

Complaint

IN THE MATTER OF

ACCRETIVE HEALTH, INC.CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF
SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket No. C-4432; File No. 122 3077**Complaint, February 5, 2014 – Decision, February 5, 2014*

This consent order addresses Accretive Health, Inc.'s handling of sensitive health and personal information, including patient names, dates of birth, billing information, diagnostic information, and Social Security numbers. The complaint alleges that Accretive Health unfairly failed to provide reasonable and appropriate security for consumers' personal information it collected and maintained by engaging in a number of practices that, taken together, unreasonably and unnecessarily exposed consumers' personal data to unauthorized access. The complaint further alleges that these failures contributed to a July 2011 incident in Minneapolis, Minnesota in which an Accretive Health laptop containing over 600 files with over 20 million pieces of information related to 23,000 patients was left in the locked passenger compartment of the employee's car and stolen. The consent order requires Accretive Health to establish and maintain, or continue to maintain, a comprehensive information security program that is reasonably designed to protect the security, confidentiality, and integrity of personal information collected from or about consumers.

Participants

For the *Commission: Katherine Armstrong, Colin Hector, Peter Lamberton, Allison Lefrak David Lincicum, and Michael White.*

For the *Respondent: Andrew Clubok, Nina Frant, and Marimichael Skubel, Kirkland & Ellis, LLP.*

COMPLAINT

The Federal Trade Commission ("Commission"), having reason to believe that Accretive Health, Inc. has violated the provisions of the Federal Trade Commission Act ("FTC Act"), and it appearing to the Commission that the proceeding is in the public interest, alleges:

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1. Respondent Accretive Health, Inc. (“Accretive Health” or “Respondent”) is a Delaware corporation with its principal executive office located at 401 North Michigan Avenue, Suite 2700, Chicago, Illinois.

2. The acts or practices of Accretive Health as 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.

ACCRETIVE HEALTH’S BUSINESS ACTIVITIES

3. Accretive Health enters into service agreements with hospital systems around the country to provide services related to the hospital systems’ “revenue cycle” operations. Revenue cycle includes registration, transcription, coding and medical documentation, billing, denial management, strategic pricing, and collection of past due accounts. In exchange for these services, hospital systems pay Accretive Health both fixed fees and incentive payments based on a percentage of the monetary benefit from increased revenues.

4. Accretive Health provides services through technology, operating methodology, and by placing some revenue cycle managers into the hospital system’s existing processes to augment its revenue cycle operations. Accretive Health employees work at hospital facilities to assist with these services.

RESPONDENT’S SECURITY PRACTICES

5. As part of its service to client hospitals, Accretive Health collects, maintains, and has access to information about hospitals’ patients, including personal information. This information may include patient names, dates of birth, billing information, diagnostic information, and Social Security numbers.

6. Until at least July 2011, Accretive failed to provide reasonable and appropriate security for consumers’ personal information it collected and maintained by engaging in a number of practices that, taken together, unreasonably and unnecessarily exposed consumers’ personal data to unauthorized access. Among other things, Accretive Health created unnecessary risks of unauthorized access or theft of personal information by:

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- a. Transporting laptops containing personal information in a manner that made them vulnerable to theft or other misappropriation;
- b. Failing to adequately restrict access to, or copying of, personal information based on an employee's need for information;
- c. Failing to ensure that employees removed information from their computers for which they no longer had a business need; and
- d. Using consumers' personal information in training sessions with employees and failing to ensure that the information was removed from employees' computers following the training.

7. Accretive Health's failures to provide reasonable and appropriate security for consumers' personal information resulted in a July 2011 incident in Minneapolis, Minnesota in which an Accretive Health laptop containing over 600 files with over 20 million pieces of information related to 23,000 patients was left in the locked passenger compartment of the employee's car and stolen. The laptop included sensitive personal and health information, including patient names, dates of birth, billing information, diagnostic information, and Social Security numbers. The user of this laptop had data that was not necessary to perform his job.

VIOLATIONS OF THE FTC ACT

8. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits "unfair or deceptive acts or practices in or affecting commerce."

9. As set forth in Paragraphs 6 and 7, Respondent failed to employ reasonable and appropriate measures to protect personal information against unauthorized access. Respondent's practices caused, or are likely to cause, substantial injury to consumers that is not offset by countervailing benefits to consumers or competition and is not reasonably avoidable by consumers. These

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practices were, and are, an unfair act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

THEREFORE, the Federal Trade Commission, this fifth day of February, 2014, has issued this complaint against Accretive Health.

By the Commission.

