

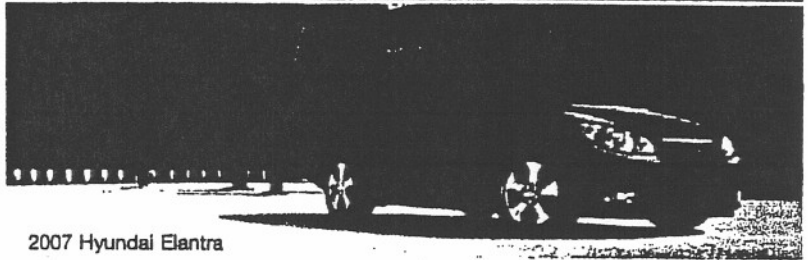
**IF WE CAN MAKE A DEAL BY JULY 8TH,
WE'LL PAY OFF YOUR TRADE, NO
MATTER WHAT YOU OWE!†**

It is truly my pleasure to offer this opportunity and we look forward to seeing you!

Sincerely,

Mike Wasserman

Mike Wasserman
General Manager



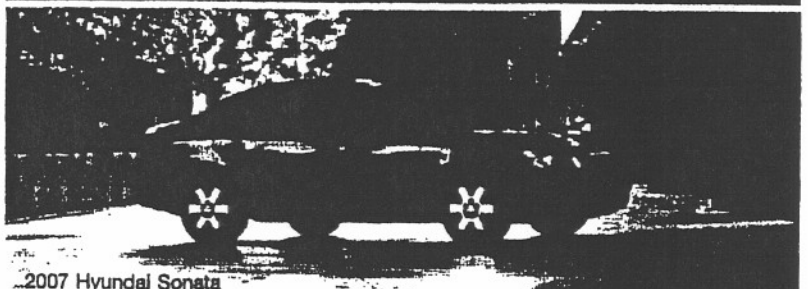
2007 Hyundai Elantra

Hyundais Are Now In Stock!



2007 Hyundai Santa Fe

Reserve an appointment today!



2007 Hyundai Sonata

Hyundai of Tempe

8050 S. Autoplex Loop
Tempe, AZ 85202

480-961-4800

Hyundai Advantage

America's Best Warranty

10-Year/100,000-Mile Powertrain Protection

5-Year/50,000-Mile Bumper-to-Bumper Coverage

5-Year/Unlimited Miles 24-hr. Roadside Assistance

**This 100%
Reimbursement*
Offer Only Valid
Until July 8th!**

*Trade-in allowance not to exceed current NADA book retail value. **APR offer not to be used in conjunction with any other offers. †Positive or negative equity may be applied to loan. Certain models excluded. Limit one trade per customer. See dealer for complete details. 0% financing for 36 months on Sonata. Plus tax, title, license, documentation of \$295 on approved credit.

EXHIBIT TWO

Hyundai of Tempe, LLC has entered into an Assurance of Discontinuance with the Office of the Arizona Attorney General related to a certain direct mail solicitation in 2007. To settle the matter, without admitting any wrongdoing or violation of any law, Hyundai of Tempe, LLC has agreed as follows:

1. Hyundai of Tempe shall not engage in any false or deceptive advertising, including using language in any advertisement which contradicts or negates other language, representation or offer included in the same advertisement.

2. Hyundai of Tempe shall clearly and conspicuously disclose all material facts, terms and conditions relating to any offer it makes to the public through any medium. Any disclosures or disclaimers which clarify, modify or explain any statements, representations or terms in any advertisement shall be clear and conspicuous.

These agreements apply to Hyundai of Tempe, LLC and its successors, and to Hyundai of Tempe's current or future officers, directors, managerial or supervisory employees and to any other employees or agents having responsibilities with respect to the preparation and approval of advertisements for Hyundai of Tempe, LLC (in their representative capacity only).

HYUNDAI OF TEMPE, LLC

By _____

Its _____