

William Featheringill is an investigator for OAG

Nick Cox = OAG Attorney

Janet McDonald = OAG Attorney



William Featheringill

01/09/2002 02:24 PM

To: Nick Cox/OAG@OAG, Janet McDonald/OAG@OAG

cc:

Subject: Sonic OAG = Office of Attorney General

One of the issues we last dealt with in this case was assessing the frequency of suspect transactions located in the Clearwater Mitsubshi and Toyota production. My initial survey of just 126 transactions showed that 34 were suspicious, (about 27%). Recall that I detailed these transactions and found clear evidence of "payment packing" or "loading". During our last court appearance, the judge encouraged us to look deeper into the problem and to review more of the documents already produced by the defense.

Thanks to Karla, I've been able to arrive at an average. on every file at least once (roughly 780), and flag the remaining suspicious transactions. We now have an estimated 237 car sales that warrant further review, (approximately 30% of the total production).

The breakdown is as follows:

Sonic Production

Clearwater Toyota

Clearwater Mitsubshi

Box#	Total Files	Suspect Files	Total Files	Suspect Files
1			29	7
2	21	3		
3	56	15		
4	37	7		
5	50	18		
6	45	3		
7			36	19
8	45	21		
9			54	14
10	49	22		
11			53	18
12			52	8
13	33	12		
14			36	16
15	56	10		
16	28	7		
17	39	17		
18			28	10
19	33	10		
	492	145	288	92

Total Files 780
 Total Suspect 237
 Toyota Suspect % 29%
 Mitsubshi Suspect % 32%

To: William Featheringill
CC: Nick Cox
From: Janet McDonald on 02/19/2002 01:13 PM
Subject: Sonic ideas


I was trying to think of other ways to quantify our claim. Could we try to take the average cost of buried products per consumer (\$419.93) and figure out what that cost the individual consumer over the term of the finance contract at various interest rates? The idea is to show how much over the course of 4 to 6 years that the consumer paid that they should not have paid. Please give me your input. I'm working on different ideas. Jan

To: Nick Cox, William Featheringill
From: Janet McDonald on 02/20/2002 09:20 AM
Subject: Call to Mary L - Sonic

Sometime today, we need to talk with Mary L. about Sonic. What time is good for you. I'm in the meeting on TYPD.com from 2:00pm to 3:00pm. Jan

To: Nick Cox
From: Janet McDonald on 02/20/2002 09:30 AM
Subject: Re: Call to Mary L - Sonic

Do you want Bill and I on the call with you? Jan
Nick Cox

 Nick Cox
02/20/2002 09:28 AM

00405

interoffice
MEMORANDUM

To: George Sheldon George Sheldon is an attorney for OAG

From: Wm Featheringill

Date: March 7, 2002

Subject: Sonic Automotive, Inc. L01-3-1192

Our investigation of Clearwater Toyota and Clearwater Mitsubshi (Sonic Automotive, Inc. owned Florida dealerships), has revealed a practice known as "Payment Packing", "Loading" or "Stuffing". In summary, the practice involves the sale of insurance and warranty products that are financed into the consumer's loan without their awareness. We have focused on four main products; Extended Service Warranties, Gap Insurance, Etch and Vehicle Maintenance Plans. All of the products were underwritten by APCO (Automotive Protection Corporation), and sold by Finance and Insurance managers at Sonic Dealerships. The items are known as "back-end" products, are optional and have a cost above and beyond the price of the automobile. The sale of back-end products represents huge profitability for the automobile industry. F&I managers, Sales managers, dealership owners and others are rewarded with competitive sale incentives.


During the course of our investigation, we sampled 980 files and identified 165 (21%) as having evidence of products hurried into the consumer's sale or loan. We have evidence supporting the belief that banks funding these transactions are unaware that products are being stuffed into the loan. In several instances, lenders have informed us that they have policies against financing certain products that we know have been sold to consumers and financed into their loans.


Earlier I shared 2 of the 165 examples with you. They were sales involving Florida consumers Tamara Feaster and Roger and Nancy Derexson. In the Feaster transaction, the consumer was sold, financed and registered with Gap Insurance and Etch. Feaster and the bank (Mitsubshi Motor Credit of America - MMCA), were unaware that the products had been sold. Neither parties sale paperwork reflect the sale of Gap or Etch. MMCA has a policy against funding Gap Insurance and Etch. The Sonic dealership and APCO both have records showing that the consumer purchased the products.

In the Derexson example, Mr. and Mrs. Derexson agreed to purchase an extended warranty to cover unexpected vehicle repairs. The warranty cost itemized on Derexson's contract was inflated in order to "pack" the contract with enough surplus to sell the consumers other products without their awareness. A Vehicle Maintenance Plan and Etch were "stuffed" into the Derexson's loan. The Derexson's have been paying for oil changes and vehicle maintenance out of pocket since the date of the sale, and taking their car to a private garage instead of the dealership. Again in this example, both the lender and consumers were deceived.

00515

DBF = Florida Comptrollers Office, Department of Banking & Finance

 Nick Cox
03/21/2002 09:20 AM

To: William Featherincill/OAG@OAG
cc: Janet McDonald/OAG@OAG
Subject: Re: Sonic & DBF 

CONFIDENTIAL ATTORNEY WORK PRODUCT

I thought we had discussed this yesterday already.


Regardless, does this mean that they are wanting to do something now, or that they just want to give us their opinion and want us to continue to work on it?? Are they just wanting to weigh in and say "yeah, we agree it is illegal" but do nothing more just so they are on record condemning it?? Why does that matter so much to us if they are going to do nothing anyway?? They are the ones who brought us this case and they know what it's about. Am I right??

If you all tell me there is a benefit to our investigation in some way, or that they are wanting info for an invest or matter they want to file and they are essentially doing a 119, then let's talk. I continue to say that we will stay on our track and do what we need to for us and the consumers. That said, I do want to cooperate with other agencies always.... however we are not their investigators or intake division.

00468

Mary Leontakianakos = Attorney for OAG

Steve Burton is an attorney representing Sonic
Automotive and the dealerships


 Nick Cox
04/03/2002 08:51 AM

To: George Sheldon/OAG@OAG
cc: Mary Leontakianakos/OAG@OAG
Subject: Cleanwater Mitsu/Toyota

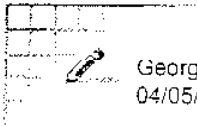
Would like to discuss the above with you later today. Steve Burton (atty for Sonic) called me this morning and advised that the news is doing another story on this this week. He is very concerned about that and I feel the need to get some advice from you all about it at this point. As you know, some time ago I instructed our folks that we are not discussing this matter with the media, and that still stands. Regardless, I would like to talk about it if OK with you.

I will be in the meetings today on MWI, but will likely have breaks.... I also think that Dubie has a 3:30 flight out, so we may end early in the day.


Thanks.... Nick

 Nick Cox
04/03/2002 09:01 AM

00472

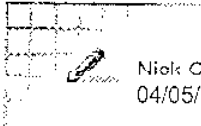


George Sheldon
04/05/2002 05:08 PM

To: Nick Cox/OAG@OAG
cc: Mary Leontakianakos/OAG@OAG
Subject: Re: Sonic 

ok, per our conversation.
Nick Cox

DOI = Department of Insurance, now known as the Florida
Department of Financial Affairs.



Nick Cox
04/05/2002 12:24 PM


To: George Sheldon/OAG@OAG
cc: Mary Leontakianakos/OAG@OAG
Subject: Sonic


I just spoke to a Bill Tharpe from DOI who has been trying to call us. This was just following my return from Steve Burton's office this morning. Need to fill you in on what he advised me and how it may impact us now. I also want to advise Burton that I got the call, but want to OK with you first.

Tharpe also mentioned that the Commissioner may be talking to Butterworth about this today, but that now that he has contacted us, it's cool.

Nick

00518

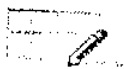
 Nick Cox
04/08/2002 05:09 PM

To: Terry O'Loughlin/OAG@OAG
cc: Jack Norris/OAG@OAG, Janet McDonald/OAG@OAG, William Featheringill/OAG@OAG
Subject: Re: Sonic Investigation 

I'd be happy to speak to him, but we have basically been advising folks that we are not commenting at this time. If you want, I'll be glad to call him though.

Thanks.... Nick

00475



Nick Cox
04/08/2002 05:18 PM

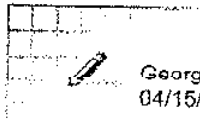
To: George Sheldon/OAG@OAG, Mary Leontakianakos/OAG@OAG
cc:
Subject: Clearwater Mitsui

I met with Burton again this afternoon. He is finishing some drafting we need to continue our discussions and so I have something to discuss further with Jack and you all.

I told him about the call from DOI and he understood and all was fine. I advised him that I was still willing to talk about our situation, understanding that DOI may well be an issue now.

Will keep you all advised.... Nick

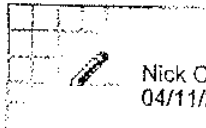
00478



George Sheldon
04/15/2002 08:52 AM

To: Nick Cox/OAG@OAG
cc: Mary Leontakianakos/OAG@OAG
Subject: Re: Sonic

Be sure to keep Insurance in the loop on discussions with Burton.
Nick Cox



Nick Cox
04/11/2002 01:51 PM

To: George Sheldon/OAG@OAG, Mary Leontakianakos/OAG@OAG
cc:
Subject: Sonic


CONFIDENTIAL ATTORNEY WORK PRODUCT


Just to keep you both up to date on this.... George and I met briefly with two Dept. of Insurance folks late Tuesday. They are going to be coming down here sometime next week to take a look at some of our production to assess for the Treasurer their situation. The atty for Sonic is aware of this.

In the meantime, I am continuing my discussions with Burton (atty for Sonic). We have made substantial headway and are continuing to do so. In fact, I am to meet him again tomorrow to further discuss a resolution. I will be staying in touch with Jack about this as well.


Nick


00516

 George Sheldon
04/13/2002 09:19 AM

To: Nick Cox/OAG@OAG
cc: Mary Leontakianakos/OAG@OAG
Subject: Re: Sonic 

Do not leave Burton with the impression that any settlement discussions will exclude Insurance.
Nick Cox

 Nick Cox
04/15/2002 09:00 AM

To: George Sheldon/OAG@OAG
cc: Mary Leontakianakos/OAG@OAG
Subject: Re: Sonic 

CONFIDENTIAL ATTORNEY WORK PRIVILEGE

Well, I'm not giving them the specifics, but they do know we are talking. They asked me if we were keying on fines or restitution and I let them know restitution and the business practices changes issues.

I also let Burton know that we are going forward with our discussions (more progress was made Friday.... and I have continued to discuss it all with Jack Norris), but that for this week and maybe next, we are going to see what assessment DOI has made for themselves and what route they are taking. I told him I would not know until then if DOI would be trying to join us in settlements if needed, or if we would just go ourselves.... we needed to see first what their assessment is and how they plan on proceeding.

Regardless, hopefully DOI will tell us quickly how things look so we can decide when to move forward with an AVC. It will be 4 years next month that Sonic bought the dealerships, and I want to be able reach back to then with the consumer disclosures if we are going to do an AVC.

Thanks.... Nick

00517

Nick Cox

11/13/2002 04:18 PM

To: Janet McDonald/OAG
cc:
Subject: Re: Sonic [icon]

Yes, and have me a list of the consumers who called in after the news reports so that I can call Burton with them. Have we gotten all the answers from Morestadt that we had questions for?

Nick

00501

To: Charles Holland
From: Janet McDonald on 01/15/2003 04:51 PM
Subject: Sonic

I left you a copy of the article. Jan

----- Forwarded by Janet McDonald/OAG on 01/15/2003 04:51 PM -----

William Featherinall
01/15/2003 02:01 PM

To: Nick Cox/OAG@OAG, Janet McDonald/OAG@OAG
cc:
Subject: Sonic

Just curious about our 900 lb. gorilla. Any news? Do you think we might gain support by talking with the new administration about this case? The statute of limitations eliminates 1/2 of our sample group this month.

http://money.cnn.com/2002/12/31/pf/autos/c_carsales/index.htm

00509

To: George LeMieux
Mary Leontakianakos
Frank Nick Cox
Date: 4/17/03
Re: Clearwater Mitsubishi and
Clearwater Toyota AVC

This is a matter that the OAG began investigating in 2001. The allegations were that the dealerships were engaging in a practice commonly referred to as "payment packing". Essentially consumers who purchased or leased cars from these dealers were unaware that the purchase also included after-market products - ie - service plans, maintenance plans, GAP insurance and Etc security protection. Often the cost of these items was buried in the price of the car itself or in the cost of an extended warranty the consumer purchased.

At one point in 2002 the OAG was in the process of negotiating with the dealers. During that period the Dept. of Insurance (now CFO) became involved and approached our office regarding this matter. DOI indicated that they had authority over this matter and that they wished to proceed with an investigation. DOI essentially took the lead at this time. We assisted them when requested and monitored the progress of their case.

The DOI and the dealers have now reached a voluntary consent that includes a consumer notification program and process for paying restitution under identified circumstances. The DOI program involves each of the products listed above and will be administered through a third party administrator. DOI has also directed certain business practices be modified or added at each dealership.

The enclosed AVC with the OAG recognizes the program developed by the DOI voluntary consent. It further directs additional business practices be employed, many of which are already up and running. These include training for sales and finance employees on Florida Law and the sale of these products, a toll free whistle-blower number for employees to report inappropriate activity, filling out after-market applications and form in toto leaving no blanks. Listing all prices separately the purchase agreement, an in house program to randomly inspect dealer files and compliance with 301. This also recognizes the practices as addressed by the DOI.

The AVC also calls for the dealers to pay over \$64,000 in fees and costs.

This agreement essentially complies with what Mary and I discussed with you last week. If you have any questions, please do not hesitate to contact me at your convenience.