DECISION AND ORDER

The Federal Trade Commission (“Commission” or “FTC”), having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft complaint that the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violations of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 45 *et seq.*;

The respondent, its attorney, and counsel for the Commission having thereafter executed an Agreement Containing Consent Order (“Consent Agreement”), which includes: a statement by respondent that it neither admits nor denies any of the allegations in the draft complaint, except as specifically stated in the Consent Agreement, and, only for purposes of this action, admits the facts necessary to establish jurisdiction; and waivers and other provisions as required by the Commission’s Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the FTC Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, and having duly considered the

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comments received from interested persons pursuant to Commission Rule 2.34, 16 C.F.R. § 2.34, now in further conformity with the procedure prescribed in Commission Rule 2.34, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following Decision and Order (“Order”):

1. Respondent Accretive Health, Inc. (“Accretive Health” or “Respondent”) is a Delaware corporation with its principal executive office located at 401 North Michigan Avenue, Suite 2700, Chicago, Illinois.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER**I.****DEFINITIONS**

For purposes of this Order, the following definitions shall apply:

- A. Unless otherwise specified, “respondent” shall mean Accretive Health, and its successors and assigns.
- B. **“Personal Information”** means individually identifiable information from or about an individual consumer, including but not limited to: (a) a first and last name; (b) a home or other physical address; (c) an email address or other online contact information, such as instant messaging user identifier or a screen name; (d) a telephone number; (e) a Social Security number; (f) a driver’s license or other state-issued identification number; (g) a financial institution account number; (h) an insurance account number or other insurance information; (i) credit or debit card information; (j) a persistent identifier, such as a customer number held in a “cookie,” a static Internet Protocol (“IP”) address, or a processor

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serial number; or (k) any information that is combined with any of (a) through (j) above.

- C. **“Commerce”** shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

II.

IT IS ORDERED that respondent shall, no later than the date of entry of this Order, establish and implement, and thereafter maintain, or continue to maintain a comprehensive information security program reasonably designed to protect the security, confidentiality, and integrity of personal information collected from or about consumers. Such program, the content and implementation of which must be fully documented in writing, shall contain administrative, technical, and physical safeguards appropriate to respondent’s size and complexity, the nature and scope of respondent’s activities, and the sensitivity of the personal information collected from or about consumers, including:

- A. The designation of an employee or employees to coordinate and be accountable for the information security program;
- B. The identification of material internal and external risks to the security, confidentiality and integrity of personal information that could result in the unauthorized disclosure, misuse, loss, alteration, destruction, or other compromise of such information, and the assessment of the sufficiency of any safeguards in place to control the risks. At a minimum, this risk assessment should include consideration of the risks in each relevant area of operations, including but not limited to: (a) employee training and management; (b) information systems, including network and software design, information processing, storage, transmission, and disposal; and (c) prevention, detection, and response to attacks, intrusions, and other system failures;

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- C. The design and implementation of reasonable safeguards to control the risks identified through risk assessment and regular testing and monitoring of the effectiveness of the safeguards' key controls, systems, and procedures;
- D. The development and use of reasonable steps to select and retain service providers capable of appropriately safeguarding personal information they receive from respondent, and requiring service providers by contract to implement and maintain appropriate safeguards; and
- E. The evaluation and adjustment of the information security program in light of the results of the testing and monitoring required by Paragraph 3 of this Section, any material changes to operations or business arrangements, or any other circumstances that Defendant knows or has reason to know may have material impact on the effectiveness of the information security program.

III.

IT IS FURTHER ORDERED that, in connection with its compliance of Section II of the Order, respondent shall obtain initial and biennial assessments and reports ("Assessments") of respondent from a qualified, objective, independent third-party professional who uses procedures and standards generally accepted in the profession. Professionals qualified to prepare such Assessments shall be: (a) a person qualified as a Certified Information System Security Professional (CISSP) or as a Certified Information Systems Auditor (CISA); (b) a person holding Global Information Assurance Certification (GIAC) from the System Administrator, Audit, Network, Security (SANS) Institute; or (c) a similarly qualified person or organization approved by the Associate Director of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580. The reporting period for the Assessments shall cover (i) the first one hundred and eighty (180) days after service of the Order for the Initial Assessment and (ii) each two (2) year period thereafter for

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twenty (20) years after service of the Order for the biennial Assessments. Each Assessment shall:

- A. Set forth the specific administrative, technical, and physical safeguards that respondent has implemented and maintained during the reporting period;
- B. Explain how such safeguards are appropriate to respondent's size and complexity, the nature and scope of respondent's activities, and the sensitivity of the personal information collected from or about consumers;
- C. Explain how the safeguards that have been implemented meet or exceed the protections required by Section II of the Order; and
- D. Certify that Respondent's security program is operating with sufficient effectiveness to provide reasonable assurance that the security, confidentiality, and integrity of personal information is protected and has so operated throughout the reporting period.

Each Assessment shall be prepared and completed within sixty (60) days after the end of the reporting period to which the Assessment applies. Respondent shall provide the initial Assessment to the Associate Director of Enforcement, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580, within ten (10) days after the Assessment has been prepared. All subsequent biennial Assessments shall be retained by Respondent until the Order is terminated and provided to the Associate Director of Enforcement within ten (10) days of request. Unless otherwise directed by a representative of the Commission, initial and biennial Assessments shall be sent by overnight courier (not the U.S. Postal Service) to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580, with the subject line *FTC v. Accretive Health, Inc.*, FTC File Number 1223077. *Provided, however,* that in lieu of overnight courier, an Assessment may be sent by first class mail, but only if an electronic version of such

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Assessment is contemporaneously sent to the Commission at DEBrief@ftc.gov.

