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of The Sentinel Staff**

The Florida attorney general's office has levied a \$5,000 penalty against Bob McClelland's Fairway Chrysler Plymouth in Orlando for what it termed "evidence of bait-and-switch" advertising and sales tactics, a state official said Friday.

The penalty is part of a negotiated settlement in which the dealership agreed to sign an "assurance of voluntary compliance," a document that, while not admitting any violations of state laws, promises that the dealership will obey them in the future.

The document is the second signed by Fairway in the past year. In February, the dealership took a similar pledge, although it did not have to pay a penalty at that time.

Fairway's penalty includes \$2,500 in legal fees. The state could have charged up to \$5,000 for each violation for each day an advertisement appeared in print or was broadcast, or it could have taken the case to court.

The settlement takes into account two instances of alleged bait-and-switch tactics, but the attorney general's office elected to settle for a \$5,000 penalty rather than fight the matter in court, said William Howell, assistant attorney general.

"We have accomplished what I had hoped we could accomplish and without any cost to the taxpayer," he said. "I don't see the advantage of trying to get \$10,000 and spending two years in court just to get \$5,000 more."

The two consumer complaints involved vehicles advertised for sale that were not available for purchase at the time the consumers visited Fairway's lot last summer.

In one case, a Titusville man called the dealership

for three days, negotiating to buy an advertised car, but when he arrived at Fairway the car had been sold two days before, Howell said. In the other case, a man complained that he was told an advertised car was on the lot, but when he arrived the car had a "sold" sign on it. His wife called the next day, and a dealership employee told her that the car was still available.

Howell said that Fairway was able to substantiate that the cars had been sold before the people arrived, usually an effective defense against bait-and-switch charges. However, Howell said, the dealership still showed evidence of violating the state fair-trade and advertising code -- called the Little FTC Act -- because it stocked only one of each advertised car.

"The Florida administrative code states that, if there is an insufficient quantity of products -- in this case cars -- on hand to fulfill reasonably anticipated demand, then this is evidence of bait and switch," he said. What defines a sufficient quantity is a decision for a jury to make, Howell said.

Fairway lawyer Bob Baxa asserted that the attorney general's office actually found no evidence of bait-and-switch tactics and that it levied penalties because some of Fairway's ads had the "capacity to mislead the most ignorant of consumers."

"That's a little bit of a squishy standard," he said.

Baxa said his client elected to negotiate a settlement rather than contest the case in court to avoid prolonged negative publicity. Fairway's owner, Bob McClelland, was not available for comment late Friday afternoon.

"Even if Fairway had prevailed in the lawsuit," Baxa said, "you're looking at a lengthy period of time during which the charges of the violations would be before the public."