Cause No. 067 254128 11

STATE OF TEXAS, Plaintiff,	§ § §	IN THE DISTRICT COURT OF
v.	§ §	TARRANT COUNTY, TEXAS
MAHROUQ ENTERPRISES INTERNATIONAL, INC. d/b/a Automax and d/b/a Dollar Rent A Car Sales, MEI AUTO REPAIR, LLC d/b/a A Quick Inspection, and HUSSEIN K. MAHROUQ, individually and d/b/a A Quick Inspection, Defendants.	§ § § § § § § §	_____ JUDICIAL DISTRICT

FILED
TARRANT COUNTY
2011 JUL 21 A 11: 52
THOMAS A. WILDER
DISTRICT CLERK

PLAINTIFF'S ORIGINAL PETITION FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, the State of Texas, Plaintiff, acting by and through Attorney General Greg Abbott, and files this Original Petition for Civil Penalties and Injunctive Relief against MAHROUQ ENTERPRISES INTERNATIONAL, INC., d/b/a Automax and d/b/a Dollar Rent A Car Sales, MEI AUTO REPAIR, LLC d/b/a A Quick Inspection, and HUSSEIN K. MAHROUQ, individually and d/b/a A Quick Inspection, and respectfully shows the following:

1. DISCOVERY CONTROL PLAN

1.1 Discovery is intended to be conducted under Level 2 of Texas Rule of Civil Procedure 190.

2. PLAINTIFF

2.1 This suit is brought in the name of the State of Texas by its Attorney General, Greg Abbott, and under the authority of the Constitution, statutes, and laws of the State of Texas.

3. DEFENDANTS

3.1 Mahrouq Enterprises International, Inc. is a Texas corporation and may be served

with process by serving its registered agent, Hussein Mahrouq, at 108 N. Collins, Arlington, Tarrant County, Texas 76011 or 711 E. Division, Ste. A, Arlington, Tarrant County, Texas 76011 or wherever he may be found.

3.2 MEI Auto Repair, LLC is a Texas company and may be served with process by serving its registered agent, Hussein Mahrouq, at 108 N. Collins, Arlington, Tarrant County, Texas 76011 or 711 E. Division, Ste. A, Arlington, Tarrant County, Texas 76011 or wherever he may be found.

3.3 Hussein K. Mahrouq is a resident of Texas. Mahrouq is the Director and President of Mahrouq Enterprises International, Inc., Manager of MEI Auto Repair, LLC, and owner of A Quick Inspection. He may be served with process at 108 N. Collins, Arlington, Tarrant County, Texas 76011 or wherever he may be found.

4. AUTHORITY

4.1 This action is brought by the Attorney General through his Consumer Protection & Public Health Division under the authority granted by section 17.47 of the Texas Deceptive Trade Practices—Consumer Protection Act (DTPA).

5. VENUE

5.1 Venue of this action lies in Tarrant County pursuant to section 15.002(a)(1) of the Texas Civil Practices and Remedies Code because all or a substantial part of the events or omissions giving rise to this cause of action occurred in Tarrant County.

5.2 Venue of this action also lies in Tarrant County pursuant to section 17.47(b) of the Texas Business and Commerce Code because transactions and events giving rise to this action occurred in Tarrant County and because Defendants have done or are doing business in Tarrant County.

6. PUBLIC INTEREST

6.1 Plaintiff has reason to believe that Defendants are engaging in, have engaged in, or are about to engage in, the unlawful acts or practices set forth below, that Defendants adversely affect the lawful conduct of trade and commerce, thereby directly or indirectly affecting the people of this State. Therefore, the Consumer Protection and Public Health Division of the Office of the Attorney General of the State of Texas believes and is of the opinion that these proceedings are in the public interest.

7. ACTS OF AGENTS

7.1 Whenever in this petition it is alleged that Defendants did any act or thing, it is meant that Defendants performed or participated in such act or thing or that such act was performed by the officers, agents, or employees of Defendants and, in each instance, the officers, agents, or employees of Defendants that were then authorized to and did in fact act on behalf of Defendants or otherwise acted under the guidance and direction of Defendants.

8. TRADE AND COMMERCE

8.1 Defendants are engaged in "trade" and "commerce" as defined by section 17.45(6) of the DTPA as they operate a vehicle inspection station and used car dealerships. Tex. Bus. & Com. Code. Ann. § 17.45(6).

9. CONDITIONS PRECEDENT

9.1 All conditions precedent to Plaintiff's claim for relief have been performed or have occurred. The Consumer Protection and Public Health Division informed Defendants in general of the alleged unlawful conduct described below at least seven days before filing suit, as may be required by section 17.47 of the DTPA.

10. BACKGROUND

10.1 The State of Texas implemented its Inspection and Maintenance (I/M) Program to reduce air pollution from motor vehicles, ensure compliance with the Texas Clean Air Act, and to determine compliance with emissions standards. In addition to the required safety inspection, certain vehicles are required to undergo emissions inspections.

10.2 As part of the emissions testing process, the inspector manually enters the vehicle's vehicle identification number (VIN) into the testing equipment. The inspector also connects the testing equipment to the vehicle's on-board diagnostic system (ODB) via the diagnostic link connector. The OBD system is installed in 1996 model-year and newer vehicles by the manufacturer and monitors the performance of the vehicle emissions control equipment, fuel metering system, and ignition system for the purpose of detecting malfunction or deterioration in performance that would be expected to cause the vehicle to not meet emissions standards. *See* 37 Tex. Admin. Code § 23.93(b)(16). When the equipment is connected to the OBD, the analyzer checks and downloads stored information. The analyzer also reads the VIN programmed into the connected vehicle's OBD.

11. FACTUAL ALLEGATIONS

11.1 Hussein Mahrouq, through his business Mahrouq Enterprises International, Inc. (MEI, Inc.), operates two used-vehicle dealerships known as Automax and Dollar Rent A Car Sales. Mahrouq and MEI Auto Repair, LLC operate a vehicle inspection station known as A Quick Inspection.

11.2 Prior to selling or offering for sale vehicles at his dealerships, Mahrouq purportedly has the vehicles undergo the required state safety and emissions inspection at A Quick Inspection and other nearby inspection stations and has a passing inspection sticker placed

on the vehicles. In reality, the vehicles are not inspected or do not pass the inspection. Instead, inspection stickers issued as a result of testing a different vehicle are placed on the vehicles.

11.3 Defendants use an illegal technique known as "clean scanning" to obtain vehicle inspection certificates (or stickers) on vehicles not properly inspected. In clean scanning, an inspector tests one vehicle (the "clean" vehicle) and issues the passing inspection sticker to another. Defendants' inspectors manually enter the VIN of the vehicle they are purportedly inspecting, but the "clean" vehicle is actually hooked up to the testing equipment. When the "clean" vehicle is connected, the "clean" vehicle's VIN is recorded by the testing equipment. In some instances, the inspectors connect the testing equipment to an older vehicle which does not record the VIN. The inspector then conducts the emissions inspection on the "clean" vehicle. After the "clean" vehicle passes the inspection, the inspector places the sticker on the vehicle that was not actually inspected. A majority of the clean scanned vehicles sold or offered for sale at Automax and Dollar Rent A Car Sales were clean scanned at A Quick Inspection. Additional vehicles at the dealerships were clean scanned at other nearby inspection stations, including 55 vehicles at one particular inspection station.

11.4 Mahrouq and MEI, Inc. advertise the uninspected vehicles for sale at Automax and Dolllar Rent A Car Sales (Dollar). Defendants misrepresent the vehicles as having been inspected and issued an inspection certificate. In reality, the vehicles have not been inspected and have not been issued a passing inspection certificate. These vehicles may not meet the vehicle emissions standards in Texas and may have problems which will prevent the vehicles from being able to pass future inspections. These problems may also require costly repairs on behalf of the consumers who purchase the vehicles. During a sixteen month period, A Quick

Inspection clean scanned approximately 97 vehicles. Of those vehicles, 82 were owned, sold, or offered for sale by Automax and Dollar.

11.5 A Quick Inspection frequently uses one vehicle for numerous inspections in a single day—sometimes up to twenty times in one day. The inspection station even uses vehicles owned by MEI, Inc. employees.

11.6 The Automax and Dollar Rent A Car Sales dealerships also participate in the state's AirCheck Texas Drive a Clean Machine Program (AirCheck). AirCheck targets the highest polluting vehicles by offering financial incentives to remove them from the roadways. Qualifying consumers can receive vouchers for up to $3,500 toward the purchase of newer vehicles. The consumers use the vouchers at participating dealerships and the dealerships are reimbursed by the AirCheck program.

11.7 Automax and Dollar sell vehicles to consumers participating in the AirCheck program vehicles which have been have not been properly inspected. Instead of replacing consumers' vehicles with newer and less polluting vehicles, the dealerships replace the vehicles with vehicles that have been clean scanned and have not passed the required emissions inspection. As a result, the replacement vehicles may not meet the emissions standards, thereby defeating the purpose of the AirCheck program. Approximately 37 vehicles sold by Automax and Dollar through the AirCheck program were clean scanned. Nineteen of those vehicles were clean scanned at A Quick Inspection.

11.8 In addition to clean scanning vehicles being sold through the AirCheck program, Defendants MEI, Inc. and Hussein Mahrouq manipulate car sales in order to be reimbursed for vehicle purchases when the vehicles being traded in by the consumers do not meet the AirCheck requirements. The AirCheck program requires that the vehicle being traded-in be 10 years old or

older or the vehicle must have failed an emissions test within the previous 30 days. On several occasions, consumers have sought to purchase a vehicle from Dollar and Automax with trade-in vehicles which do not meet the AirCheck requirements. Defendants will take an older (and AirCheck qualifying) vehicle from their lot and transfer title to the consumer in order for the consumer to have a qualifying vehicle. The consumer never takes possession of the older vehicle which may not even be on-site, it is immediately "traded-in." This older car is used to participate in the AirCheck program, whereby Defendants benefit by way of the $3,500 reimbursement. Again, the purpose of the program has been defeated. Defendants have also sold consumers qualifying replacement vehicles through the AirCheck program only to require the consumer to return the vehicle and exchange it for a vehicle which does not qualify for the program. As a result, Defendants are given up to $3,500 by the AirCheck program for selling vehicles to consumers which do not meet the requirements. Defendants Mahrouq and MEI, Inc. manipulate the transactions and misrepresent the vehicle sales in order to obtain reimbursement from the AirCheck program.

11.9 The North Central Texas Council of Governments (NCTCOG), which collects emissions testing data and administers the Air Check program in the North Texas area, notified Mahrouq that the vehicles sold by his dealerships in the Air Check program had irregularities with the inspections purportedly performed on the vehicles. Despite the notification, Mahrouq and MEI, Inc. continued the unlawful practice.

12. DTPA VIOLATIONS

12.1 Defendants, in the course and conduct of trade and commerce, have directly and indirectly engaged in false, misleading, and deceptive acts and practices declared to be unlawful by DTPA sections 17.46(a) and (b) by:

A. Causing confusion or misunderstanding as to the source, sponsorship, approval or certification of vehicles, in violation of § 17.46(b)(2) of the DTPA;

B. Causing confusion or misunderstanding as to the affiliation, association, or certification of vehicles, in violation of § 17.46(b)(3) of the DTPA;

C. Representing that vehicles and/or vehicle inspection stickers have sponsorship, approval, characteristics, uses, benefits, or quantities which they do not have, in violation of § 17.46(b)(5) of the DTPA;

D. Representing that work or services have been performed on vehicles when the work or services were not performed, in violation of § 17.46(b)(22) of the DTPA; and

E. Failing to disclose information concerning vehicles and/or vehicle inspections which was known at the time of the transaction if such failure to disclose such information was intended to induce the consumer into a transaction which the consumer would not have entered had the information been disclosed, in violation of § 17.46(b)(24) of the DTPA.

13. INJUNCTION

13.1 Because Defendants have engaged in the unlawful acts and practices described above, Defendants have violated and will continue to violate the law alleged in this petition. Unless the requested injunctive relief is granted, Defendants will continue to violate the laws of the State of Texas. The interests of the State of Texas require temporary and permanent injunctions to prohibit Defendants from engaging in false, misleading, and deceptive practices.

13.2 Section 17.47 of the DTPA authorizes the granting of temporary and permanent injunctions to restrain violations of the DTPA.

14. PRAYER

For these reasons, the State respectfully requests the following relief:

14.1 That after notice and hearing, a temporary injunction and, after final hearing, a permanent injunction be issued restraining and enjoining Defendants, their successors, assigns, officers, agents, servants, employees and representatives from the following acts and practices:

A. Engaging in improper or illegal inspections of vehicles, including using clean scanning as described above, or otherwise manipulating the emissions testing process;

B. Selling, offering for sale, or trading any vehicle not properly inspected when Defendants represent, expressly or by implication, that such vehicle has been inspected and possesses a valid inspection sticker;

C. Issuing an inspection sticker to a vehicle (or placing a sticker on a vehicle) which has not been properly inspected pursuant to Texas law;

D. Representing, expressly or by implication, that a vehicle has been inspected when the vehicle has not been properly inspected pursuant to Texas law;

E. Representing, expressly or by implication, that a vehicle possesses a valid inspection sticker when the vehicle has not been issued a passing inspection certificate as a result of an inspection on that vehicle;

F. Falsely representing, expressly or by implication, that a vehicle meets all Texas emissions standards;

G. Using a vehicle for emissions inspections to issue a passing inspection sticker to a different vehicle;

H. Using a vehicle for emissions inspections to issue passing inspection stickers to more than one vehicle;

I. Falsely representing, expressly or by implication, that a vehicle is free from emissions-related defects or problems which would have been detected during a vehicle emissions inspection;

J. Failing to disclose to a consumer that a vehicle has not been inspected to determine whether the vehicle has emissions-related defects or problems which would have been detected during a vehicle emissions inspection;

K. Failing to disclose to consumers that a vehicle has not been issued a valid inspection sticker;

L. Issuing an inspection sticker to a vehicle (or placing a sticker on a vehicle) which does not meet the vehicle emissions and safety standards required by the State of Texas;

M. Selling or trading a vehicle to a consumer through the AirCheck program, whereby Defendants receive any reimbursement or funds from the AirCheck program, and subsequently exchanging consumers vehicle for a non-qualifying vehicle within 12 months after the consumer purchases the qualifying vehicle;

N. Submitting documents to the AirCheck program seeking reimbursement or accepting reimbursement from the AirCheck program for a vehicle sold to a consumer which had been clean-scanned or otherwise not properly inspected;

O. Submitting documents to the AirCheck program seeking reimbursement or accepting reimbursement from the AirCheck program when the title to the consumer's qualifying trade-in vehicle was recently transferred to the consumer

by any of the Defendants for the purposes of using said vehicle as a trade-in for the AirCheck program;

P. Transferring title of a vehicle to a consumer for the purpose of having said vehicle be used as a qualifying trade-in for the AirCheck program;

Q. Selling a vehicle to a consumer which has not been properly inspected and issued an inspection sticker.

14.2 The State further asks that it recover civil penalties of up to $20,000 for each violation of the DTPA, pursuant to section 17.47(c)(1).

14.3 The State further asks that Defendants be ordered to restore all money or other property taken from identifiable persons by means of unlawful acts or practices.

14.4 The State further asks for reasonable attorney's fees and costs as provided by the laws of the State of Texas, including but not limited to section 402.006(c) of the Texas Government Code.

14.5 The State asks for such other relief to which it is justly entitled.

Respectfully submitted,

GREG ABBOTT
Attorney General of Texas

DANIEL T. HODGE
First Assistant Attorney General

BILL COBB
Deputy Attorney General for Civil Litigation

PAUL D. CARMONA
Chief, Consumer Protection & Public Health Division

MADALYN S. WELLS—SBN 24027430

ANDREW D. LEONIE—SBN 12216500
STEVEN ROBINSON—SBN 24046798
Assistant Attorneys General
Consumer Protection & Public Health Division
1412 Main St., Ste. 810
Dallas, Texas 75202
(214) 969-7639 ext. 8830
(214) 969-7615 fax

ATTORNEYS FOR PLAINTIFF