October 13, 1994

OPINION NO. 94-069

Charles D. Shipley, Director
Department of Public Safety
240 Parsons Avenue
P.O. Box 7167
Columbus, Ohio 43266-0563

Dear Director Shipley:

You have requested an opinion concerning the provision of motor vehicle financing, motor vehicle insurance, and motor vehicle rentals[1] by individuals licensed as new or used motor vehicle dealers. Your specific questions are:

1.May a new motor vehicle dealer or used motor vehicle dealer, licensed under R.C. Chapter 4517. offer, at the dealer's established place of business, motor vehicle financing, motor vehicle insurance, and motor vehicle rentals?

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[1] Information provided indicates that a "motor vehicle rental" is a motor vehicle that is made available to an individual pursuant to a bailment, rental agreement, or other contractual arrangement for a period of less than thirty days under which a charge is made for its use at a periodic rate and the title to the motor vehicle is in a person other than the user. The term "motor vehicle rental" does not include a motor vehicle made available to an individual pursuant to a bailment, lease, or other contractual arrangement under which a charge is made for its use at a periodic rate for a term of thirty days or more, and title to the motor vehicle is in a person other than the user. *Compare* R.C. 4549.65(A)(2) ("_[m]otor vehicle renting dealer_ means any person engaged in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle pursuant to a bailment, rental agreement, or other contractual arrangement for a period of less than thirty days under which a charge is made for its use at a periodic rate and the title to the motor vehicle is in a person other than the user, but does not mean a manufacturer or its affiliate renting to its employees or to dealers") *with* R.C. 4517.01(M) ("_[m]otor vehicle leasing dealer_ means any person engaged in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle pursuant to a bailment, lease, or other contractual arrangement under which a charge is made for its use at a periodic rate for a term of thirty days or more, and title to the motor vehicle is in a person other than the user, but does not mean a manufacturer or its affiliate leasing to its employees or to dealers").

2.If a licensed new motor vehicle dealer or used motor vehicle dealer is permitted to offer the foregoing services at the dealer's established place of business, may the dealer offer those services to the general public or only to those persons to whom the dealer has sold a motor vehicle?

3.If a licensed new motor vehicle dealer or used motor vehicle dealer is permitted to offer the foregoing services, may the dealer do so through a separate entity, such as a separate corporation or partnership, or must the dealer conduct any such business under the same entity for which the dealer is licensed to do business?

A New or Used Motor Vehicle Dealer May Offer Motor Vehicle Financing, Motor Vehicle Insurance, and Motor Vehicle Rentals at His Dealership

No provision within the Revised Code or the Ohio Administrative Code expressly prohibits a new or used motor vehicle dealer from offering motor vehicle financing, motor vehicle insurance, or motor vehicle rentals at his dealership. However, R.C. 4517.03 does provide, in pertinent part, as follows:

> (B) No new motor vehicle dealer shall sell, display, offer for sale, or deal in motor vehicles at any place except an established place of business that is used *exclusively for the purpose of selling, displaying, offering for sale, or dealing in motor vehicles*....
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> ....
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> (C) No used motor vehicle dealer shall sell, display, offer for sale, or deal in motor vehicles at any place except an established place of business that is used *exclusively for the purpose of selling, displaying, offering for sale, or dealing in motor vehicles*. (Emphasis added.)

See also 12 Ohio Admin. Code 4501:1-3-08 ("[a] used motor vehicle dealer shall have an established place of business which ... shall be separated from any other business or residence with a permanent physical barrier"). Thus, a new or used motor vehicle dealer must sell, display, offer for sale, or deal in motor vehicles at an established place of business that is used exclusively for the purpose of selling, displaying, offering for sale, or dealing in motor vehicles. Resolution of your first question, accordingly, turns on whether the exclusive use requirement set forth in divisions (B) and (C) of R.C. 4517.03 prohibits new and used motor vehicle dealers from offering motor vehicle financing, motor vehicle insurance, and motor vehicle rentals at an established place of business that is used for the purpose of selling, displaying, offering for sale, or dealing in motor vehicles.

Division (A) of R.C. 4517.03 provides guidance with respect to the foregoing issue by describing several circumstances in which a place of business that is used for selling, displaying, offering for sale, or dealing in motor vehicles shall be considered as used exclusively for those purposes. R.C. 4517.03(A) states, in pertinent part, as follows:

> *A place of business that is used for selling, displaying, offering for sale, or dealing in motor vehicles shall be considered as used exclusively for those purposes even* though snowmobiles, all purpose vehicles, or farm machinery is sold or displayed there, or *if* repair, accessory, gasoline and oil, storage, parts, *services,* or paint *departments are maintained there,* or *such* products or *services are provided there,* if such departments are operated or such products or services are provided for the business of selling, displaying, offering for sale, or dealing in motor vehicles. (Emphasis added.)

Pursuant to R.C. 4517.03(A), therefore, a place of business that is used for selling, displaying, offering for sale, or dealing in motor vehicles is considered as used exclusively for those purposes even if services are provided there, provided those services are provided for the business of selling, displaying, offering for sale, or dealing in motor vehicles. This means that for purposes of R.C. 4517.03(B) or (C), a new or used motor vehicle dealer may provide services at his place of business, if such services are provided for the business of selling, displaying, offering for sale, or dealing in motor vehicles.

The term "services" is not separately defined for purposes of R.C. 4517.03. It is a general rule of statutory construction that a word that is not specifically defined for purposes of a statute must be accorded its natural, literal, common, or plain meaning. R.C. 1.42; *see State v. Dorso,* 4 Ohio St. 3d 60, 62, 446 N.E.2d 449, 451 (1983). "Services" is defined as "[t]hings purchased by consumers that do not have physical characteristics." *Black's Law Dictionary* 1369 (6th ed. 1990). For example, the services of doctors, lawyers, dentists, and repair personnel are included within the definition of "services." *Id.* Accordingly, a new or used motor vehicle dealer may provide, at his place of business, things purchased by consumers that do not have physical characteristics, if such things are provided for the business of selling, displaying, offering for sale, or dealing in motor vehicles.

Motor vehicle financing, motor vehicle insurance, and motor vehicle rentals are not tangible things purchased by consumers. In the case of motor vehicle financing, the purchaser of a motor vehicle receives the use of either the motor vehicle dealer's or a lending institution's money for a certain predetermined length of time. Similarly, with respect to motor vehicle rentals, the purchaser acquires the use of a motor vehicle from a motor vehicle dealer for a specified period of time. Finally, the purchaser of a policy of motor vehicle insurance receives the guarantee that the insurance company will pay the replacement value or for repair of a motor vehicle if it should be stolen or damaged. Motor vehicle financing, motor vehicle insurance, and motor vehicle rentals, therefore, are things purchased by consumers that do not have physical characteristics; they are therefore "services," as that term is used in R.C. 4517.03.

Accordingly, a place of business that is used for selling, displaying, offering for sale, or dealing in motor vehicles is properly considered as used exclusively for those purposes even though motor vehicle financing, motor vehicle insurance, and motor vehicle rentals are offered at that place of business, provided those services are provided for the business of selling, displaying, offering for

sale, or dealing in motor vehicles.[2] Therefore, an individual licensed as a new or used motor vehicle dealer under R.C. Chapter 4517 may offer motor vehicle financing, motor vehicle insurance, and motor vehicle rentals at his established place of business that is used for selling, displaying, offering for sale, or dealing in motor vehicles, provided those services are provided for the business of selling, displaying, offering for sale, or dealing in motor vehicles.[3] *See generally* 1970 Op. Att'y Gen. No. 70-115 (syllabus) ("[a]n automobile leasing company which regularly sells or offers to sell its used automobiles to an ultimate purchaser for use as a consumer, is subject to the dealer's licensing requirements of Chapter 4517, Revised Code").

A New or Used Motor Vehicle Dealer Is Permitted to Offer, at His Established Place of Business, Motor Vehicle Financing, Motor Vehicle Insurance, and Motor Vehicle Rentals through a Separate Corporation or Partnership

Because your third question, as does your first, concerns the circumstances under which a new or used motor vehicle dealer may offer motor vehicle financing, insurance, and rentals, it will be considered next. Your third question asks whether a new or used motor vehicle dealer may offer, at his established place of business, motor vehicle financing, motor vehicle insurance, and motor vehicle rentals through a separate entity, such as a separate corporation or partnership, or whether the dealer must, instead, conduct any such business under the same entity for which the dealer is licensed to do business.[4]

As stated above, a new or used motor vehicle dealer must sell, display, offer for sale, or deal in motor vehicles at "an established place of business that is used exclusively for the purpose of selling, displaying, offering for sale, or dealing in motor vehicles." R.C. 4517.03(B), (C). A place of business that is used for selling, displaying, offering for sale, or dealing in motor vehicles is considered as used exclusively for those purposes "if repair, accessory, gasoline and oil, storage, parts, services, or paint departments are maintained there, or such products or services are provided there, if such departments are operated or such products or services are provided for the business of selling, displaying, offering for sale, or dealing in motor vehicles." R.C. 4517.03(A).

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[2] The determination of whether a particular service is "provided for the business of selling, displaying, offering for sale, or dealing in motor vehicles," R.C. 4517.03(A), requires the resolution of factual questions that can only be addressed on a case-by-case basis. *See generally* 1983 Op. Att'y Gen. No. 83-057 at 2-232 ("[t]his office is not equipped to serve as a fact-finding body; ... I shall not attempt to make final determinations where issues of fact are involved").

[3] A new or used motor vehicle dealer who chooses to offer motor vehicle financing, motor vehicle insurance, or motor vehicle rentals must comply with any applicable licensing laws, in addition to those set forth in R.C. Chapter 4517, that also regulate the provision of those services.

[4] Telephone conversations with members of your staff indicate that the Department of Public Safety is concerned with the situation in which a new or used motor vehicle dealer creates a separate corporation or partnership to offer motor vehicle financing, motor vehicle insurance, and motor vehicle rentals at the dealer's established place of business.

The language of R.C. 4517.03(A) states that a new or used motor vehicle dealer may offer products and services for the business of selling, displaying, offering for sale, or dealing in motor vehicles. The statute expressly states that a dealer may offer such services or products through a services department maintained at his place of business. In addition, the General Assembly further indicates that "such products or services [may be] provided there" by other means as well. The language of the statute thus affords a motor vehicle dealer various alternative ways to provide products and services to purchasers of new and used motor vehicles. One reasonable inference from the foregoing language is that a motor vehicle dealer may permit another entity to provide products or services for the business of selling, displaying, offering for sale, or dealing in motor vehicles at a motor vehicle dealer's place of business. R.C. 4517.03(A) (emphasis added). *See generally East Ohio Gas Co. v. Public Util. Comm.*, 39 Ohio St. 3d 295, 299, 530 N.E.2d 875, 879 (1988) (it is a basic rule of statutory construction "that words in statutes should not be construed to be redundant, nor should any words be ignored"); *Humphrys v. Winous Co.*, 165 Ohio St. 45, 49, 133 N.E.2d 780, 783 (1956) (a statute must be read and construed as a whole). An individual licensed as a new or used motor vehicle dealer under R.C. Chapter 4517, therefore, is permitted to offer motor vehicle financing, motor vehicle insurance, and motor vehicle rentals through a separate corporation or partnership that is formed by him to provide such financing, insurance, and rentals at his established place of business at which he sells, displays, offers for sale, or deals in motor vehicles. *But see, e.g.*, 1962 Op. Att'y Gen. No. 2767, p. 48 (syllabus) (concluding, under a prior and different version of what is now R.C. 4517.03, that a motor vehicle dealer may not sell, display, offer for sale, or deal in motor vehicles "at the same location at which a separate corporation is engaged in the leasing of motor vehicles"); *see also* rule 4501:1-3-08 (a used motor vehicle dealer's established place of business must be separated from another business or residence with a permanent physical barrier).

A New or Used Motor Vehicle Dealer May Offer Motor Vehicle Financing, Motor Vehicle Insurance, and Motor Vehicle Rentals to the General Public

Your second question asks whether a new or used motor vehicle dealer may offer motor vehicle financing, motor vehicle insurance, and motor vehicle rentals, at his place of business to the general public, or whether the dealer is limited to offering such services only to those persons to whom he has sold a motor vehicle. As indicated above, R.C. 4517.03 permits a new or used motor vehicle dealer to offer motor vehicle financing, motor vehicle insurance, and motor vehicle rentals at his place of business for the business of selling, displaying, offering for sale, or dealing in motor vehicles. No provision within R.C. 4517.03 or elsewhere in the Revised Code limits the provision of these services by a new or used motor vehicle dealer only to those individuals to whom the dealer has already sold a motor vehicle.

