

March 13, 2015

INFORMATION Redacted PURSUANT TO THE FREEDOM OF
INFORMATION ACT (FOIA), 5 U.S.C. 552(B)(6)

Honorable Mark Rosekind
National Highway Traffic Safety Administration (NHTSA)
1200 New Jersey Ave. S.E. West Bldg.
Washington, D.C. 20590

APR 13 2015

Honorable Rosekind:

We wrote your office February 2014 reporting a dishonest/scammer NXCESS MOTORCARS of Houston, TX, selling cars on ebay without regard for driver/citizen highway safety. (Attachment #1)

A reply was received March 2014 from your office stating a file had been established on our experience and encouraging us to seek restitution through the Better Business Bureau (BBB) of the greater Houston area.

We contacted the Houston BBB, 1333 W. Loop South Freeway, Houston, TX 77027. They referred us to the Harris County Justice Court, 6000 Chimney Rock, Suite 102, Houston, TX 77081. The Texas Attorney General Consumer Protection Div. also noted our experience and encouraged a complaint before the Harris County Justice Court. We filed a complaint seeking \$3,000.00 restitution in Justice Court, Harris County, TX, Precinct 5, Place 1, April 2014. Finally a trial date was set for February 10, 2015 at 9:00 am before Judge Russ Ridgeway. I was allowed to testify by phone.

I was made to wait by the telephone for 7½ hours, the court questioned why this case was referred there, and generally did not conduct a fair trial. I was not awarded any restitution and have not received a formal verdict from the court as yet. I was cut off before my summary statement, so I sent exhibit #2. It was not considered. When I asked about an appeal on March 3, 2015, I was told it had to be filed in person that day with a \$500.00 fee.

I've followed with interest the campaign of your Administration and Transportation Secretary Anthony Fox, to hold dealers responsible and not allow vehicles with dangerous defects to leave used car lots without necessary repairs. California dealers already accept responsibility for safety defects and reimburse victimized buyers.

Judge Ridgeway neglected to consider the real issues (concealed safety defects) and acknowledged CarFax inspections were made. Here the CarFax inspections did not reveal any of the concealed safety defects. It's common knowledge that CarFax only reports what sellers tell them to report.

I applaud your efforts and volunteer my experience for your campaign. You can count on my testimony/participation in any hearings that may be held on this important safety issue. Please, also add ebay to your campaign loop because they, as Judge Ridgeway, do not recognize the importance of this cause.

Respectfully yours,

Hudson, WI
Phone: [REDACTED]

cc: Anthony Fox, U.S. Secretary of Transportation, 400 N. Capital St. N.W., Ste. 650, Washington, DC 20001
cc: Attorney General, State of Texas, Consumer Protection Div., P.O. Box 12548, Austin, TX 78711-2548
cc: Honorable Russ Ridgeway, Harris Cty. Precinct 5, Place 1, 6000 Chimney Rock, Ste. 102, Houston, TX 77081
cc: Houston BBB, 1333 W. Loop South Freeway, Houston, TX 77081
cc: ebay Inc. Corporate Counsel, 2145 Hamilton Ave., San Jose, CA 95125

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SMD

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February 18, 2014

National Highway Traffic Safety Administration (NHTSA)
1200 New Jersey Ave. S.E. West Bldg.
Washington, D.C. 20590

Honorable Administrator:

Please accept my alert of a dishonest/scammer NXCESS MOTORCARS, 5722 S.W. Freeway, Houston, TX 77057, that deals cars on ebay without regard for citizen/highway safety.

Their salesman, Jacek Walasek, and his superior, Juan Carlos Paramo, claim all cars sold in Texas are sold "as is," ignoring disclosure of hazardous safety defects.

In August 2012, I purchased a 2001 BMW Z3 on ebay from Mr. Walasek and Mr. Paramo, informing them that I was purchasing this vehicle based on their appraisal and answers to my questions, a CarFax report presented by them, and a description covered in their ebay ad.

