

**UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION**

**COMMISSIONERS:**      **Jon Leibowitz, Chairman**  
                                 **J. Thomas Rosch**  
                                 **Edith Ramirez**  
                                 **Julie Brill**  
                                 **Maureen K. Ohlhausen**

**In the Matter of**

**FRANK MYERS AUTOMAXX, LLC,  
a limited liability corporation.**

**DOCKET NO. C-4353**

**COMPLAINT**

The Federal Trade Commission, having reason to believe that Frank Myers AutoMaxx, LLC, a limited liability corporation (“Respondent”), has violated provisions of the Federal Trade Commission Act (“FTC Act”), and, it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Frank Myers AutoMaxx, LLC, is a North Carolina limited liability corporation with its principal place of business at 4200 N. Patterson Ave., Winston Salem, NC, 27105. Respondent offers automobiles for sale.
2. The acts or practices of Respondent alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
3. Since at least September 2009, Respondent has disseminated or caused to be disseminated advertisements regarding the purchasing and financing of its automobiles.
4. Respondent’s advertisements include, but are not necessarily limited to, video advertisements posted on the website YouTube.com, copies of which are attached as Exhibits A through E. These advertisements include the following statements:
  - a. “We’ll pay off your trade no matter what you owe!” (Exhibit A (DVD containing 7/6/11 capture of YouTube advertisement “Winston-Salem Car Dealer Wants You To Have A Nicer, Newer Car” at 0:18-0:23)).

- b. “You’re driving a car you hate, but you owe more than it’s worth; no problem. When you buy any certified car, we’ll pay of your trade, regardless of what you owe.” (Exhibit B (DVD containing 7/14/11 capture of YouTube advertisement “‘Common Sense Ain’t So Common’ says Tracy Myers of Frank Myers Auto Maxx” at 0:11-0:19)).
- c. “We’ll pay off your current loan no matter how much you owe.” (Exhibit C (DVD containing 7/6/11 capture of YouTube Advertisement “Frank Myers Auto - Biz Is Booming Trade-In Event in Winston-Salem, NC 27105” at 0:13-0:16)).
- d. “Uncle Frank wants to pay [your trade] off in full, no matter how much you owe!” (Exhibit D (DVD containing 7/6/11 capture of YouTube Advertisement “HATE Your Car? STOP Making Payments - Frank Myers Auto in Winston-Salem, NC 27105” at 0:06-0:10)).
- e. “We’ll pay off your lease or loan, in full, no matter how much you owe.” (Exhibit E (DVD containing 7/6/11 capture of YouTube Advertisement “‘Snow Blows!’ exclaims a Winston-Salem, NC used car dealer” at 0:14-0:18)).

## **VIOLATION OF THE FEDERAL TRADE COMMISSION ACT**

### **Count I: Misrepresentation of Financing Terms**

5. Through the means described in Paragraph 4, Respondent has represented expressly or by implication that, when a consumer trades in a used vehicle in order to purchase another vehicle, Respondent will pay off the balance of the loan on the trade-in vehicle such that the consumer will have no remaining obligation for any amount of that loan.
6. In truth and in fact, in numerous instances, when a consumer trades in a used vehicle with a loan balance that exceeds the vehicle’s value (*i.e.* the trade-in has negative equity) in order to purchase another vehicle, Respondent will not pay off the balance of the loan on the trade-in vehicle such that the consumer will have no remaining obligation for any amount of that loan. Instead, Respondent sometimes requires the consumer to pay the amount of the negative equity at the time of the sale.
7. Therefore, the representation set forth in Paragraph 5 of this Complaint was, and is, false or misleading.

8. The acts and practices of Respondent as alleged in this complaint constitute deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the FTC Act.

**THEREFORE**, the Federal Trade Commission, this nineteenth day of April, 2012, has issued this complaint against Respondent.

By the Commission, Commissioner Ohlhausen not participating.

Donald S. Clark  
Secretary

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