

EXHIBIT A

TERRY GODDARD
Attorney General
Firm Bar No. 14000

VINCENT L. RABAGO
Assistant Attorney General
Consumer Protection & Advocacy Section
State Bar No. #15522
400 W. Congress, South Bldg., Suite 315
Tucson, Arizona 85701-1367
Telephone: (520) 628-6504
Pima County Computer No. 65796
Attorneys for Plaintiff

ARIZONA SUPERIOR COURT

COUNTY OF PIMA

State of Arizona, ex rel. Terry
Goddard, Attorney General,

Plaintiff,

vs.

AUFMUTH, INC. dba AUFMUTH
MOTORS,

Defendant.

No. _____.

ORDER RE: CONSENT JUDGMENT

Based on the parties' Joint Motion to Enter Consent Judgment and good cause
appearing,

THE COURT HEREBY FINDS AND ORDERS:

1. The State of Arizona, having filed a complaint alleging violations of
A.R.S. § 44-1521 *et seq.*, the Consumer Fraud Act, and Defendant, Aufmuth, Inc.,
(hereafter, "Aufmuth Motors") an Arizona corporation doing business as an auto
dealership in Tucson, Arizona, having been fully advised of its right to trial in this
matter and, after consulting with counsel, having waived that right, admits the
jurisdiction of this Court over the subject matter and the parties for the purpose of entry

1 of this Consent Judgment and acknowledges that jurisdiction is retained by the Court
2 for the purpose of enforcement of this Consent Judgment.

3 A. Aufmuth Motors has agreed to a voluntary compromise of disputed claims,
4 and the State of Arizona and Aufmuth Motors have agreed on a basis for the
5 settlement of these matters in dispute.
6

7 B. This Consent Judgment does not constitute an admission by Aufmuth Motors
8 for any purpose of a violation of any state or federal law, rule or regulation nor does
9 this Consent Judgment constitute evidence of any liability. This Consent Judgment is
10 made without trial or adjudication of any issues of fact or law or finding of liability of
11 any kind.
12

13 C. Aufmuth Motors recognizes and states that this Consent Judgment is
14 entered into voluntarily and that no threats or promises have been made by the Office
15 of the Attorney General or any member thereof to induce Aufmuth Motors to enter into
16 this Consent Judgment.

17 CONSENT JUDGMENT

18 2. This Order incorporates the parties' Joint Motion to Enter Consent Judgment
19 in State v. Aufmuth, Inc., dba Aufmuth Motors.
20

21 DEFINITIONS

22 3. For purposes of this Consent Judgment, the following definitions shall apply:

23 **"Advertise," "Advertising" and "Advertisement"** means the publication,
24 dissemination, solicitation, and circulation of information promoting Aufmuth Motors'
25 products and services via computer networks, television, radio or print, or through
26 direct mailing, visual and audio displays, or through any other means.
27
28

1 **“Clear and conspicuous”** means that the statement, representation, or term
2 being conveyed is in close proximity to some other statement, representation or term it
3 clarifies, modifies, explains, or to which it otherwise relates; is readily noticeable; is
4 reasonably understandable by the person(s) to whom it is directed; and is not
5 contradictory to any terms it purports to clarify, modify or explain.
6

7 A statement, representation or term is not clear and conspicuous, unless:

8 (1) For printed, written, typed or graphic advertisements, it is of
9 sufficient prominence in terms of print, size and color contrast
10 as to be readily noticeable when read in the context of the
11 remainder of the advertisement. Any type size which is 10-
point type or larger is deemed readily noticeable when
contained in a document 8 ½ inches by 14 inches or smaller.

12 (2) For radio advertisement and the audio portion of television
13 advertisements or advertisements in any other audio-visual
14 medium, it is at a decibel level equal to or louder than the
15 typical decibel level used in the advertisement; is at a speed
16 that is typical of or more audible than any other statements,
17 representations or terms contained in the advertisement; and, if
it is a statement of terms or conditions of sale, it is made during
or after the remainder of the advertisement, rather than
preceding the advertisement.

18 (3) For superimposed written copy in a television advertisement
19 or advertisements in any other audio-visual medium, it is legible
20 and appears on the screen for a duration sufficient to allow a
viewer to have a reasonable opportunity to read and
understand the statement, representation, or term.

21
22 **“Gift”** or **“promotional item”** means an item such as a trip, appliance, or
23 other item offered to consumers as free with the purchase of a vehicle, in order to
24 promote vehicle sales.

25 **APPLICATION**

26 4. This Order applies to Aufmuth, Inc., an Arizona corporation, dba Aufmuth
27 Motors and to its current and future principals, officers and directors, assigns and
28

1 successors, managerial or supervisory employees, and to any other employees or
2 agents having responsibilities with respect to the subject matter of this Order.

3 **INJUNCTION**

4 5. Aufmuth Motors shall not represent or imply that the Attorney General,
5 the State of Arizona or any state agency has approved any of Aufmuth Motors'
6 actions or has approved any of its past, present or future business practices, and
7 Aufmuth Motors is enjoined from directly or indirectly representing anything to the
8 contrary.
9

10 6. Aufmuth Motors shall comply with the Arizona Consumer Fraud Act,
11 A.R.S. § 44-1521 *et seq.*, as it is currently written, or as it is amended in the future.
12

13 7. Aufmuth Motors shall advertise and use advertising disclaimers and
14 disclosures, no matter the medium, only in a clear, conspicuous, truthful and non-
15 misleading manner.

16 8. Aufmuth Motors shall not advertise "minimum" trade-in amounts.

17 9. Aufmuth Motors shall not advertise free items or gifts unless such items
18 are indeed "free" to the consumer as defined in the Federal Trade Commission's
19 *Guide Concerning Use of the Word "Free" and Similar Representations*. (16 C.F.R.
20 251), and must include a clear and conspicuous disclosure of all material facts
21 including any limitations or conditions on the issuance or awarding of such items.
22

23 **PAYMENT**

24 10. Aufmuth Motors shall pay the amount of \$50,000 (fifty thousand
25 dollars) in three payments in checks made out to the Office of the Arizona Attorney
26 General for consumer education, investigative and enforcement operations of the
27 consumer protection section, and attorney's fees and costs of the investigation,
28

1 pursuant to A.R.S. § 44-1533.01 (B) and (C). Aufmuth Motors shall make the first
2 payment of \$16,670.00 at the time it signs this consent judgment. Aufmuth Motors
3 shall make the second payment of \$16,665.00 on or before December 15, 2005, and
4 shall make the final payment of \$16,665.00 on or before January 15, 2006.
5

6 DATED this ____ day of November, 2005.
7
8

9 _____
10 JUDGE OF THE SUPERIOR COURT
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28