

**TEXAS DEPARTMENT OF MOTOR VEHICLES  
CASE NO. 14-0313 CAF**

**LOS CANDILES RECEPTION HALL,  
Complainant**

v.

**FORD MOTOR COMPANY,  
Respondent**

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**BEFORE THE OFFICE**

**OF**

**ADMINISTRATIVE HEARINGS**

**DECISION AND ORDER**

Maria Vasquez, corporate president of Los Candiles Reception Hall (Complainant), seeks relief pursuant to Texas Occupations Code §§ 2301.601-2301.613 (Lemon Law) for alleged defects in her 2013 Lincoln MKX. Complainant asserts that the vehicle's air conditioning system is not working properly and that it may have electrical issues. Ford Motor Company (Respondent) argued that the vehicle has been repaired and that no relief is warranted. The hearings examiner concludes that the vehicle does have an existing warrantable defect, and Complainant is eligible for replacement relief.

**I. PROCEDURAL HISTORY, NOTICE AND JURISDICTION**

Matters of notice and jurisdiction were not contested and are discussed only in the Findings of Fact and Conclusions of Law. The hearing in this case convened on December 3, 2014 in Houston, Texas before Hearings Examiner Edward Sandoval and closed that same day. Complainant was represented by Maria Vasquez, corporate president, at the hearing. Gabriel Vasquez, husband to Maria Vasquez, was also present at the hearing for Complainant. Respondent was represented by Sonya Hall, Consumer Affairs Legal Analyst, who participated in the hearing by telephone. Gerardo Barchielli was present to perform Spanish interpretation of the proceedings for Mr. and Ms. Vasquez.

**II. DISCUSSION**

**A. Applicable Law**

The Lemon Law provides, in part, that a manufacturer of a motor vehicle must repurchase or replace a vehicle complained of with a comparable vehicle if the following conditions are met. First, the manufacturer is not able to conform the vehicle to an applicable express warranty by repairing or correcting a defect after a reasonable number of attempts.<sup>1</sup> Second, the defect or condition in the vehicle creates a serious safety hazard or substantially impairs the use or market value of the vehicle.<sup>2</sup> Third, the owner must have mailed written notice of the alleged defect or

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<sup>1</sup> Tex. Occ. Code § 2301.604(a).

<sup>2</sup> *Id.*

nonconformity to the manufacturer.<sup>3</sup> Lastly, the manufacturer must have been given an opportunity to cure the defect or nonconformity.<sup>4</sup>

In addition to the five conditions, a rebuttable presumption exists that a reasonable number of attempts have been undertaken to conform a motor vehicle to an applicable express warranty if the same nonconformity continues to exist after being subject to repair four or more times and: (1) two of the repair attempts were made in the 12 months or 12,000 miles, whichever comes first, following the date of original delivery to the owner; and (2) the other two repair attempts were made in the 12 months or 12,000 miles, whichever comes first, immediately following the date of the second repair attempt.<sup>5</sup>

## **B. Complainant's Evidence and Arguments**

Complainant purchased a 2013 Lincoln MKX from West Point Lincoln (West Point), in Houston, Texas on January 15, 2013, with mileage of 15 at the time of delivery.<sup>6</sup> On the date of hearing the vehicle's mileage was 24,864. At this time, Respondent's warranty coverage for the vehicle remains in place, with "bumper to bumper" coverage for four years or 50,000 miles, whichever comes first. In addition, Respondent's powertrain warranty provides for coverage for the powertrain for six years or 70,000 miles.<sup>7</sup>

Ms. Vasquez testified that a few days after purchasing the vehicle she smelled a burning odor from the front of the vehicle. No warning lights illuminated, but she felt that the brakes were getting hot. She took the vehicle to Respondent's authorized dealer, West Point, on January 24, 2013, due to the smell. A service advisor inspected the vehicle, but was not able to reproduce the odor. The vehicle was returned to Complainant on January 25, 2013. The vehicle's mileage when

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<sup>3</sup> Tex. Occ. Code § 2301.606(c)(1).

