

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

In The Matter of)	
)	
PACIFICO FORD, INC.,)	DOCKET NO. C-3921
a corporation, and)	
KERRY T. PACIFICO,)	
individually and as an)	
officer of the corporation.)	

COMPLAINT

The Federal Trade Commission, having reason to believe that Pacifico Ford, Inc., a corporation, and Kerry T. Pacifico, individually and as an officer of the corporation ("respondents"), have violated the provisions of the Federal Trade Commission Act, 15 U.S.C. §§ 45-58, as amended, the Consumer Leasing Act, 15 U.S.C. §§ 1667-1667f, as amended, and its implementing Regulation M, 12 C.F.R. § 213, as amended, and the Truth in Lending Act, 15 U.S.C. §§ 1601-1667, as amended, and its implementing Regulation Z, 12 C.F.R. § 226, as amended, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Pacifico Ford, Inc. is a Pennsylvania corporation with its principal office or place of business at 6701 Essington Avenue, Philadelphia, Pennsylvania 19153. Respondent offers automobiles for sale or lease to consumers.
2. Respondent Kerry T. Pacifico is an officer of the corporate respondent. Individually or in concert with others, he formulates, directs, controls, and participates in the policies, acts, or practices of the corporation, including the acts or practices alleged in this complaint. His principal office or place of business is the same as that of the corporate respondent.
3. Respondents have disseminated advertisements to the public that promote consumer leases, as the terms "advertisement" and "consumer lease" are defined in Section 213.2 of Regulation M, 12 C.F.R. § 213.2, as amended.

4. Respondents have disseminated advertisements to the public that promote credit sales and other extensions of closed-end credit in consumer credit transactions, as the terms "advertisement," "credit sale," and "consumer credit" are defined in Section 226.2 of Regulation Z, 12 C.F.R. § 226.2, as amended.

5. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

6. Respondents have disseminated or have caused to be disseminated advertisements promoting consumer leases ("lease advertisements") and credit sales ("credit advertisements") for automobiles, including but not necessarily limited to the attached Pacifico Ford Exhibit A and B. Pacifico Ford Exhibits A and B are advertisements in the print media. These lease and/or credit advertisements contain the following statements:

A.

[Pacifico Ford Exhibit A states several lease and credit offers, including:]

"NEW '99 FORD TAURUS LX. . .

1.9%

Financing up
to 36 mos.

BUY FOR \$15,995

LEASE FOR: OR \$199 A MO.

FOR 36 MOS. . . .

NEW '99 FORD WINDSTAR . . .

BUY FOR \$21,999

OR LEASE FOR \$229 A MO. FOR

36 MOS.

0.9% FINANCING UP TO 48 MONTHS TO QUALIFIED BUYERS . . ."

[A fine print disclosure at the bottom of the ad states, ". . . All leases 36 mo. cel with \$2,500 down cash or trade. 1st mo. pymt., ref., sec.dep., bank fee, plus tax & tags.] (Pacifico Ford Exhibit A)

B.

[Pacifico Ford Exhibit B states several lease offers including:]

"FACTORY AUTHORIZED CLEARANCE. . . ALL NEW 1998 TAURUS YOU GET \$750 REBATE AND 0.9% FINANCING . . .

'98 EXPLORER XLT 4X4 . . .

BUY \$26,998	OR	\$369 PER MO.
FOR	LEASE	36 MOS.
	FOR	***"

[A fine print disclosure at the bottom of the ad states, "*** 36 Mo. Closed End Lease, Due at inception \$2,500 down cash or trade, 1st mo. payment, ref.sec.dep., bank fee (if req.) Tax & Tags Extra to qualified buyers."] (Pacifico Ford Exhibit B)

FEDERAL TRADE COMMISSION ACT VIOLATIONS

Count I: Failure to Disclose, and/or Failure to Disclose Adequately, Lease Terms

7. In lease advertisements, including but not necessarily limited to Pacifico Ford Exhibits A and B, respondents have represented, expressly or by implication, that consumers can lease the advertised vehicles at the terms prominently stated in the advertisements, including but not necessarily limited to the monthly payment amount.

8. These lease advertisements have failed to disclose, and/or failed to disclose adequately, additional terms pertaining to the lease offer, such as the total amount due at lease inception. This information either does not appear at all or appears in fine print in the advertisements. This information would be material to consumers in deciding whether to visit respondents' dealerships and/or whether to lease an automobile from respondents. The failure to disclose, and/or failure to disclose adequately, these additional terms, in light of the representation made, was, and is, a deceptive practice.

9. Respondents' practices constitute deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a).

CONSUMER LEASING ACT AND REGULATION M VIOLATIONS

Count II: Failure to Disclose, and/or Failure to Disclose Clearly and Conspicuously, Required Information

10. Respondents' lease advertisements, including but not necessarily limited to Pacifico Ford Exhibits A and B, state a monthly payment amount, but fail to disclose, and/or fail to disclose clearly and conspicuously, certain additional terms required by the Consumer Leasing Act and Regulation M, including one or more of the following terms:

- a. that the transaction advertised is a lease;
- b. the total amount due prior to or at consummation, or by delivery, if delivery occurs after consummation. This total amount may: 1) exclude third-party fees that vary by state or locality, such as taxes, licenses, and registration fees, and disclose that fact or 2) provide a total that includes third-party fees based on a particular state or locality as long as that fact and the fact that such fees may vary by state or locality are disclosed;
- c. whether or not a security deposit is required;
- d. the number, amounts, and timing of scheduled payments; and
- e. that an extra charge may be imposed at the end of the lease term in a lease where the liability of the consumer is based on the difference between the residual value of the leased property and its realized value at the end of the lease term.

11. The lease disclosures required by Regulation M, if provided, are not clear and conspicuous because they appear in fine print and/or in an inconspicuous location.

12. Respondents' practices have violated Section 184 of the Consumer Leasing Act, 15 U.S.C. § 1667c, and Section 213.7 of Regulation M, 12 C.F.R. § 213.7.

Count III: Failure to Disclose the Total Amount Due at Lease Signing with Equal Prominence

13. Respondents' lease advertisements, including but not necessarily limited to Pacifico Ford Exhibits A and B, state a downpayment amount more prominently than the disclosure of the

total amount due at lease signing, in violation of Section 213.7(b)(1) of Regulation M, 12 C.F.R. § 213.7(b)(1).

14. Respondents' practices have violated Section 213.7(b)(1) of Regulation M, 12 C.F.R. § 213.7(b)(1).

TRUTH IN LENDING ACT AND REGULATION Z VIOLATIONS
Count IV: Failure to Disclose Required Information

15. In credit advertisements, including but not necessarily limited to Pacifico Ford Exhibit A, respondents have stated the period of repayment, but have failed to disclose clearly and conspicuously, the following items of information required by Regulation Z: the amount or percentage of the downpayment, the terms of repayment, and/or the annual percentage rate.

16. Respondents' practices have violated Section 144 of the Truth in Lending Act, 15 U.S.C. § 1664, and Section 226.24(c) of Regulation Z, 12 C.F.R. § 226.24(c).

COUNT V: Failure to State Rate of Finance Charge
as Annual Percentage Rate

17. In credit advertisements, including but not necessarily limited to Pacifico Ford Exhibits A and B, respondents have stated a rate of finance charge without stating that rate as an "annual percentage rate," using that term or the abbreviation "APR."

18. Respondents' practice constitutes a violation of Section 144 and 107 of the TILA, 15 U.S.C. §§ 1664 and 1606, respectively, and Sections 226.24(b) and 226.22 of Regulation Z, 12 C.F.R. §§ 226.24(b) and 226.22, respectively.

THEREFORE, the Federal Trade Commission this seventh day of February, 2000, has issued this complaint against respondents.

By the Commission.

Donald S. Clark
Secretary

SEAL: