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April 30, 2014

The Honorable Mike Kehoe
The State Senate
State Capitol Building, Room 220
Jefferson City, MO 65101

The Honorable Caleb Jones
House of Representatives
State Capitol Building, Room 233A
Jefferson City, MO 65101

The Honorable Todd Richardson
House of Representatives
State Capitol Building, Room 404A
Jefferson City, MO 65101

Dear Senator Kehoe, Representative Richardson, and Representative Jones:

Thank you for your letter of April 23 asking about Tesla Motors and the Missouri Motor Vehicle Dealer Licensing laws. I appreciate your concern in this area, and I hope I can shed some light on the subject generally, as well as answer your specific concerns. It is clear under Missouri law that traditional manufacturers who already have franchised dealerships in the state may not sell cars directly to consumers. It is not clear that the statutes apply to a seller like Tesla, which apparently has not entered into franchise relationships with independent dealers.

Under 12 CSR 10-26.020(5), in order to meet the franchise agreement requirement in Section 301.559, RSMo, the applicant must provide "a letter of appointment or similar document signed by an authorized representative of the manufacturer." Tesla Motors, Inc. did provide documentation as specifically provided for in the regulation that its St. Louis location is authorized to sell Tesla vehicles. With respect to renewal applications, Section 301.559.3(3), RSMo, states that the Department "shall not require a copy of the franchise agreement to be submitted with each renewal application unless the applicant is now the

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holder of a franchise from a different manufacturer or distributor from that previously filed, or unless a new term of agreement has been entered into."

You next ask whether Tesla has met "all requirements of Section 301.560, RSMo, (as amended), and applicable administrative rules, concerning the establishment and maintenance of a 'bona fide place of business'?" The Department does not knowingly license dealers who have not met all requirements relating to being a bona fide place of business. Such requirements would include the necessary approval by an appropriate member of law enforcement.

Finally, you note that "the provisions of Section 407.826, RSMo, substantially prohibit direct sales of motor vehicles by a manufacturer to retail customers in Missouri." This statute, by its terms, only applies to "franchisors." Under the Motor Vehicle Franchise Practices Act, a "Franchisor" is a person who grants a franchise to another person. Clearly, manufacturers that already have a franchise network are prohibited from direct selling. There is no indication that Tesla has entered into any such relationship with dealers.

As to whether the treatment of this particular seller is in line with Missouri's public policy of protecting consumers, sellers are subject to regulation under the provisions of Chapter 301, RSMo and other laws protecting consumers. I trust this answers your questions, but if it does not, please call me so we can schedule a meeting to discuss the matter further.

Sincerely,

A handwritten signature in blue ink, appearing to read "John Mollenkamp", written over the word "Sincerely,".

John R. Mollenkamp

JRM/jls