<sup>4</sup> Tex. Occ. Code § 2301.606(c)(2).

<sup>5</sup> Tex. Occ. Code § 2301.605(a)(1)(A) and (B). Texas Occupations Code § 2301.605(a)(2) and (a)(3) provide alternative methods for a complainant to establish a rebuttable presumption that a reasonable number of attempts have been undertaken to conform a vehicle to an applicable express warranty. However, § 2301.605(a)(2) applies only to a nonconformity that creates a serious safety hazard, and § 2301.605(a)(3) requires that the vehicle be out of service for repair for a total of 30 or more days in the 24 months or 24,000 miles, whichever occurs first, following the date of original delivery to the owner.

<sup>6</sup> Complainant Ex. 2, Motor Vehicle Retail Installment Sales Contract, Motor Vehicle Buyer's Order and Conditional Sale and Delivery Agreement dated January 15, 2013.

<sup>7</sup> Complainant Ex. 11, 2013 Model Year, Lincoln Warranty Guide.

it was taken to the dealership on this occasion was 337.<sup>8</sup> Complainant was provided with a rental vehicle while her vehicle was being repaired. The problem never recurred after January of 2013.

Soon thereafter, Complainant noticed that the vehicle's air conditioning system was not working properly. On February 1, 2013, Complainant took the vehicle to West Point because of the air conditioner issue and because the vehicle's lift gate wouldn't open. The dealer's service technician who worked on Complainant's vehicle tightened the vehicle's air conditioning lines and replaced the lift gate latch.<sup>9</sup> The mileage on the vehicle when Complainant took it to the dealership on this occasion was 662.<sup>10</sup> The vehicle was returned to Complainant on February 4, 2013. Complainant was provided with a rental vehicle while her vehicle was being repaired.

The air conditioner seemed to be repaired and worked fine for awhile. However, in mid-summer of 2013, the air conditioner stopped working. As a result, Complainant took the vehicle to West Point on August 26, 2013. Complainant informed the dealer's service advisor that the air conditioner wasn't working properly. The vehicle was inspected by the dealer's service technician. The technician replaced the air conditioner's service valve and recharged the system. The vehicle's mileage when it was delivered to the dealer on this occasion was 9,941.<sup>11</sup> The vehicle was returned to Complainant on August 27, 2013. Complainant was not provided with a loaner vehicle during this visit. The air conditioner worked for awhile after this repair.

In early 2014 as the weather began to warm up, Complainant noticed that the vehicle's air conditioner was again not working properly. She took the vehicle to West Point on February 17, 2014, in order to have the air conditioner examined. Complainant informed the service advisor that the vehicle's air conditioning system seemed to stop working about every six months. The dealer's service technician replaced the air conditioning system's evaporator assembly and recharged the system. The vehicle's mileage when it was delivered to the dealer on this occasion was 18,052.<sup>12</sup> The vehicle was returned to Complainant on February 24, 2014. Complainant was provided with a loaner vehicle while her vehicle was being repaired. The air conditioner worked for about two months after this repair.

On April 24, 2014, Complainant took the vehicle to West Point because the air conditioner had again stopped cooling. In addition, she indicated to the dealer's service advisor that the vehicle's

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<sup>8</sup> Complainant Ex. 3, Repair Order dated January 24, 2013.

<sup>9</sup> Complainant Ex. 4, Repair Order dated February 1, 2013.

<sup>10</sup> *Id.*

<sup>11</sup> Complainant Ex. 5, Repair Order dated August 26, 2013.

