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# ECKERT SEAMANS CHERIN & MELLOTT, LLC

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REVIEW COMMISSION

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December 2, 2002

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Teresa A. Woodall  
Board Administrator  
State Board of Vehicle Manufacturers,  
Dealers and Salespersons  
P. O. Box 2649  
Harrisburg, PA 17105-2649

Boston

Haddonfield, NJ

Harrisburg

Morgantown, WV

Philadelphia

Pittsburgh

Washington, D.C.

Re: Proposed Vehicle Auction License Regulations

Dear Ms. Woodall:

I am providing comments on behalf of my clients, Copart, Inc. and Motors Auction Group, regarding the State Board of Vehicle Manufacturers, Dealers and Salespersons' proposed regulations regarding vehicle auction licenses. These proposed regulations were published in the November 2, 2002, edition of the *Pennsylvania Bulletin*.

Copart is engaged in salvage vehicle auctions at four locations in Pennsylvania and over 90 locations throughout the United States. Its subsidiary, Motors Auction Group, operates public auctions for undamaged vehicles at two locations throughout Pennsylvania.

Proposed regulation sections 19.19(b)(1) and 19.20(b)(1) require that an established place of business shall include a permanent enclosed building "for use as an auction facility" within this Commonwealth. Salvage vehicles typically are not operable and cannot be driven through an enclosed building. Salvage vehicles are auctioned outside because the vehicles usually must be towed or transported by a forklift. Although we do understand that the Board does not intend to require that the actual sale take place within the enclosed building, we suggest that these regulations be clarified to provide that the auction itself need not be conducted within the required enclosed building.

Sections 19.19(a)(2) and 19.20(a)(2) prohibit an auction from conducting activities other than from its established place of business. These regulations should be modified to specifically allow conducting interstate commerce by Internet auctions in circumstances where either a buyer, who is bidding remotely by Internet, and/or the vehicle is not actually at the established place of business. Copart, Inc. and Motors Auction Group presently offer Internet bidding on a nationwide basis to qualified bidders. We would like to personally meet with representatives of the

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*Terresa Woodall  
December 2, 2002  
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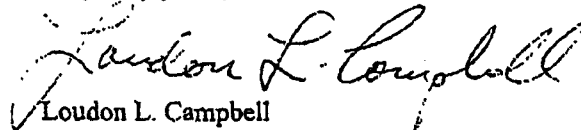
Board to further explain this issue. Regulation of Internet activities may constitute an impermissible regulation of interstate commerce.

Sections 19.19(b)(5) and 19.20(b)(5) indicate that auctions shall possess a certificate of occupancy issued by the Department of Labor and Industry under the Fire and Panic Act. The Uniform Construction Code (UCC) has been enacted and includes provisions which repeal the Fire and Panic Act. Upon publication of final regulations, the UCC will become effective. We understand that the Department of Labor and Industry will soon publish final regulations implementing the UCC. The UCC allows the Act, including the issuance of certificates of occupancy, to be administered by municipalities at their option, or, if municipalities do not so elect, the Act will be administered by the Department of Labor and Industry. The regulations should soon be finalized, and due to the confusion that may arise by referencing the Fire and Panic Act, we suggest that these regulations omit reference to the Fire and Panic Act and certificates of occupancy. The Board should wait until the UCC has been fully implemented by regulation of the Department of Labor and Industry before it regulates on the certificate of occupancy requirement.

We wish to bring to the attention of the Board the recent passage by the legislature of House Bill 152, printer's number 4693, which amends the Vehicle Code. That Bill provides additional statutory provisions regarding salvage sales. We suggest that the proposed regulations should be reviewed for consistency with House Bill 152 assuming it is approved by the Governor.

We would be happy to meet with you or your staff to further discuss these regulations at your convenience.

Very truly yours,

  
Loudon L. Campbell

c: Paul Styer  
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