

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

**COMMISSIONERS: Maureen K. Ohlhausen, Acting Chairman
Terrell McSweeney**

In the Matter of

**COWBOY AG LLC, a limited liability company,
d/b/a COWBOY TOYOTA and
COWBOY SCION.**

DOCKET NO. C-4639

COMPLAINT

The Federal Trade Commission, having reason to believe that Cowboy AG LLC, a Texas limited liability company, doing business as Cowboy Toyota and Cowboy Scion, (Respondent) has violated provisions of the Federal Trade Commission Act (FTC Act); the Truth in Lending Act (TILA) and its implementing Regulation Z; and the Consumer Leasing Act (CLA) and its implementing Regulation M; and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Cowboy AG LLC, doing business as Cowboy Toyota and Cowboy Scion, is a Texas limited liability company with its principal office or place of business at 9325 East R.L. Thornton Freeway, Dallas, Texas 75228.
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 October 2016, Respondent has disseminated or caused to be disseminated advertisements to the public promoting credit sales and other extensions of closed-end credit in consumer credit transactions, as the terms “advertisement,” “credit sale,” “closed-end credit,” and “consumer credit” are defined in Section 226.2 of Regulation Z, 12 C.F.R. § 226.2, as amended.
4. Since at least October 2016, Respondent has disseminated or caused to be disseminated advertisements to the public promoting consumer leases for automobiles, as the terms “advertisement” and “consumer lease” are defined in Section 213.2 of Regulation M, 12 C.F.R. § 213.2, as amended.

5. Respondent placed full-page newspaper advertisements in *Al Día*, a regional Dallas, Texas area Spanish-language newspaper published by the *Dallas Morning News*. *Al Día* is a free subscription newspaper that is delivered twice weekly on Wednesdays and Saturdays. *Al Día* makes current editions available on its *aldiadallas.com* website. Exhibits A and B are representative examples of Respondent's full-page Spanish-language *Al Día* ads from October and November 2016. The full-page *Al Día* ads measured approximately 22" high by 12" wide.
6. Respondent ran frequent Spanish-language advertisements in *Al Día*, including during its "Mes de la Herencia Hispana!" (Hispanic Heritage Month!) sales event and its "Acción de Gracias" (Thanksgiving) sales event. See Exhibits A and B, respectively. Although Respondent's ads evolved, since at least October 2016, the full-page Spanish-language newspaper ads contained substantially similar statements, offers, depictions, and fine print disclaimers.
7. In numerous instances, since at least October 2016 until at least July 2017, Respondent's advertisements in *Al Día* prominently touted the availability of various deals to consumers with bad credit, with no down payment, 0% interest rates for 60- or 72-month periods, low monthly payments amounts, and other favorable terms. In numerous instances, however, Respondent's advertisements included buried fine print disclaimers, including a lengthy fine print disclaimer written only in English, that contradicted its advertisements' more prominent claims.

**Representative Advertisement for "Mes de la Herencia Hispana!"
(Hispanic Heritage Month!) Event**

8. The top section of Respondent's full-page October 2016 Hispanic Heritage Month *Al Día* advertisements, excerpted from Exhibit A, touted that Respondent's deals were available to individuals with bad credit without requiring a down payment, a Social Security number, or a driver's license. For example, Respondent made the following representations: "Sin Engache," "Con Buen o Mal Credito," "Sin Seguro Social," "Sin Licencia de conducir," "Financiamos," and "Aceptamos Tax ID." These representations translate to English as follows: "Without Down Payment," "With Good or Bad Credit," "Without Social Security," "Without Driver's License," "We Finance," and "We Accept Tax ID":

COWBOYTOYOTA.COM

Cowboy Toyota celebra:
MES DE LA HERENCIA
HISPANA!






Te esperamos para ayudarte a
comprar tu carro!

Con La mejores ofertas del Metroplex!

Sin Engache

Con Buen o Mal Credito

Sin Seguro Social

Sin Licencia de conducir

Financiamos

Aceptamos Tax ID

Exhibit B is an example of a substantially similar Thanksgiving ad that ran in *Al Día* in November 2016. In December 2016, Respondent altered its advertisements and moved language concerning financing to individuals with good or bad credit without requiring a down payment, a Social Security number, or a driver's license to a prominent border area surrounding the featured new Toyota vehicles.