<sup>12</sup> Complainant Ex. 6, Repair Order dated February 17, 2014.

door ajar warning light would come on even though all of the doors were closed tightly, that the vehicle's interior lights would turn on unexpectedly, and that the vehicle's alarm would go off for no reason. Complainant informed the service advisor that she had to sometimes slam the driver's side door very hard in order to get the door ajar light to turn off. During this visit, the dealer's service technician performed repairs to the air conditioning system, including replacing the valve assembly again.<sup>13</sup> In regards to the other issues with the vehicle, the service technician performed repairs pursuant to Technical Service Bulletin (TSB) 14-0011. This repair involved removing the left front door latch and cycling the latch.<sup>14</sup> The vehicle's mileage when it was delivered to West Point on this occasion was 21,136.<sup>15</sup> The vehicle was returned to Complainant on April 30, 2014. Complainant was provided with a rental vehicle during the time that West Point was performing the repairs on her vehicle.

On September 25, 2014, Complainant took the vehicle back to West Point because it would not start and to allow Respondent a final opportunity to repair the vehicle. In addition, Complainant informed the dealer's service advisor that she was still having problems with the air conditioning system, as it wasn't cooling the vehicle as it should. The vehicle's battery was replaced during this visit. This seemed to cure the issue of the vehicle not starting. In addition, Respondent's field engineer inspected the vehicle's air conditioning system to determine what was wrong with it. Complainant also indicated that she sometimes had trouble opening the vehicle's lift gate. The Respondent's engineer could not duplicate Complainant's concerns regarding the lift gate during this repair visit. The mileage on the vehicle when it was taken to the dealer on this occasion was 23,378.<sup>16</sup> The vehicle was returned to Complainant on September 25, 2014. Complainant was provided with a rental vehicle during this visit.

On November 6, 2014, Complainant took the vehicle to West Point because the vehicle's moon roof wouldn't close. Repairs were performed to address the issue and it was repaired. The vehicle's mileage at the time she took it to the dealer on this occasion was 23,732.<sup>17</sup> The vehicle was returned to Complainant on November 11, 2014. Complainant was provided with a rental vehicle while her vehicle was being repaired.

Complainant wrote a letter to Respondent on June 20, 2014, in which she expressed her displeasure with the vehicle and the fact that she had to have multiple repairs performed on it.

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<sup>13</sup> Complainant Ex. 7, Repair Order dated April 24, 2014.

<sup>14</sup> Respondent Ex. 3, Manufacturer Response Form, undated. Received by OAH on December 1, 2014.

<sup>15</sup> Complainant Ex. 7, Repair Order dated April 24, 2014.

<sup>16</sup> Complainant Ex. 8, Repair Order dated September 25, 2014.

<sup>17</sup> Complainant Ex. 9, Repair Order dated November 6, 2014.

This letter was pursuant to Complainant's Lemon Law complaint which was filed on July 23, 2014.<sup>18</sup> Complainant indicated only one issue with the vehicle on her complaint which was that the air conditioner was not cooling and was losing Freon. She indicated that she was told that if she had any other concerns with the vehicle then she'd have to open a separate file for each concern.

Complainant indicated at the time of hearing that the vehicle's air conditioning system was still not working properly and that it makes a lot of noise. It's not cooling as it should and makes a lot of noise when she puts the air conditioner on maximum. She's very unhappy with the vehicle since she's taken it for service seven times, which includes five times for air conditioner problems, and five other issues. In addition, the vehicle's door ajar light has started lighting up again even when the doors are all closed. In order to get the light to turn off, Complainant has to slam the driver's side door more forcefully than normal.

During cross examination Complainant stated that she did not inform the service advisor of West Point about any issues regarding the air conditioning system, the lift gate, or the door ajar light coming on when she took the vehicle for repairs to the moon roof on November 6, 2014. However, soon after getting the vehicle back from West Point, those issues arose again. These issues arise intermittently. Although the issues have come up again, Complainant did not take the vehicle to an authorized dealer for repairs, she doesn't want to go back to the dealer for the vehicle to be repaired. Complainant feels that she doesn't have the time to do so. The vehicle currently has a ding in the front tire flashing. In addition, there is a small indentation in the windshield where a pebble hit it.

