

October 11, 2006

Office of the Attorney General
Consumer Protection Division
2115 State Capitol
P.O. Box 09920
Lincoln, NE 68509

**Re: CONSUMER COMPLAINT – BREACH OF WARRANTY AND
TRUTH IN ADVERTISING: Ford Advertised its Taurus Flex Fuel Vehicle
(FFV) as a Dual Fuel Vehicle, but it Only Runs Properly on Gasoline**

Dear Consumer Protection Division:

This letter is written in support of a consumer complaint I am hereby filing against Ford Motor company and to inform the Attorney General of Nebraska of: 1) Ford Motor Company's violation of 15 U.S.C. § 2, The Federal Trade Commission Act, by its deceptive advertising of its Ford Taurus FFV; and 2) Ford's breach of its express warranty under Neb. Rev. Stat. § 60-2701 *et seq.*, (Nebraska's "Lemon Law") that the Taurus FFV I bought would operate "hassle-free" on E85 fuel.¹ The information requested on the Nebraska Attorney General's Web site for a consumer complaint is below. This letter of support continues thereafter.

COMPLAINT REPORTED BY

Name: David R. Buss

[REDACTED]

COMPLAINT REPORTED AGAINST

Name of firm or person # 1 complained of: Ford Motor Company

Address of # 1: Customer Relationship Center, PO Box 6248

City # 1: Dearborn

State # 1: MI

Zip # 1: 48121

¹ A similar complaint is being field currently with the Federal Trade Commission.

Phone # 1: 800-392-3030

Name of person # 1 whom you dealt with: Agent refused to provide a name.

Name of firm or person # 2 complained of: Kenesaw Motor Company

Address of # 2: PO Box 126

City # 2: Kenesaw

State # 2: NE

Zip # 2: 68956

Phone # 2: (402) 752-3360

Name of firm or person # 2 whom you dealt with: John Dekert

COMPLAINT INFORMATION

Your address at date of purchase: Same as above

Date of Purchase: 09-06-05

Method of Payment: Personal Check

Type of Product or service: Automobile

Cost of product or service: \$16,687.30

Actual amount paid: \$16,687.30 minus \$1,500.00 trade-in

Describe the facts related to your complaint: See description of facts below and supporting documents.

What resolution do you want? See request for relief below and supporting documents.

DESCRIPTION OF FACTS RELATED TO MY COMPLAINT

Facts Related Primarily to the Truth in Advertising Complaint

Ford Motor Company's violated 15 U.S.C. § 2 because its deceptive advertising of its Taurus FFV misled me and other consumers who purchased the vehicle. Consumers acting reasonably under the circumstances would believe that the vehicle could operate properly using alternative fuel when in reality it cannot. Ford's advertising was material to my and other consumers' decisions to purchase the Taurus FFV. Ford's behavior is especially outrageous because the company continued to laud the effectiveness of the Taurus FFV even after it knew the vehicle could not operate as advertised on alternative fuel.

Ford deceptively advertised its Taurus FFV as a dual fuel vehicle, even though it operates properly only on gasoline. In making my purchase of a Taurus FFV, I relied on an Internet advertisement that claimed, "Vehicles designed to operate on E85 are called Flexible Fuel Vehicles (FFVs) and can function on either conventional gasoline, ethanol, or a combination of the two within the same tank."² That advertisement also claimed that "Ford FFVs automatically adjust for any mixture of ethanol and gasoline for a hassle-free and environmentally sound driving."³ Moreover, the Taurus FFV owner's manual that I read on Ford's Web site before purchasing the vehicle states that the Taurus FFV will

² See Ford internet advertisement, no longer available online, Attached as Appendix 1

³ Id

even “produce satisfactory cold weather starting and driving results using winter grade E85.”⁴

I reasonably relied on these advertisements when I purchased my Taurus FFV. Indeed, any consumer who viewed the advertisements would reasonably believe that the vehicle could run on E85. The language of Ford’s claims is clear and unequivocal — Ford claimed that the Taurus FFV could run on E85 hassle free.

These express claims about the vehicles effectiveness were clearly a material factor in my and other consumers’ decisions to purchase Taurus FFVs. I am employed as a Nebraska corn farmer, and I purchased the vehicle to run exclusively on E85 to support my trade. (Ethanol is widely produced using corn byproducts). It is without question that Ford’s assurances that the Taurus FFVs effectiveness running on alternative fuels was a material factor for other consumers as well. For example, the Nebraska Department of Administrative Services – Transportation Services Bureau (DAS-TSB) purchased a fleet of Taurus FFVs during a coordinated campaign to increase E85 usage.⁵

However, the actual performance of the Taurus FFV does not support Ford’s advertisements about the effectiveness of the vehicle nor does it meet consumers’ expectations that it will run “hassle-free” on E85. While my Taurus FFV operates smoothly on gasoline, I have repeatedly experienced significant problems starting the vehicle using E85 fuel, even during normal driving conditions.

I had problems with the vehicle very soon after I purchased it. On September 13, 2005, I attempted to operate the car with ethanol for the first time. The vehicle immediately began malfunctioning. It took multiple attempts to start the Taurus FFV many times when I tried to operate it on E-85. More specifically, when the car was parked for 4 hours or more, 70% of the time it will take multiple cranking attempts to stay running on E-85. When the Taurus FFV finally did start, it sometimes ran rough. For example, on the morning of September 28, 2005, it took 3 cranking attempts to start the Taurus FFV. After I drove the car out of the garage and accelerated to 25 miles per hour, the car hesitated, misfired, and began to stall. At the time the car’s fuel tank contained an E-85 blend.

