Federal Trade Commission  
Office of the Secretary  
Room CC-5610 (Annex D)  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  

RE:  In the Matter of CarMax, Inc., File No. 142 3202 – Consent Agreement  
In the Matter of Asbury Automotive Group, Inc. File No. 152 3103 – Consent Agreement  
In the Matter of West-Herr Automotive Group, Inc., File No. 152 3105 – Consent Agreement  

Dear Commissioners of the U.S. Federal Trade Commission:  

My name is Cally Houck. I am a resident of Ojai, California. My beautiful, precious daughters Raechel and Jacqueline were just 24 and 20 years old when they were killed by a recalled Chrysler PT Cruiser that had not been repaired before they were handed the keys. It had a defective steering hose that made the car prone to catching on fire. When the car erupted into flames, they lost steering and collided with an 18-wheeler.  

After five years of litigation, their father and I won a unanimous jury verdict under existing state laws that are common in all 50 states, and were awarded $15 million in compensatory damages. The conduct of the company that put my daughters into that recalled car was illegal, under existing state laws.  

In 2015, the U.S. Congress passed the Raechel and Jacqueline Houck Safe Rental Car Act, named in their memories, to prohibit rental car companies, including auto dealers, with 35 vehicles or more in their rental / loaner fleets, from renting, loaning, or selling unsafe recalled cars. President Obama signed the bill into law on December 4, 2015.  

I oppose the FTC’s proposed consent orders with CarMax, Asbury, and West-Herr. Those proposed orders would set a dangerous standard that would allow car dealers to advertise unsafe, unrepairied, defective recalled used cars with serious safety defects that have killed and injured people as “safe,” “repaired for safety issues,” or “subject to a rigorous inspection,” and qualifying to be sold as “certified” cars, without repairing the safety defects. Such orders would make it “open season” on car buyers and their families, by legalizing false and deceptive advertising about deathtrap cars.  

The subsequent disclaimers proposed by the orders would be contradictory and confusing at best. Instead of providing protections for consumers, they threaten to create a
new “safe harbor” for dealers to commit fraud regarding how they advertise and sell cars with lethal safety defects.

Make no mistake. What the FTC has proposed would protect unscrupulous car dealers, not consumers. The proposed consent agreements are far worse than nothing. Not only are such practices already illegal, but they are totally irresponsible and reckless, and show an utter disregard for human life.

The FTC should not allow CarMax, Asbury, West-Herr or any other dealers to sell unsafe recalled used cars under any circumstances, let alone when the dealers advertise that their cars are “safe,” have been “repaired for safety,” have passed a “rigorous inspection,” and qualified to be sold as so-called “certified” cars. That could result in shifting the liability to the consumer, and in cases involving injury or death, could effectively limit the rights of victims and survivors to judicial redress – even if the defect injures or kills them and their passengers, and others, as they drive home from the dealership.

According to Automotive News (April 2, 2016), the President of the National Automobile Dealers Association, Colorado car dealer Jeff Carlson, claimed that only 6% of recalled vehicles are “hazardous.” He was excluding vehicles with safety defects that have killed and maimed tens of thousands of people, including my daughters. Unfortunately, consumers who hear such information from those who are in the business may tend to believe it, and therefore not perceive how risky the recall defects truly are.

In the same vein, in 2016, Don Hall, the President and CEO of the Virginia Automobile Dealers Association, told the Daily Press in Richmond that “the vast majority of recalls are for minor things.” Unfortunately, that is not only untrue, but also exactly the type of misleading statement that could mislead the car-buying public into buying cars with lethal safety defects – creating the mistaken impression that recalled cars are not dangerous. Numerous other dealers and others in the auto industry have repeated the same false and irresponsible claims in public, downplaying the risks their customers face.

If the FTC’s proposed consent agreements had been in effect when my daughters were buying a car, they would not have saved my daughters. Had they even noticed and read subsequent disclaimers or disclosures about the recall, including the recall notice from NHTSA, my girls, in their early 20’s, with no engineering or mechanical experience, and no awareness of other fatalities associated with that defect, would not have been equipped to accurately assess the risks involved and make a snap decision on the spot, after they were already on the lot. If they had been told verbally that the defect did not pose a serious hazard, in all likelihood they would have believed it. And after their deaths, there would have been no way to prove what they were told.

Car dealers and their staff, who have a very rapid turn-over rate, are also not safety experts. Plus they have a blatant conflict of interest in selling cars as rapidly as possible, to maximize their profits. They should not be allowed to put consumers in the position of trying to second-guess the National Highway Traffic Safety Administration and the auto manufacturers who have issued the safety recalls.

Please do not finalize the consent agreements unless it is on terms where the dealers cannot advertise that a car is “safe,” “repaired for safety,” passed a “rigorous inspection,” or
qualifies to be sold as “certified,” or any similar terminology, when it has an unrepaired safety recall. Car dealers must not be permitted to engage in false, deceptive, and misleading advertising regarding the safety of recalled used cars. Lives are at stake.

Thank you.

Sincerely,
Carol (“Cally”) Houck