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An Orange County jury has awarded \$256 million to a former Nissan dealer who sued the automaker's financing arm, accusing it of forcing him out of business. (Associated Press)



By **James F. Peltz**

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An Orange County jury awarded \$256.5 million to a former Southern California car dealer who alleged that Nissan's financing arm forced him out of business as car sales plunged during the 2008-09 recession, the dealer's lawyers announced Tuesday.

The case pitted Michael Kahn, whose Superior Automotive Group operated several dealerships, against Nissan Motor Acceptance Corp., the financing division of the Japanese automaker.

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A Superior Court jury in Santa Ana sided with Kahn on May 17 and awarded him compensatory damages of \$121.9 million, then added \$134.6 million in punitive damages Monday, said Skip Miller, one of Kahn's attorneys at the firm Miller Barondess.

"This is vindication," Miller said.

The jury's award to Kahn, who lives in Orange County, "is very big for him as he tries to rebuild his life," Miller said. "He's trying to get back into the automobile business."

Nissan's financing arm initially sued Kahn and his company for breach of various loan agreements, winning a jury award of \$40 million in 2011.

But Kahn's lawyers, who had filed a cross complaint, argued that they had not been allowed to fully pursue Kahn's claims of fraud and other allegations against the Nissan operation in that trial.

A California appeals court in Santa Ana agreed in 2014 and sent the case back for retrial before a different judge, which led to the jury's award to Kahn, 56.

"We are disappointed with the jury's decision," Nissan said in a statement. "A prior trial based on similar facts led to a substantial, multimillion-dollar jury verdict and judgment in NMAC's favor. If the [latest] jury award stands, we plan to appeal and are confident that justice will ultimately prevail."

Kahn's company had owned four Nissan dealerships and two [Toyota](#) dealerships that had financing from NMAC, along with a Chevrolet dealership that did not. The stores were in Southern California and the San Francisco Bay Area.

An automaker's financing is crucial for dealerships because the financing includes not only lines of credit for dealers to build their inventories of cars, but also for customer loans and for financing for the dealership's construction, furnishings and equipment.

Kahn's company had been a leading Nissan dealer but, when the recession took hold and car sales plummeted, NMAC "pulled the plug" on Superior Automotive in 2009 without Kahn's prior knowledge because "Nissan was in cash-conservation mode," Miller alleged.

U.S. car sales in 2009 dropped 21.2% from 2008, to 10.4 million, the fewest sold since 1970.

"They circled the wagons — it was a corporate decision — and cut back," Miller said, adding that "an easy way" to achieve that was "instead of terminating 10 small dealers was to terminate their biggest dealer."

As the auto industry struggled during the recession, major manufacturers collectively shut down thousands of U.S. dealerships nationwide, often by not renewing contracts with independent dealers.

Kahn's lawyers said in a statement that Superior Automotive sometimes paid Nissan's financing division for its inventory of cars "a bit slower" than NMAC's guidelines, "like practically every other dealer in the country" during the recession, but that "NMAC led Mr. Kahn to believe that it would continue to support him, the recession notwithstanding."

They alleged that NMAC instead had "a covert plan" to pull Superior Automotive's financing without telling Kahn.

They also alleged that NMAC required that Kahn put up his home, along with business and other personal assets, as collateral to keep his financing lines open, and that he sell his Toyota dealership in San Juan Capistrano, which Kahn did in late 2008. The sale's proceeds of \$28 million went to NMAC, court filings said.

Then in February 2009, NMAC declared Kahn in default for late payment of about \$1.6 million in inventory financing and "NMAC then cross-defaulted all of Superior and Kahn's real estate, capital and other loans, totaling over \$100 million, despite none being in default," Kahn's lawyers said.

The move "caused the demise of all its dealerships and the loss of over 800 jobs," Kahn's lawyers said.

Reporter Makeda Easter contributed to this article.

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