This operational problem is widespread, and a number of other Taurus FFV owners also report serious and continuing problems operating a Taurus FFV with E85 fuel. For example, the Nebraska DAS-TSB experienced the same problems operating its fleet of Taurus FFVs using E85 fuel. Moreover, as of March 27, 2006, the Nebraska Ethanol Board received several calls each week from frustrated owners of Taurus FFVs.⁶

Quite shockingly, at the time Ford ran its deceptive advertisements for the Taurus FFV on its Web site, Ford had evidence that the Taurus FFV did not operate as it

⁴ User manual for model year 2005 Ford Taurus FFV, at 162, attached as Appendix 2 (available online at https://www.fleet.ford.com/maintenance/owners_manuals/default.asp?FFV=Y).

⁵ See 3/27/2006 letter from the Nebraska Ethanol Board to Ford, attached as Appendix 3.

⁶ *Id.*

claimed. In addition to my individual complaint, on November 3, 2005, Ford issued Special Service Message 18934, which advised Taurus FFV owners not to use E85 until a fix for the operational problems of the vehicle was available.⁷ Clearly, Ford must have been aware of a substantial number of Taurus FFV owners' complaints to issue a special service message.

However, Ford contradicted its own service message and supported its deceptive claims in a statement made by Curtis Magleby on Ford's Web site, public policy manager, Ford Government Affairs just six days before the effective date on the service message. "E85 flex-fuel vehicles will be able to run on any fuel from straight unleaded gasoline up to 85 percent ethanol," Magleby claimed.⁸ Ford also continued to advertise that the Taurus FFV was a vehicle that could "function on either conventional gasoline, ethanol, or a combination of the two within the same tank," and "automatically adjust for any mixture of ethanol and gasoline for a hassle-free and environmentally sound driving" at least as late as January 10, 2006.⁹ Thus, Ford continued to make claims regarding the effectiveness of the Taurus FFV that it knew were false. Months later, Ford has finally removed the deceptive claims about the effectiveness of the Taurus FFV from its Web site and is not offering a model year 2007 Taurus FFVs to the public.

Facts Related Primarily to the Lemon Law Complaint

Furthermore, Ford violated Neb. Rev. Stat. § 60-2701, *et seq.*, because Ford refused to fulfill its obligations under its express warranty for the model year 2005 Taurus FFV. That warranty covers bumper to bumper repairs for all parts that are defective in workmanship.¹⁰ Clearly, Ford's service message instructing Taurus FFV owners not to use E-85 fuel is an admission that the vehicles were defective.

I brought the Taurus FFV in for repairs on four separate occasions as required under § 60-2704.¹¹ However, Ford was unable to repair the defect described above that rendered the Taurus FFV unable to operate properly on E85, even after I gave Ford a reasonable opportunity to fix the Taurus FFV I purchased. During one unsuccessful repair, the mechanic noted my Taurus FFV required six to eight attempts to start, and that when he was finally able to get the vehicle to start it ran rough.¹² These claims are further substantiated by a videotape I created for my case on this issue before the Better Business Bureau in Nebraska.¹³ Even the Kenesaw dealership where I purchased the defective Taurus FFV has substantiated my claims and the accuracy of the videotape in a letter to Ford Motor Company.¹⁴

⁷ See Special Service Message 18934, attached as Appendix 4.

⁸ http://media.ford.com/newsroom/feature_display.cfm?release=21949.

⁹ Ford internet advertisement, no longer available online, attached as Appendix 1.

¹⁰ See Warranty at page 5, attached as Appendix 5, available at https://www.fleet.ford.com/maintenance/owners_manuals/default.asp.

¹¹ See 9/26/2005, 9/28/2005, 10/21/2005, and 10/25/2006 service tickets, attached as Appendix 6.

¹² See 9/29/2005 service invoice, attached as Appendix 6.

¹³ See BBB case number FRD0595848.

¹⁴ See 10/28/2005 letter from Kenesaw Motor Company to Ford, attached as Appendix 7.

Despite these facts, Ford and Kenesaw have both refused my repeated requests for replacement Taurus FFV or a refund of the purchase price of the vehicle, which I am entitled to under § 60-2703 because Ford was unable to fix the defective Taurus FFV to conform to the express bumper to bumper warranty and Ford's express claims that it would operate "hassle-free" on E85 fuel.

RESOLUTION SOUGHT

The Nebraska Attorney General should require Ford and/ or Kenesaw to provide a full refund or replacement vehicle to me and any other consumers who were cheated by Ford's breach of warranty. Moreover, the Nebraska Attorney General should coordinate with the FTC to investigate Ford's violation of 15 U.S.C. § 2. Ford should be sanctioned for deceptive advertising that misled me and other consumers. Please respond in writing to this letter and alert me to any proceedings on my request to have Ford refund the purchase price or provide me with a replacement vehicle for the Taurus FFV I purchased and for the Nebraska Attorney General to investigate Ford's deceptive advertising. Thank you very much for your time and attention to this complaint.

Sincerely,

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Enclosures

CC: Senator Earl Benjamin Nelson
Senator Chuck Hagel
Senator Chuck Grassley
Ford Motor Company
Kenesaw Motor Company