After an inspection of Complainant's vehicle by the hearings examiner, Complainant testified that the air conditioner was blowing cold air because the weather was cold. However, during summer or when the weather is warm, the air conditioner does not blow cold air. In addition, Complainant indicated that she did not want to have to go back for service on the vehicle every few months because of this issue. That's why she wants the vehicle replaced.

### **C. Respondent's Evidence and Arguments**

Sonya Hall, Consumer Affairs Legal Analyst, testified for Respondent. She first became involved upon Respondent's receipt of the Lemon Law complaint filed by Complainant. Upon receipt of

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<sup>18</sup> Complainant Ex. 1, Lemon Law Complaint Form. Complainant dated the complaint on July 17, 2014. However, it was not received by Texas Department of Motor Vehicles (TxDMV) until July 23, 2014, which is the effective date of the complaint.

the complaint, Ms. Hall contacted Complainant on September 3, 2014, to schedule a final repair attempt of the vehicle. Ms. Hall offered Complainant a settlement of a five year, 75,000 mile extension of a service warranty. Complainant had previously been offered by one of Respondent's representatives a replacement of the vehicle which Complainant refused because she did not want to pay the mileage charge.<sup>19</sup>

Respondent performed a final inspection and repair attempt on Complainant's vehicle on September 25, 2014. The inspection was performed by Brian Jay, Field Service Engineer. The only issue addressed during the inspection was the problem with the air conditioning system not cooling. The inspector determined that the air conditioning system was working as designed and that no repairs were necessary during the inspection.<sup>20</sup>

Ms. Hall testified that a TSB is a technical service bulletin which provides service technicians with instructions on how to perform repairs on a vehicle for a specific issue, in this case the issue with the door ajar light coming on. This repair was performed on April 24, 2014.

Ms. Hall also indicated that the only settlement offer currently available to Complainant is the five year/75,000 mile extended service plan. The current warranty on the vehicle is for four years/50,000 miles bumper-to-bumper. The offer made by Respondent would extend the warranty and provide a rental vehicle to Complainant if repairs needed to be performed.

#### **D. Analysis**

Under the Lemon Law, Complainant bears the burden of proof to establish by a preponderance of evidence that a defect or condition creates a serious safety hazard or substantially impairs the use or market value of the vehicle. In addition, Complainant must meet the presumption that a reasonable number of attempts have been undertaken to conform the vehicle to an applicable express warranty. Finally, Complainant is required to serve written notice of the nonconformity on Respondent, who must be allowed an opportunity to cure the defect. If each of these requirements is met and Respondent is still unable to conform the vehicle to an express warranty by repairing the defect, Complainant is entitled to have the vehicle repurchased or replaced.

Complainant purchased the vehicle on January 15, 2013 and presented the vehicle to an authorized dealer of Respondent due to her concerns with the vehicle's air conditioning system

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<sup>19</sup> Respondent Ex. 1, Vehicle Replacement Worksheet dated June 30, 2014.

<sup>20</sup> Respondent Ex. 2, FSE Vehicle Inspection Report dated September 25, 2014.

on the following dates: February 1, 2013; August 26, 2013; February 17, 2014; and April 24, 2014. Occupations Code § 2301.604(a) requires a showing that Respondent was unable to conform the vehicle to an applicable express warranty "after a reasonable number of attempts." Section 2301.605(a)(1) specifies that a rebuttable presumption that a reasonable number of attempts to repair have been made if "two or more repair attempts were made in the 12 months or 12,000 miles, whichever occurs first, following the date of original delivery to the owner, and two other repair attempts were made in the 12 months or 12,000 miles, whichever occurs first, immediately following the date of the second repair attempt." The evidence presented at the hearing establishes that Complainant has met the requirements of this test. Complainant presented the vehicle to an authorized dealer for Respondent for repairs to the vehicle's air conditioning system on two occasions within the first year or 12,000 miles from purchase. In addition, the next two repair attempts were performed within the next year and the next 12,000 miles. As such, Complainant has established that a reasonable number of attempts to repair the vehicle were made by Respondent.

In addition, the evidence presented at the hearing indicates that Complainant also provided Respondent with a final opportunity to cure the defect. Complainant informed Respondent via letter dated June 20, 2014, of the issues with the vehicle's air conditioning system and providing them with an opportunity to cure of which Respondent availed themselves. The vehicle was inspected on September 25, 2014, by Respondent's representative who determined that no repairs were necessary at that time.

The evidence indicates that the defect in Complainant's vehicle substantially impairs its use and market value. The air conditioning system's failure to work properly makes it less desirable to drive than comparable vehicles, especially during warm weather in Houston. In fact, it is virtually a necessity for a vehicle in Texas to have a working air conditioner during the summer months due to the excessive heat that can occur. In addition, it can cause the driver to decide that the vehicle is not roadworthy for extended trips which can affect its marketability due to the reduced capacity for use.

Based on the evidence and the arguments presented, the hearings examiner finds that replacement of the vehicle is the appropriate remedy in this case. Complainant's request for replacement relief is hereby granted.

### III. FINDINGS OF FACT

1. Maria Vasquez, president of Los Candiles Reception Hall (Complainant), purchased a new 2013 Lincoln MKX on January 15, 2013 from West Point Lincoln, in Houston, Texas, with mileage of 15 at the time of delivery.
2. The manufacturer of the vehicle, Ford Motor Company (Respondent) issued a bumper to bumper warranty for four years or 50,000 miles, whichever occurs first and a separate powertrain warranty for six years or 70,000 miles.
3. The vehicle's mileage on the date of hearing was 24,864.
4. At the time of hearing the vehicle was still under warranty.
5. Soon after purchasing the vehicle, Complainant noticed that the air conditioning system was not working properly and that intermittently it did not blow cool air.
6. Complainant took her vehicle to Respondent's authorized dealer, West Point Lincoln, in order to address her concerns with the vehicle's air conditioner, on the following dates:
  - a. February 1, 2013, at 662 miles;
  - b. August 26, 2013, at 9,941 miles;
  - c. February 17, 2014, at 18,052 miles; and
  - d. April 24, 2014, at 21,136 miles.
7. Complainant had other concerns with the vehicle, including issues with the rear lift gate not working properly and with the door ajar warning light illuminating, but the repair orders for the vehicle indicate that these issues were only raised on one occasion each and were never addressed again, except during the final repair attempt in September of 2014.
8. Respondent, through its authorized dealer, undertook a reasonable number of attempts to conform Complainant's vehicle to an applicable express warranty, but the nonconformity in the vehicle continues to exist.
9. The defective condition of Complainant's vehicle substantially impairs its use and market value. The air conditioning system's failure to work properly makes it less desirable to drive than comparable vehicles, especially during warm weather. In addition, it can cause

the driver to decide that the vehicle is not roadworthy for extended trips which can affect its marketability due to the reduced capacity for use.

10. Complainant provided written notice of the defect to Respondent on June 20, 2014.
11. On July 23, 2014, Complainant filed a Lemon Law complaint with the Texas Department of Motor Vehicles (Department).
12. Respondent was given a final opportunity to inspect the vehicle on September 25, 2014.
13. On October 15, 2014, the Department's Office of Administrative Hearings issued a notice of hearing directed to Complainant and Respondent, giving all parties not less than 10 days' notice of hearing and their rights under the applicable rules and statutes. The notice stated the time, place and nature of the hearing; the legal authority and jurisdiction under which the hearing was to be held; particular sections of the statutes and rules involved; and the matters asserted.
14. The hearing convened on December 3, 2014 in Houston, Texas before Hearings Examiner Edward Sandoval and closed that same day. Complainant was represented by Maria Vasquez, corporate president, at the hearing. Gabriel Vasquez, husband to Maria Vasquez, was also present at the hearing for Complainant. Respondent was represented by Sonya Hall, Consumer Affairs Legal Analyst, who participated in the hearing by telephone. Gerardo Barchielli was present to perform Spanish interpretation of the proceedings for Mr. and Ms. Vasquez.

#### IV. CONCLUSIONS OF LAW

1. The Texas Department of Motor Vehicles (Department) has jurisdiction over this matter. Tex. Occ. Code §§ 2301.601-.613 (Lemon Law).
2. A hearings examiner of the Department's Office of Administrative Hearings has jurisdiction over all matters related to conducting a hearing in this proceeding, including the preparation of a decision with findings of fact and conclusions of law, and the issuance of a final order. Tex. Occ. Code § 2301.704.
3. Complainant timely filed a complaint with the Department. Tex. Occ. Code § 2301.204; 43 Tex. Admin. Code § 215.202.

4. The parties received proper notice of the hearing. Tex. Gov't Code §§ 2001.051, 2001.052; 43 Tex. Admin. Code § 215.206(2).
5. Complainant bears the burden of proof in this matter.
6. Complainant's vehicle has an existing nonconformity that substantially impairs the use and market value of the vehicle. Tex. Occ. Code § 2301.604(a).
7. After a reasonable number of attempts, Respondent has been unable to repair the nonconformity in Complainant's vehicle so that it conforms to the applicable express warranty. Tex. Occ. Code §§ 2301.604(a) and 2301.605.
8. Based on the above Findings of Fact and Conclusions of Law, Complainant is entitled to relief under Texas Occupations Code § 2301.604(a).
9. Based on the above Findings of Fact and Conclusions of Law, Respondent is required to replace Complainant's 2013 Lincoln MKX. Tex. Occ. Code § 2301.604(a)(1).
10. Complainant is not entitled to reimbursement of incidental expenses. Tex. Occ. Code § 2301.604(a); 43 Tex. Admin. Code § 215.209.

**IT IS THEREFORE ORDERED** that:

1. Respondent shall, in accordance with Texas Administrative Code § 215.208(d)(1)(A), promptly authorize the exchange of Complainant's 2013 Lincoln MKX (the reacquired vehicle) with Complainant's choice of any comparable motor vehicle.
2. Respondent shall instruct the dealer to contract the sale of the selected comparable vehicle with Complainant under the following terms:
  - (a) The sales price of the comparable vehicle shall be the vehicle's Manufacturer's Suggested Retail Price (MSRP);
  - (b) The trade-in value of Complainant's 2013 Lincoln MKX shall be the MSRP at the time of the original transaction, less a reasonable allowance for Complainant's use of the vehicle;

- (c) The use allowance for replacement relief shall be calculated in accordance with the formula outlined in Texas Administrative Code § 215.208(b)(2) (the use allowance is \$4,992.97);
- (d) The use allowance paid by Complainant to Respondent shall be reduced by \$35.00 (the refund for the filing fee) (after deducting the filing fee, the use allowance is reduced to **\$4,957.97**, which is the amount that Complainant must be responsible for at the time of the vehicle exchange).
3. Respondent's communications with Complainant finalizing replacement of the reacquired vehicle shall be reduced to writing, and a copy thereof shall be provided to the Department within twenty (20) days of completion of the replacement.
  4. Respondent shall obtain a Texas title for the reacquired vehicle prior to resale and issue a disclosure statement on a form provided or approved by the Department.<sup>21</sup>
  5. Respondent shall affix the disclosure label to the reacquired vehicle in a conspicuous location (*e.g.*, hanging from the rear view mirror). Upon Respondent's first retail sale of the reacquired vehicle, the disclosure statement shall be completed and returned to the Department.
  6. Within sixty (60) days of transfer of the reacquired vehicle, Respondent shall provide to the Department written notice of the name, address and telephone number of any transferee (wholesaler or equivalent), regardless of residence.
  7. Respondent shall repair the defect or condition that was the basis of the 2013 Lincoln MKX's reacquisition and issue a new 12-month/12,000-mile warranty on the reacquired vehicle.
  8. Upon replacement of Complainant's 2013 Lincoln MKX, Complainant shall be responsible for payment or financing of the usage allowance of the reacquired vehicle, any outstanding liens on the reacquired vehicle, and applicable taxes and fees associated

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<sup>21</sup> Correspondence and telephone inquiries regarding disclosure labels should be addressed to: Texas Department of Motor Vehicles, Enforcement Division-Lemon Law Section, 4000 Jackson Avenue Building 1, Austin, Texas 78731, ph. (512) 465-4076.

with the new sale, excluding documentary fees. Further, in accordance with 43 Tex. Administrative Code § 215.208(d)(2):

- (a) If the comparable vehicle has a higher MSRP than the reacquired vehicle, Complainant shall be responsible at the time of sale to pay or finance the difference in the two vehicles' MSRPs to the manufacturer, converter or distributor; and
  - (b) If the comparable vehicle has a lower MSRP than the reacquired vehicle, Complainant will be credited the difference in the MSRP between the two vehicles. The difference credited shall not exceed the amount of the calculated usage allowance for the reacquired vehicle.
9. Complainant shall be responsible for obtaining financing, if necessary, to complete the transaction.
  10. The replacement transaction described in this Order shall be completed within 20 calendar days from the receipt of this Order. If the transaction cannot be accomplished within the ordered time period, Respondent shall repurchase Complainant's 2013 Lincoln MKX pursuant to the repurchase provisions set forth in 43 Tex. Administrative Code § 215.208(b)(1) and (2). The repurchase price shall be **\$42,042.03**. The refund shall be paid to Complainant and the lien holder, if any, as their interests appear. If clear title is delivered, the full refund shall be paid to Complainant.

Purchase price, including tax, title, license and registration	\$47,000.00
Delivery mileage	15
Mileage at first report of defective condition	662
Mileage on hearing date	24,864
Useful life determination	120,000

Purchase price, including tax, title, license and registration	\$47,000.00
Mileage at first report of defective condition	662
Less mileage at delivery	<u>-15</u>
Unimpaired miles	647
Mileage on hearing date	24,864

Less mileage at first report of defective condition									
Impaired miles									<u>-662</u>
									24,202
Reasonable Allowance for Use Calculations:									
Unimpaired miles									
									<u>647</u>
	120,000	X	\$47,000.00	=	\$253.41				
Impaired miles									<u>24,202</u>
	120,000	X	\$47,000.00 x .5	=	<u>\$4,739.56</u>				
Total reasonable allowance for use deduction:									\$4,992.97
Purchase price, including tax, title, license and registration									\$47,000.00
Less reasonable allowance for use deduction									-\$4,992.97
Plus filing fee refund									<u>\$35.00</u>
<b>TOTAL REPURCHASE AMOUNT</b>									\$42,042.03

11. If Complainant's 2013 Lincoln MKX is substantially damaged or there is an adverse change in its condition, beyond ordinary wear and tear, from the date of the hearing to the date of Respondent's reacquisition of the vehicle, and the parties are unable to agree on an amount allowed for such damage or condition, either party may request reconsideration by the final order authority of the trade-in value of Complainant's vehicle.

### ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is **ORDERED** that Complainant's petition for repurchase relief pursuant to Texas Occupations Code §§ 2301.601-.613 is hereby **GRANTED**. It is further **ORDERED** that Respondent shall repair the warrantable defect in the reacquired vehicle identified in this Decision.

SIGNED December 23, 2014.

  
 EDWARD SANDOVAL  
 CHIEF HEARINGS EXAMINER  
 OFFICE OF ADMINISTRATIVE HEARINGS  
 TEXAS DEPARTMENT OF MOTOR VEHICLES