

Indiana AG to Used Car Dealers: Do Not Pose as a Private Seller on Craigslist (or Elsewhere)!

April 26, 2021 | [Frank Bishop, Jr.](#)

On January 15, 2021, Indiana Attorney General Todd Rokita entered into an Assurance of Voluntary Compliance with Moto Cars USA LLC, under which the AG alleged that Moto Cars violated Indiana's Deceptive Consumer Sales Act. More specifically, the AG alleged that, in advertising its inventory of vehicles on Craigslist.com and other online platforms, Moto Cars represented the vehicles as personal vehicles being sold by private parties rather than as inventory being sold by Moto Cars, a licensed used motor vehicle dealer. Under the Craigslist terms of service, motor vehicle dealers are explicitly prohibited from advertising as individual owners. Under the terms of the AVC, Moto Cars agreed to cease representing in online postings (and, in particular, on the "For Sale by Owner" section of Craigslist) that a vehicle in its inventory is for sale by a private party (or for sale "by owner"). In addition, Moto Cars agreed to pay a civil money penalty of \$5,000.

In a press release announcing the agreement, Rokita states: "I am pleased that this dealer has agreed to truthfully advertise its vehicles online, and I am comforted knowing that Hoosiers who buy vehicles through this dealer will now be given accurate information, which is essential when making such a substantial purchase. We will continue to take action against entities engaging in bad business practices on behalf of consumers across Indiana." The press release notes that, in the postings, Moto Cars included photos of the cars parked on residential streets, instead of on the dealership's lot. In addition, the postings instructed a potential buyer to "call Dave at . . ." and listed a private cell phone number, not the dealer's number.

The Indiana DCSA does not expressly prohibit a motor vehicle dealer from advertising as a private party selling his or her personal vehicle, but it does prohibit a "supplier" (a defined term under the Act that includes a seller) from committing "an unfair, abusive, or deceptive act, omission, or practice in connection with a consumer transaction." Further, the Act prohibits a supplier from representing that a transaction has "sponsorship, approval, performance, characteristics, accessories, uses, or benefits it does not have which the supplier knows or should reasonably know it does not have."

This AVC with the Indiana AG should be a cautionary tale for used car dealers tempted to try to sell their cars disguised as private sellers on social media platforms. All states have UDAP laws, and the press release and action from the AG indicate that, in at least some states, AGs will zealously pursue state UDAP claims against dealers who misrepresent the terms or nature of a used motor vehicle purchase. In the view of such state AGs, motor vehicle sales are important transactions for households and are ripe for consumer protection enforcement.

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