9. In the second section of Respondent's full-page 2016 Hispanic Heritage Month *Al Día* advertisements, Respondent announced offers for new 2016 Toyota Tundras, Camrys, and Corollas. Respondent touted the availability of 0% interest rates over 60- or 72-month periods and low monthly payment amounts, suggesting that consumers could obtain all of these terms when financing to purchase these automobiles:

<p>NUEVO 2016 TOYOTA TUNDRA 0% DE INTERESES POR 60 MESES CCA 2 Años de Mantenimiento Incluidos</p>  <p>Tarjeta de Regalo de \$250 con su Compra!</p> <p>\$379/MES*</p> <p><small>Sólo \$999 de Enganche</small></p>	<p>NUEVO 2016 TOYOTA TACOMAS DISPONIBLES 2 Años de Mantenimiento Incluidos</p>  <p>Tarjeta de Regalo de \$250 con su Compra!</p> <p>BAJAS PRECIOS</p>
<p>NUEVO 2016 TOYOTA CAMRY 0% DE INTERESES POR 72 MESES CCA 2 Años de Mantenimiento Incluidos</p>  <p>Tarjeta de Regalo de \$250 con su Compra!</p> <p>\$199/MES*</p> <p><small>Sólo \$1,999 de Enganche</small></p>	<p>NUEVO 2016 TOYOTA COROLLA 0% DE INTERESES POR 72 MESES CCA 2 Años de Mantenimiento Incluidos</p>  <p>Tarjeta de Regalo de \$250 con su Compra!</p> <p>\$179/MES*</p> <p><small>Sólo \$999 de Enganche</small></p>

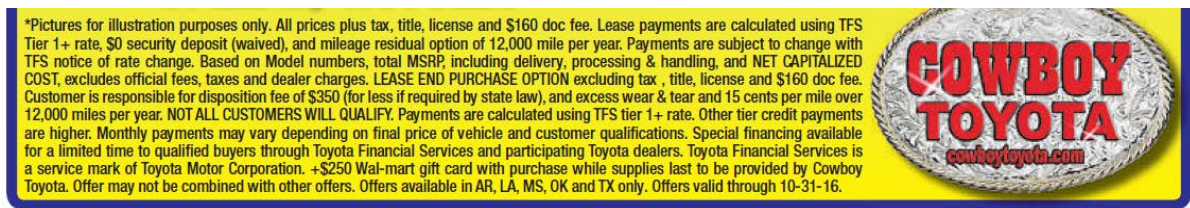
This ad section was excerpted from Exhibit A, Respondent’s Hispanic Heritage Month ad in *Al Día* in October 2016.

This section of the advertisement translates to English as follows:

<p>NEW 2016 TOYOTA TUNDRA 0% INTEREST FOR 60 MONTHS CCA 2 Years Maintenance Included \$250 Gift Card with your purchase! \$379/MONTH* Only \$999 down payment</p>	<p>NEW 2016 TOYOTA TACOMAS AVAILABLE 2 Years Maintenance Included \$250 Gift Card with your purchase! LOW PRICES</p>
<p>NEW 2016 TOYOTA CAMRY 0% INTEREST FOR 72 MONTHS CCA 2 Years Maintenance Included \$250 Gift Card with your purchase! \$199/MONTH* Only \$1,999 down payment</p>	<p>NEW 2016 TOYOTA COROLLA 0% INTEREST FOR 72 MONTHS CCA 2 Years Maintenance Included \$250 Gift Card with your purchase! \$179/MONTH* Only \$999 down payment</p>

10. In Paragraph 8 above, Respondent prominently stated that there were no down payments (“Sin Engache”) in large print on the top of its full-page newspaper ads. The section of the advertisement reproduced in Paragraph 9 contains fine print disclaimers revealing that the featured vehicles require down payments of either \$999 or \$1,999, thus contradicting the advertisement’s prominent statements that no down payments were required.

11. Additionally, in the advertisement section excerpted in Paragraph 9 above, Respondent placed asterisks next to the monthly payment amounts. These asterisks appear to refer to a lengthy disclaimer buried in fine print at the bottom of the ad. Although the more prominent representations in Paragraphs 8 and 9 appeared in Spanish, this fine print disclaimer was written only in English. As shown in Exhibit A, the disclaimer stated the following:



As reproduced in larger font, the disclaimer states:

*Pictures for illustration purposes only. All prices plus, tax, title, license and \$160 doc fee. Lease payments are calculated using TFS Tier 1+ rate, \$0 security deposit (waived), and mileage residual options of 12,000 mile per year. Payments are subject to change with TFS notice of rate change. Based on Model numbers, total MSRP, including delivery, processing & handling, and NET CAPITALIZED COST, excludes official fees, taxes and dealer charges. LEASE END PURCHASE OPTION excluding tax, title, license and \$160 doc fee. Customer is responsible for disposition fee of \$350 (for less if required by state law), and excess wear & tear and 15 cents per mile over 12,000 miles per year. NOT ALL CUSTOMERS WILL QUALIFY. Payments are calculated using TFS tier 1+ rate. Other tier credit payments are higher. Monthly payments may vary depending on final price of vehicle and customer qualifications. Special financing available for a limited time to qualified buyers through Toyota Financial Services and participating Toyota dealers. Toyota Financial Services is a service mark of Toyota Motor Corporation. +\$250 Wal-mart gift card with purchase while supplies last to be provided by Cowboy Toyota. Offer may not be combined with other offers. Offers available in AR, LA, MS, OK and TX. Offers valid through 10 -31-16.

Virtually identical English disclaimers appeared in each of Respondent's ads through at least August 2017.

12. The buried fine print disclaimer in Paragraph 11 reveals that Respondent was including a leasing term with its financing offers shown in Paragraph 9 above. Specifically, the low monthly payment amounts prominently touted in Respondent's advertisements were only available to consumers who lease the advertised motor vehicles, and not to consumers who finance to purchase the motor vehicles. The ads included other finance terms such as "0% INTEREST."

13. Additionally, the buried fine print disclaimer in Paragraph 11 contradicts Respondent's more prominent representations, in Paragraph 8 above, that its offers were available to consumers with bad credit. Specifically, the disclaimer reveals that the advertised offer terms were only available to consumers eligible for the "TFS Tier 1+ rates." TFS Tier 1+ rates are available only to consumers with very good or excellent credit, such as those with Auto FICO scores of 720 or higher. Further, even if Spanish-speaking consumers were able to notice and read this fine print English statement, a reasonable consumer would be unlikely to understand the term "TFS Tier 1+ rates."
14. Respondent also advertised new 2016 Toyota Tundras, Tacomas, Camrys, and Corollas for sale in its January and early February 2017 *Al Día* advertisements. However, despite these representations, during this time period Respondent did not have any 2016 Toyota Tundras, Tacomas, Camrys, or Corollas available for sale.
15. Respondent's advertisements contained TILA triggering terms, such as "0% INTEREST FOR 60 MONTHS," but did not disclose, or did not disclose clearly and conspicuously, certain required TILA information, such as:
 - a. The amount or percentage of down payment required;
 - b. The terms of repayment, reflecting the repayment obligations over the full term of the loan, including any balloon payment; or
 - c. The "annual percentage rate," using that term, and, if the rate may be increased after consummation, that fact.
16. Similarly, Respondent's advertisements contained CLA triggering terms, such as the low advertised monthly payment amounts, but did not disclose, or did not disclose clearly and conspicuously, certain required CLA information, such as:
 - a. Whether the transaction advertised is a lease;
 - b. The total amount due prior to or at consummation or by delivery, if delivery occurs after consummation;
 - c. Whether or not a security deposit is required;
 - d. The number, amount, and timing of scheduled payments; or
 - e. With respect to a lease in which the liability of the consumer at the end of the lease term is based on the anticipated residual value of the property, that an extra charge may be imposed at the end of the lease term.

