

**UNITED STATES DEPARTMENT OF TRANSPORTATION
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION**

1200 New Jersey Avenue SE
Washington, DC 20590

In re:)
Gwinnett Place Nissan)
AQ12-003)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made between the National Highway Traffic Safety Administration (“NHTSA”), an operating component of the U.S. Department of Transportation, and Gwinnett Place Nissan (“Gwinnett”) to resolve claims associated with NHTSA’s Audit Query AQ12-003 under the terms and conditions herein:

WHEREAS, the National Traffic and Motor Vehicle Safety Act of 1966 as amended and recodified (the “Safety Act”), 49 U.S.C. § 30101, *et seq.*, provides for regulation of motor vehicles and motor vehicle equipment by the Secretary of Transportation. The Secretary has delegated his authorities under the Safety Act to the NHTSA Administrator, 49 C.F.R. §§ 1.95(a), 501.2(a)(1). This delegation includes the authority to compromise the amount of civil penalties for violations of the Safety Act and the regulations prescribed thereunder. *See* 49 U.S.C. § 30165(b); 49 C.F.R. § 1.95.

WHEREAS, Gwinnett is, and at all times relevant to this action has been, a dealer within the meaning of the Safety Act. 49 U.S.C. § 30102(a)(1); 49 C.F.R. § 573.11.

WHEREAS, the Safety Act specifies, in relevant part, that if a manufacturer has provided a dealer with notification about a new motor vehicle in the dealer’s possession that contains a defect related to motor vehicle safety, then the dealer may sell or lease the motor vehicle only if the defect is remedied before delivery under the sale or lease. 49 U.S.C. § 30120(i); 49 C.F.R.

§ 573.11.

WHEREAS, NHTSA has tentatively concluded that, between 2010 and 2013, Gwinnett sold and delivered 28 new motor vehicles, for which it had been notified of a defect, before the repairs were performed on the vehicles in violation of the Safety Act.

WHEREAS, Gwinnett does not contest NHTSA's conclusion that the company sold and delivered 28 new motor vehicles that were subject to a recall, but which had not had the recall repairs performed at the time the vehicles were delivered to the purchasers, as required by 49 U.S.C. § 30120(i) and 49 C.F.R. § 573.11.

WHEREAS, it is the mutual desire of NHTSA and Gwinnett to resolve AQ12-003, without the need for further action, and to avoid the legal expenses and other costs of a protracted dispute and potential litigation;

NOW, THEREFORE, the parties agree as follows:

1. Gwinnett shall pay the United States a civil penalty in the sum of one hundred ten thousand dollars (\$110,000.00) pursuant to the Safety Act. 49 U.S.C. § 30165. The parties agree that the settlement payment may be made in two installments. The first payment shall be made no later than 14 calendar days following the execution of this Agreement. Full payment shall be made no later than 30 calendar days following the execution of this Agreement. All payments shall be made by electronic funds transfer to the U.S. Treasury in accordance with instructions provided by NHTSA. NHTSA shall provide to Gwinnett account payment and routing instructions contemporaneous with the delivery of executed copies of this Agreement.

2. Upon receipt of the payments set forth in Paragraph 1 above, and pursuant to 49 U.S.C. § 30165, the Secretary of Transportation, by and through the Administrator of NHTSA, releases Gwinnett, including its current and former directors, officers, employees,

agents, parents, subsidiaries, affiliates, successors, and assigns, from liability for civil penalties in connection with AQ12-003.

3. This Agreement does not release Gwinnett from civil or criminal liabilities, if any, that may be asserted by the United States, the Department of Transportation, NHTSA, or any other governmental entity, other than its civil penalty liability under 49 U.S.C. § 30165, as described in Paragraph 2, above.

4. The parties shall each bear their own respective attorneys' fees, costs, and expenses.

5. This Agreement constitutes the entire agreement between the parties regarding the resolution of the subject matter herein, and supersedes any and all prior or contemporaneous written or oral agreements or representations.

6. This Agreement cannot be modified, amended, or waived except by an instrument in writing signed by all parties, and no provision may be modified, amended, or waived other than by a writing setting forth such modification, amendment, or waiver, which is signed by the party making the modification, amendment, or waiver.

7. Nothing in this Agreement shall be interpreted or construed in a manner inconsistent with, or contravening, any Federal law, rule, or regulation at the time of the execution of this Agreement, or as amended thereafter.

8. The persons who are the signatories to this Agreement have the legal authority to enter into this Agreement, and each party has authorized its undersigned to execute this Agreement on its behalf.

9. This Agreement shall be binding upon, and inure to the benefit of, Gwinnett and its current and former directors, officers, employees, agents, parents, subsidiaries, affiliates,

successors, and assigns.

10. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

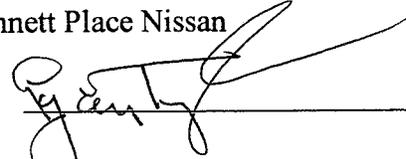
[SIGNATURE PAGES FOLLOW]

AGREED:

Dated: November __, 2014

Gwinnett Place Nissan

By: _____

A handwritten signature in black ink, appearing to read "Larry Van Tuyl", is written over a horizontal line. The signature is stylized and cursive.

Larry Van Tuyl
CEO of GANVT Motors, Inc.
dba Gwinnett Place Nissan

AGREED:

Dated: November __, 2014

Gwinnett Place Nissan

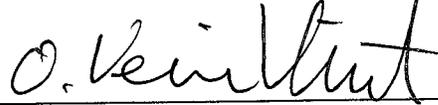
By: *Allan M. Cady*

Allan M. Cady
Secretary/Treasurer of GANVT Motors, Inc.
dba Gwinnett Place Nissan

AGREED:

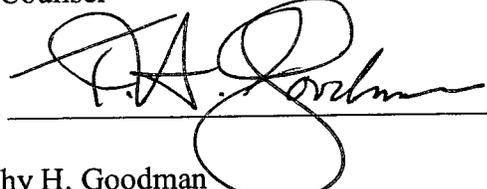
NATIONAL HIGHWAY TRAFFIC SAFETY
ADMINISTRATION,
U.S. DEPARTMENT OF TRANSPORTATION

Dated: November 24, 2014

By: 

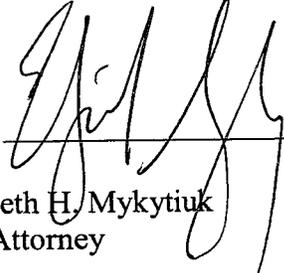
O. Kevin Vincent
Chief Counsel

Dated: November 24, 2014

By: 

Timothy H. Goodman
Assistant Chief Counsel
for Litigation & Enforcement

Dated: November 24, 2014

By: 

Elizabeth H. Mykytiuk
Trial Attorney