It is well understood that an opinion of the Attorney General may not read into a statutory scheme a requirement that is not within the manifest intention of the General Assembly as gathered from the scheme itself. *See, e.g.*, 1991 Op. Att'y Gen. No. 91-013; *see also Wachendorf v. Shaver*, 149 Ohio St. 231, 237, 78 N.E.2d 370, 374 (1948) ("nothing may be read into a statute which is not within the manifest intention of the Legislature as gathered from the act itself"). A determination that a motor vehicle dealer may only provide services to those individuals to whom the dealer has

sold a motor vehicle would prohibit the dealer from providing repair and body work services, motor vehicle parts and paints, and any other services related to the operation and maintenance of a motor vehicle to the general public, a restriction that could conceivably impair or impede the cost-effective provision of such services, which is a result that does not appear to have been intended by the General Assembly. Rather, as noted above, R.C. 4517.03(A) authorizes a motor vehicle dealer to offer these specific services at his established place of business, with the only limitation being that those services must be provided for the business of selling, displaying, offering for sale, or dealing in motor vehicles. *See* note two, *supra*. Thus, since there is no apparent legislative intention to limit the provision of motor vehicle financing, motor vehicle insurance, and motor vehicle rentals to individuals to whom a new or used motor vehicle dealer has sold a motor vehicle, it must be concluded that an individual licensed as a new or used motor vehicle dealer under R.C. Chapter 4517 may offer to the general public such services as motor vehicle financing, motor vehicle insurance, and motor vehicle rentals at his established place of business that is used for selling, displaying, offering for sale, or dealing in motor vehicles, provided those services are provided for the business of selling, displaying, offering for sale, or dealing in motor vehicles.

Conclusion

On the basis of the analysis above, it is my opinion, and you are hereby advised, that:

1. An individual licensed as a new or used motor vehicle dealer under R.C. Chapter 4517 may offer motor vehicle financing, motor vehicle insurance, and motor vehicle rentals at his established place of business that is used for selling, displaying, offering for sale, or dealing in motor vehicles, provided those services are provided for the business of selling, displaying, offering for sale, or dealing in motor vehicles.

2. An individual licensed as a new or used motor vehicle dealer under R.C. Chapter 4517 is permitted to offer motor vehicle financing, motor vehicle insurance, and motor vehicle rentals through a separate corporation or partnership that is formed by him to provide such services at his established place of business at which he sells, displays, offers for sale, or deals in motor vehicles, provided those services are provided for the business of selling, displaying, offering for sale, or dealing in motor vehicles.

3. An individual licensed as a new or used motor vehicle dealer under R.C. Chapter 4517 may offer to the general public motor vehicle financing, motor vehicle insurance, and motor vehicle rentals at his established place of business that is used for selling, displaying, offering for sale, or dealing in motor vehicles, provided those services are provided for the business of selling, displaying, offering for sale, or dealing in motor vehicles.

Respectfully,

LEE FISHER
Attorney General

October 13, 1994

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SYLLABUS: 94-069

1. An individual licensed as a new or used motor vehicle dealer under R.C. Chapter 4517 may offer motor vehicle financing, motor vehicle insurance, and motor vehicle rentals at his established place of business that is used for selling, displaying, offering for sale, or dealing in motor vehicles, provided those services are provided for the business of selling, displaying, offering for sale, or dealing in motor vehicles.

2. An individual licensed as a new or used motor vehicle dealer under R.C. Chapter 4517 is permitted to offer motor vehicle financing, motor vehicle insurance, and motor vehicle rentals through a separate corporation or partnership that is formed by him to provide such services at his established place of business at which he sells, displays, offers for sale, or deals in motor vehicles, provided those services are provided for the business of selling, displaying, offering for sale, or dealing in motor vehicles.

3. An individual licensed as a new or used motor vehicle dealer under R.C. Chapter 4517 may offer to the general public motor vehicle financing, motor vehicle insurance, and motor vehicle rentals at his established place of business that is used for selling, displaying, offering for sale, or dealing in motor vehicles, provided those services are provided for the business of selling, displaying, offering for sale, or dealing in motor vehicles.