I had the car shipped to Palm Desert, CA in mid-October 2012. We arrived in Palm Desert mid-November, 2012, and took the vehicle to Palm Springs BMW for evaluation. They gave me the following evaluation:

1. Tires are over 10 years old. Tires over 5 years old are considered a safety hazard and cannot be sold.
2. Several lights were inoperable. Both fog lights and left parking and turning lights did not work. Another safety hazard.
3. Driver's seat slides forward when stopping causing driver to unexpectedly step on accelerator in traffic. Another safety hazard.
4. Crack in front of dashboard causes annoying movement. Another safety hazard.
5. Seat belt guide on driver's seat is broken in half, preventing seat belt from deploying properly. Another safety hazard.
6. Rear window was scratched and faded to zero visibility. Another safety hazard.
7. Main speaker in Harmon/Kardon sub woofer was shot, giving off a loud distracting scratching blast. Another safety hazard.

In addition, a manifold hose required replacement because it leaked, keys had to be programmed to unlock doors and trunk, an a CD changer specified in the owner's manual was missing.

Late December, 2012, I contacted Mr. Paramo and asked to return the car or if NXCESS would at least pay for the safety defects, an obligation that California dealers accept and cover. Again, I was told "no" and Texas cars are sold "as is."

I understand "Buyer Beware" and "As Is," but car dealers should be required to describe what "as is" includes, especially when hazardous safety defects are concealed.

ebay advised me that it is too late to file a claim through the ebay buyer protection plan. So I seek your opinion and advice. To correct the hazardous defects so far has cost me over \$3,000.00 and there is still more to fix before I can drive the car and feel safe.

Respectfully yours,



Palm Desert, CA

Phone:

cc: NXCESS MOTORCARS, Attn: Owner or General Mgr., 5722 S.W. Freeway, Houston, TX 77057

cc: State of Texas, Office of the Attorney General, Consumer Protection Div., P.O. Box 12548, Austin, TX 78711

cc: ebay Inc., Attn: Corporate Counsel, 2145 Hamilton Ave., San Jose, CA 95125

FILED
RUSSELL
HARRIS COUNTY, TEXAS
APR 30 2014
AM 11:43

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CASE NO. [REDACTED]

[REDACTED]
Plaintiff
Vs.
NXCESS MOTORCARS INC.
Defendant

IN THE JUSTICE COURT
HARRIS COUNTY, TEXAS
PRECINCT 5, PLACE 1

PLAINTIFF'S SUMMARY STATEMENT

TO THE HONORABLE JUSTICE COURT:

Plaintiff was cut off before he could submit a summary statement on February 10, 2015. Therefore, Plaintiff [REDACTED] submits the following:

1. The issues are whether the salesman, Mr. Walasek, NXCESS, the CARFAX safety inspection and/or the Ebay advertisement informed the buyer (Plaintiff) of any of the hazardous safety defects listed below:
 - a. Tires overaged
 - b. Inoperable fog lights, left parking and turning lights
 - c. Sliding driver's seat
 - d. Crack in dashboard
 - e. Broken seat belt guide
 - f. Zero visibility rear window
 - g. Main speaker inoperable
 - h. Hole in manifold hose
 - i. Rear brakes failure

All of the above were identified by BMW of Palm Springs and repaired by them at a cost of \$3,983.61.

Mr. Walasek, salesman and witness for the defendant, did not answer the following questions:

1. Did you inform the buyer, [REDACTED] of any of the above defects prior to or during the sale?
2. Did your advertisement on Ebay inform buyers of any of the above defects?
3. Did your CARFAX inspections identify any of the above defects?
4. Did you send [REDACTED] any documents covering the sale?

Respectfully Submitted,

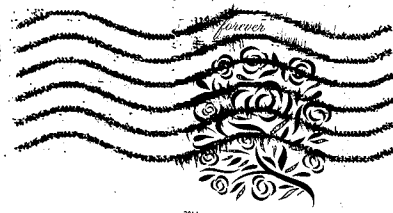
[REDACTED]



Hudson, WI [redacted]

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HONORABLE MARK ROSEKIND
NATIONAL HIGHWAY TRAFFIC SAFETY ADM. (NHTSA)
1200 NEW JERSEY AVE. S.E. WEST BLDG.
WASHINGTON, D.C. 20590

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