VIOLATION OF THE FEDERAL TRADE COMMISSION ACT

Count I

Misrepresentations Regarding Offers

17. Through the means described in Paragraphs 5 through 16, Respondent has represented, directly or indirectly, expressly or by implication, the following regarding the vehicles it advertised for sale or lease:
- a. No down payment was required;
 - b. The advertised low monthly payments were available to those who financed automobile purchases;
 - c. The advertised interest rates, monthly payments, and other terms were available to consumers with bad credit; and
 - d. New 2016 model year Toyota Tundras, Tacomas, Camrys, and Corollas were available for purchase at the time of the ads in 2017.
18. In fact, in numerous instances:
- a. A down payment was required;
 - b. The advertised low monthly payments were available only for automobile leases;
 - c. The advertised interest rates, monthly payments, and other terms were available only to consumers with very good to excellent credit; and
 - d. New 2016 model year Toyota Tundras, Tacomas, Camrys, and Corollas were not available for purchase at the time of the ads in 2017.
19. Therefore, the representations set forth in Paragraph 17 were false or misleading.
20. Respondent's practices constitute deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

VIOLATION OF THE TRUTH IN LENDING ACT AND REGULATION Z

21. Under Section 144 of the TILA and Section 226.24(d) of Regulation Z, as amended, advertisements promoting closed-end credit in consumer credit transactions are required to make certain disclosures ("TILA additional terms") if they state any of several terms, such as the monthly payment ("TILA triggering terms").

22. To the extent that Respondent's automobile sales advertisements promote closed-end credit, such as those described in Paragraphs 5 through 16, Respondent is subject to the requirements of the TILA and Regulation Z.

Count II

Failure to Disclose or to Disclose Clearly and Conspicuously Required Credit Information

23. Respondent's automobile sales advertisements promoting closed-end credit, such as those described in Paragraphs 5 through 16, included TILA triggering terms, but failed to disclose, or to disclose clearly and conspicuously, additional terms required by the TILA and Regulation Z, including one or more of the following:

- a. The amount or percentage of the down payment;
- b. The terms of repayment, which reflect the repayment obligations over the full term of the loan, including any balloon payment; and
- c. The "annual percentage rate," using that term, and, if the rate may be increased after consummation, that fact.

24. Therefore, the practices set forth in Paragraph 23 of this Complaint violated Section 144 of the TILA, 15 U.S.C. § 1664, and Section 226.24(d) of Regulation Z, 12 C.F.R. § 226.24(d), as amended.

VIOLATION OF THE CONSUMER LEASING ACT AND REGULATION M

25. Under Section 184 of the CLA and Section 213.7 of Regulation M, advertisements promoting consumer leases are required to make certain disclosures ("additional terms") if they state any of the several terms, such as the amount of any payment ("CLA triggering terms"). 15 U.S.C. § 1667c; 12 C.F.R. § 213.7.

26. To the extent that Respondent's automobile advertisements promote consumer leases, such as those described in Paragraph 5 through 16, Respondent is subject to the requirements of the CLA and Regulation M.

Count III

Failure to Disclose or to Disclose Clearly and Conspicuously Required Lease Information

27. Respondent's automobile advertisements promoting consumer leases, such as those described in Paragraphs 5 through 16, included CLA triggering terms, but failed to disclose or to disclose clearly and conspicuously additional terms required by the CLA and Regulation M, including one or more of the following:

- 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;
- c. Whether a security deposit is required;
- d. The number, amount, and timing of scheduled payments; and
- e. With respect to a lease in which the liability of the consumer at the end of the lease term is based on the anticipated residual value of the property, that an extra charge may be imposed at the end of the lease term.

28. Therefore, the practices set forth in Paragraph 27 of this Complaint violated Section 184 of the CLA, 15 U.S.C. § 1667c, and Section 213.7 of Regulation M, 12 C.F.R. § 213.7.

THEREFORE, the Federal Trade Commission, this fourth day of January, 2018, has issued this complaint against Respondent.

By the Commission.

Donald S. Clark
Secretary

SEAL: