



**OFFICE OF THE ATTORNEY GENERAL
STATE OF FLORIDA
DEPARTMENT OF LEGAL AFFAIRS**

IN THE INVESTIGATION OF:

AG Case No.: L20-3-1381

**MK AUTOMOTIVE, INC.,
d/b/a NEW WAVE AUTO SALES, AND
MICHAEL KASTRENAKES,
Respondents.**

ASSURANCE OF VOLUNTARY COMPLIANCE

Pursuant to the provisions of the Florida Deceptive and Unfair Trade Practices Act (“FDUTPA”), Chapter 501, Part II, Florida Statutes (2019), Office of the Attorney General, State of Florida, Department of Legal Affairs (“Attorney General”) has investigated certain business acts and practices of MK Automotive, Inc. d/b/a New Wave Auto Sales (“New Wave”) and Michael Kastrenakes (“Kastrenakes”) (collectively, “Respondents”). Except for the false representation related to the Attorney General’s review of Respondents’ marketing materials, these

practices occurred between approximately March 2020 and the present (“Relevant Period”).

Respondents enter into this Assurance of Voluntary Compliance (“AVC”) with the Attorney General without an admission of wrongdoing and for the purpose of resolving this matter only.

Pursuant to Section 501.207(6), Florida Statutes, and by virtue of the authority vested in the Attorney General by said statute, the Attorney General, by and through the undersigned Assistant Attorney General and the undersigned Director, Consumer Protection Division, being in agreement, does in this matter accept this AVC in termination of the investigation into Respondents’ business practices, without litigation and further proceedings, related to direct mail solicitations purporting to offer consumers a COVID-19 stimulus check and misstatements related to the Attorney General’s review of Respondents’ direct mail solicitations.

1. STIPULATED FACTS

1.1 MK Automotive, Inc. is an active Florida corporation with its principal place of business located at 8000 Park Boulevard North, Pinellas Park, Florida 33781.

1.2 MK Automotive, Inc. does business as New Wave Auto Sales, a fictitious name actively registered by MK Automotive, Inc. with the Florida Department of State, Division of Corporations.

1.3 New Wave offers pre-owned vehicles to consumers for purchase.

1.4 Kastrenakes is an individual residing in Pinellas County, Florida.

1.5 Kastrenakes directly participated in, managed, operated, controlled, and had the ability to control the operations of New Wave, including, but not limited to, making marketing, operational and financial decisions for New Wave.

1.6 During the Relevant Period, Respondents profited from the marketing and sale of pre-owned vehicles through off-site tent sale events ("Tent Sales").

1.7 The Attorney General opened an investigation following receipt of multiple consumer complaints concerning Respondents' business practices at Tent Sales.

1.8 The Attorney General received and reviewed the aforementioned consumer complaints and determined that, during the Relevant Period, Respondents engaged in potentially unfair and deceptive business practices in advertising a Tent Sale with misrepresentations in a direct mail advertisement (i) purporting to have COVID-19 relief funds available to consumers; (ii) advertising that consumers can claim stimulus funds at a designated stimulus temporary relief site; (iii) giving the impression that Respondents are affiliated with a COVID-19 automotive stimulus program; (iv) claiming that Respondents have relief funds available for the purchase of a car; and (v) enclosing purported COVID-19 "stimulus checks" in a direct mail marketing piece sent to tens of thousands of Florida consumers. Respondents

engaged in these acts in the course of soliciting consumers to purchase pre-owned vehicles at a Tent Sale in Bushnell, Florida.

1.9 During its investigation, the Attorney General also reviewed complaints received by the Better Business Bureau (the “BBB”) against Respondents. In response to a complaint submitted to the BBB, Respondents falsely stated that the “attorney general” reviewed its direct mail solicitations, which implies – inaccurately – that the Attorney General approves of such solicitations.

1.10 According to Respondents, they did not create, develop, review or approve the content of the direct mail solicitation purporting to be a “COVID-19 stimulus” that was sent to Florida consumers. Further, Respondents represent that they did not identify the consumers to whom the solicitation was sent, nor pay for the printing or mailing for the direct mail solicitation in question. Instead, Respondents state that an independent company, Traffic Jam Events, LLC (“Traffic Jam Events”) was solely responsible for the creation and distribution of the direct mail solicitation purporting to be related to “COVID-19 stimulus” package (the “COVID-19 Stimulus Mailer”). Respondents further represent that as soon as they were made aware of the content of the COVID-19 Stimulus Mailer, they immediately repudiated the content and stated that they refused to use the solicitation in further marketing efforts.

1.11 Respondents further represent they relied on Traffic Jam Events in formulating a response to the BBB complaint identified in paragraph 1.9 above. According to Respondents, Traffic Jam Events represented to New Wave that the Attorney General reviewed all direct mail solicitations prepared in connection with New Wave's Tent Sales.

1.12 This AVC is based upon the stipulated facts detailed herein. The Attorney General shall not be estopped from taking further action in this matter should the facts described herein be shown to be incorrect in any material way or this AVC not be complied with in full.

2. JURISDICTION AND VENUE

2.1 The parties agree that the Attorney General has jurisdiction over Respondents for the purposes of entering into this AVC and any enforcement actions arising out of this AVC.

2.2 It is further agreed by the parties that this AVC shall be governed by the laws of the State of Florida, and the venue for any matters relating to or arising out of this AVC shall lie solely in Hillsborough County, Florida.

3. COMPLIANCE TERMS

3.1 Respondents agree that Respondents and their officers, directors, shareholders, employees, independent contractors, representatives, agents, successors, assigns, and any persons acting under the actual direction or control of

any of the foregoing and those persons and entities in active concert or participation with them, or any other person or entity who, directly or indirectly, acts under or who will act under, by, through, or on behalf of the Respondents, shall permanently cease from directly or indirectly engaging in the following practices:

- a.) Representing and/or implying that Respondents are offering COVID-19 stimulus funds, including, but not limited to, funds available under the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act;
- b.) Representing and/or implying that Respondents are affiliated with, supported by, endorsed by, certified by, licensed by, in partnership with, or an agent of any government agency for the purpose of offering COVID-19 stimulus relief funds, or any other stimulus or other government relief funds related to COVID-19;
- c.) Sending or otherwise providing fake, counterfeit, or misleading checks to consumers that purport to relate to the CARES Act, COVID-19 stimulus relief funds, or any other stimulus or other government relief funds related to COVID-19;
- d.) Representing and/or implying that any government COVID-19 stimulus relief can only be used towards the purchase of vehicles or other products or services sold by the Respondents, or that any portion

of government COVID-19 stimulus relief funds is being provided to consumers to purchase a vehicle; and

- e.) Representing and/or implying that the Attorney General reviews or approves of past, present or future solicitations to consumers, including but not limited to direct mail solicitations.

3.2 Respondents agree that they shall review for compliance with this AVC all marketing materials to be used by Respondents, including but not limited to those created, drafted, recommended, or produced by any third party.

3.3 Respondents agree that they will cease doing business with Traffic Jam Events.

3.4 Respondents further agree to cooperate with the Attorney General regarding any investigation or litigation as against Traffic Jam Events, or principals of Traffic Jam Events, in connection with the conduct set forth herein. Respondents agree to allow representatives of the Attorney General to interview any employer, consultant, independent contractor, representative, agent, or employee of the Respondents who has agreed to such an interview, relating in any way to any conduct subject to this AVC. The person interviewed may have counsel present.

3 MONETARY RELIEF

4.1 Payments to consumers. Respondents agree to pay Ten Thousand Dollars and 00/100 cents (\$10,000.00) (the "Payment") to the Attorney General in

two installments for the purpose of making payments to eligible consumers who purchased a vehicle as a result of receiving the COVID-19 Stimulus Mailer, including consumers who have not filed complaints with the Attorney General and those who have not yet provided proof of loss with their complaint filed with the Attorney General, and also for future enforcement efforts as further described in Section 4.3. New Wave shall pay the first installment of five thousand dollars and 00/100 cents (\$5,000.00) no later than close of business on April 27, 2020. New Wave shall pay the second installment of five thousand dollars and 00/100 cents (\$5,000.00) no later than close of business on May 22, 2020.

4.2 The Payment identified above shall be made by wire transfer, cashier's check, or other certified funds payable to the Department of Legal Affairs and shall be sent to the attention of Jennifer Hayes Pinder, Senior Assistant Attorney General, Office of the Attorney General, Consumer Protection Division, 3507 East Frontage Road, Suite 325, Tampa, Florida 33607.

4.3 Consumers' eligibility to receive payments, and determination of the amount of any consumer payment, lies solely within the discretion and judgment of the Attorney General on proof of payment and receipt of the COVID-19 Stimulus Mailer, or other supporting documentation, received from such consumers and terminates forty-five (45) calendar days from the Effective Date of this AVC (the "Eligibility Period"). Respondents shall take all reasonable steps to ascertain the

A handwritten signature in black ink, appearing to be 'JHP', written over a horizontal line.

identity of eligible consumers and immediately provide all necessary documents within their possession requested by the Attorney General for this purpose. In the event the eligible claims exceed the \$10,000.00 available for consumer relief, payments will be distributed *pro rata* to the consumers who filed complaints and/or provided the required supporting documentation prior to the expiration of the Eligibility Period. Upon the conclusion of the Eligibility Period, and in the sole judgment of the Attorney General, if the Attorney General is unable to locate consumers for payments or determines that a payment is not practical, any remaining monies will revert to the Department of Legal Affairs and shall be used to defray the cost of attorney's fees and investigative costs, payment distribution, administration, and enforcement.

4.4 Civil Penalties. In light of Respondents' full cooperation and agreement to make the Payment for consumer relief, as well as Respondents' cooperation with the ongoing investigation and/or litigation against Traffic Jam Events, Respondents shall pay the Attorney General a civil penalty in the amount of One Thousand Dollars and 00/100 Cents (\$1,000.00) pursuant to Section 501.2075, Florida Statutes. The Payment shall be made by a wire transfer, cashier's check or other certified funds, payable to the Department of Legal Affairs and shall be sent to the attention of Senior Assistant Attorney General Jennifer

Pinder, Office of the Attorney General, 3507 E. Frontage Road, Suite 325, Tampa, FL 33607, no later than close of business on May 22, 2020. The Payment will be transferred to the General Revenue Fund, pursuant 501.2101 (2), Florida Statutes.

5 FAILURE TO COMPLY WITH TERMS AND CONDITIONS OF AVC

5.1 In the event Respondents fail to comply with any of the terms and conditions of this AVC, Respondent shall be in default of this AVC and hereby stipulate to entry of a final judgment against them, in favor of the Attorney General. Evidence of failure to comply with the terms and conditions of this AVC may be in the form of an affidavit from the Attorney General.

5.2 Respondents acknowledge and agree that any failure to comply with the terms and conditions of this AVC is, by statute, *prima facie* evidence of a violation of FDUTPA, and will subject Respondents to any and all civil penalties and sanctions provided by law, including the award of attorney's fees and costs.

5.3 Respondents agree that failure to make the payment as required under the Section 4.1 and/or Section 4.4 of this AVC within ten (10) days of the due date shall constitute a default of this AVC.

5.4 Time is of the essence in the performance of all terms and conditions of this AVC.

6 ACCEPTANCE OF THE AVC

6.1 The Attorney General may refuse to accept this AVC at its discretion, and this AVC shall only become effective upon the execution of this AVC by the

Deputy Attorney General or a designee.

6.2 The effective date (“Effective Date”) of this AVC is the date on which the AVC is fully executed by the parties.

7. BUSINESS RECORDS

Respondents agree to retain documents and information reasonably sufficient to establish their compliance with the provisions of this AVC for two (2) years from the Effective Date of this AVC. Respondents shall provide the Attorney General reasonable access to such documents and information upon written request from the Attorney General, and Respondents shall produce documents and information requested by the Attorney General within fifteen (15) calendar days of the written request.

8. CONSTRUCTION OF AVC

8.1 If any clause, provision, or section of this AVC shall, for any reason, be held illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect any other clause, provision, or section of this AVC, and this AVC shall be construed and enforced as if such illegal, invalid, or unenforceable clause, section, or other provision had not been contained herein.

8.2 This AVC is the result of joint negotiations between the parties and shall be deemed to have been drafted by both the Attorney General and Respondents. In the event of a dispute, this AVC shall not be construed against either party.

Nothing herein shall be construed to limit or bar any other governmental entity from pursuing other available remedies against Respondents for acts and practices addressed by this AVC.

8.3 This AVC is the final, complete, and exclusive statement of the parties' agreement on the matters contained in this AVC, and it supersedes all previous negotiations and agreements. The parties have made no representations or warranties to each other than those representations expressly stated in this AVC. Moreover, neither party's decision to enter into this AVC is based upon any statements by the other party which are not contained in the instant AVC.

9. APPLICABILITY

9.1 Within thirty (30) calendar days of the Effective Date, Respondents shall make the terms and conditions of this AVC known to any managers, members, officers, directors, employees, agents, independent contractors, or other persons who are substantially affected by this AVC and are involved in the businesses, projects, and/or activities of Respondents, or anyone else acting for or on behalf of Respondents.

9.2 The obligations imposed by this AVC are continuing in nature and shall apply to New Wave's successors and assigns as well as any and all current or new officers, employees, agents, representatives or any other persons who become engaged in the business or activities of Respondents.

10. CHANGES IN LAW OR BUSINESS PRACTICES

Respondents shall not alter either their business practices or the organizational identity of any existing business entities or create any new business entities as a method of avoiding the obligations and terms and conditions set forth in this AVC.

11. MISCELLANEOUS

11.1. The Attorney General has not approved of any of Respondents' business practices, and Respondents shall not use the existence of this AVC to in any way imply such approval.

11.2. Nothing in this AVC is to be construed as a waiver of any private rights of any person or release of any private rights, causes of action, or remedies of any person against Respondents or any other person or entity.

11.3. Respondents expressly acknowledge that they had the opportunity to obtain the advice and counsel of an independent attorney of their choosing to assist in the negotiation and preparation of this AVC. Respondents have read this AVC, are aware of its terms and conditions, have voluntarily executed it, and acknowledge that to the extent they have waived any rights or defenses by entry into this AVC, such waiver was made voluntarily and with full knowledge of the ramifications of such waiver.

11.4. Respondents acknowledge that no promises of any kind or nature whatsoever, other than the written terms of this AVC, were made to induce

Respondents into entering into this AVC.

11.5. Respondents further waive and release any and all claims they may have against the Attorney General, its employees, representatives, or agents with respect to this investigation and AVC.

11.6. It is further agreed that facsimile copies of signatures and notary seals may be accepted as original for the purposes of establishing the existence of this agreement, and this AVC may be executed in counterparts the compilation of which shall constitute the full and final agreement.

11.7. Notice to any of the parties to this AVC as may be required shall be made by certified mail at the addresses set forth below unless any party notifies the other parties in writing of another address to which notices should be provided.

To Respondents:

Michael Kastrenakes
President
MK Automotives, Inc.
8000 Park Blvd. N.
Pinellas Park, FL 33781

To the Attorney General:

Jennifer H. Pinder
Senior Assistant Attorney General
Office of the Attorney General
Consumer Protection Division
3507 East Frontage Road, #325
Tampa, Florida 33607

IN WITNESS WHEREOF, Respondents have caused this AVC to be executed in the county and state listed below, as of the date affixed thereon.

MK AUTOMOTIVE, INC. D/B/A NEW WAVE AUTO SALES

BY MY SIGNATURE, I, Michael Kastrenakes, hereby affirm that I am acting in my capacity and within my authority as President of MK Automotive, Inc. d/b/a New Wave Auto Sales and that by my signature, I am binding MK Automotive, Inc. d/b/a New Wave Auto Sales to the terms and conditions of this AVC.

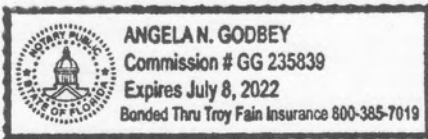
MK Automotive, Inc. d/b/a
New Wave Auto Sales

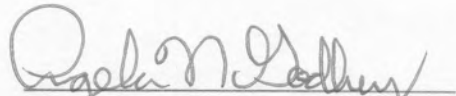

By: Michael Kastrenakes, President

**STATE OF FLORIDA
COUNTY OF PINELLAS**

BEFORE ME, an officer duly authorized to take acknowledgments in the State of Florida, Michael Kastrenakes personally appeared, individually. He acknowledged before me that he executed the foregoing instrument for the purposes therein stated on the 21st day of April, 2020.

Subscribed to before me, by physical presence or X online notarization, this 21st day of April, 2020.




Notary Public – State of Florida

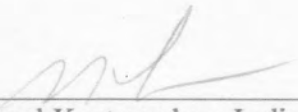
Personally known or Produced identification X (check one).

Type of identification produced: FL Driver License

MICHAEL KASTRENAKES, INDIVIDUALLY

Agreed to and signed this 21st day of April 2020, by the below-stated person who states and affirms as follows:

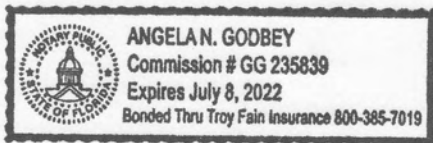
BY MY SIGNATURE, I affirm that my signature below binds me personally and individually to the terms and conditions of this AVC.

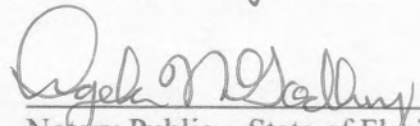

Michael Kastrenakes, Individually

**STATE OF FLORIDA
COUNTY OF PINELLAS**

BEFORE ME, an officer duly authorized to take acknowledgments in the State of Florida, Michael Kastrenakes personally appeared, individually. He acknowledged before me that he executed the foregoing instrument for the purposes therein stated on the 21st day of April, 2020.

Sworn to and subscribed before me this 21st day of April, 2020.




Notary Public – State of Florida

Personally known _____ or Produced identification (check one).

Type of identification produced: FL Driver License

Initials mf

**THE OFFICE OF THE ATTORNEY GENERAL
STATE OF FLORIDA, DEPARTMENT OF LEGAL AFFAIRS**

Jennifer H. Pinder 4/22/2020
Jennifer H. Pinder
Senior Assistant Attorney General
Office of Attorney General
State of Florida
Department of Legal Affairs
3507 E. Frontage Rd., Suite 325
Tampa, FL 33607
Tel: 813-287-7950
Fax: 813-281-5515

Jennifer H. Pinder as designee for Victoria Butler
Victoria Butler
Director, Consumer Protection Division
Office of Attorney General
State of Florida
Department of Legal Affairs
3507 E. Frontage Rd., Suite 325
Tampa, FL 33607
Tel: 813-287-7950
Fax: 813-281-5515

Accepted this 22nd day of April, 2020