IV.

IT IS FURTHER ORDERED that Respondent shall maintain and, upon request, make available to the Commission for inspection and copying:

- A. For a period of three (3) years after the date of preparation of each Assessment required under Section III of the Order, all materials relied upon to prepare the Assessment, whether prepared by or on behalf of respondent, including but not limited to, all plans, reports, studies, reviews, audits, audit trails, policies, training materials, and assessments, and any other materials relating to Respondent's compliance with Section II of this order, for the compliance period covered by such Assessment;
- B. Unless covered by IV.1, for a period of five (5) years from the date of preparation or dissemination, whichever is later, a print or electronic copy of each document relating to compliance with this Order, including but not limited to documents, whether prepared by or on behalf of Respondent, that contradict, qualify, or call into question compliance with the Order.

V.

IT IS FURTHER ORDERED that respondent shall deliver a copy of this order to all current and future subsidiaries, current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities relating to the subject matter of this order. Respondent shall deliver this order to such current subsidiaries and personnel within thirty (30) days after service of this order, and to such future subsidiaries and personnel within thirty (30) days after the person assumes such position or responsibilities. For any business entity resulting from any change in structure set forth in Part VI, delivery shall be at least ten (10) days prior to the

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change in structure. Respondent must secure a signed and dated statement acknowledging receipt of this order, within thirty (30) days of delivery, from all persons receiving a copy of the order pursuant to this section.

VI.

IT IS FURTHER ORDERED that respondent shall notify the Commission at least thirty (30) days prior to any change in the corporation(s) that may affect compliance obligations arising under this order, including, but not limited to: a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. *Provided, however,* that, with respect to any proposed change in the corporation(s) about which respondent learns fewer than thirty (30) days prior to the date such action is to take place, respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. Unless otherwise directed by a representative of the Commission, all notices required by this Part shall be sent by overnight courier (not the U.S. Postal Service) to the Associate Director of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, D.C. 20580, with the subject line *In the matter of Accretive Health, Inc.*, FTC File No. 1223077. *Provided, however,* that in lieu of overnight courier, notices may be sent by first-class mail, but only if an electronic version of any such notice is contemporaneously sent to the Commission at Debrief@ftc.gov.

VII.

IT IS FURTHER ORDERED that Respondent, within sixty (60) days after the date of service of this Order, shall file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form of its compliance with this Order. Within ten (10) days of receipt of written notice from a representative of the Commission, it shall submit additional true and accurate written reports.

Analysis to Aid Public Comment

VIII.

This order will terminate on February 5, 2034, or twenty (20) years from the most recent date that the United States or the Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. Any part in this Order that terminates in less than twenty (20) years; and
- B. this order's application to any respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this part.

Provided, further, that if such complaint is dismissed or a federal court rules that respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order as to such respondent will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

ANALYSIS OF CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted, subject to final approval, a consent order applicable to Accretive Health Systems, Inc.

Analysis to Aid Public Comment

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

Accretive Health enters into service agreements with hospital systems around the country to provide services related to the hospital systems' "revenue cycle" operations. Revenue cycle operations include registration, transcription, coding and medical documentation, billing, pricing, and collection of past due accounts. In exchange for these services, hospital systems pay Accretive Health both fixed fees and incentive payments based on a percentage of the monetary benefit from increased revenues. Accretive Health employees work at hospital facilities to assist with these services. As part of its service to client hospitals, Accretive Health collects, maintains, and has access to information about hospitals' patients, including sensitive health and personal information. This information may include patient names, dates of birth, billing information, diagnostic information, and Social Security numbers.

The Commission's complaint alleges that Accretive Health unfairly failed to provide reasonable and appropriate security for consumers' personal information it collected and maintained by engaging in a number of practices that, taken together, unreasonably and unnecessarily exposed consumers' personal data to unauthorized access. Among other things, Accretive Health created unnecessary risks of unauthorized access or theft of personal information by:

- a. Transporting laptops containing personal information in a manner that made them vulnerable to theft or other misappropriation;
- b. Failing to adequately restrict access to, or copying of, personal information based on an employee's need for information;

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- c. Failing to ensure that employees removed information from their computers for which they no longer had a business need; and
- d. Using consumers' personal information in training sessions with employees and failing to ensure that the information was removed from employees' computers following the training.

The complaint further alleges that these failures contributed to a July 2011 incident in Minneapolis, Minnesota in which an Accretive Health laptop containing over 600 files with over 20 million pieces of information related to 23,000 patients was left in the locked passenger compartment of the employee's car and stolen. The laptop included sensitive health and personal information, including patient names, dates of birth, billing information, diagnostic information, and Social Security numbers. The user of this laptop had data that was not necessary to perform his job.

The proposed order contains provisions designed to prevent Accretive Health from engaging in the future in practices similar to those alleged in the complaint.

Part II of the proposed order requires Accretive Health to establish and maintain, or continue to maintain, a comprehensive information security program that is reasonably designed to protect the security, confidentiality, and integrity of personal information collected from or about consumers. The security program must contain administrative, technical, and physical safeguards appropriate to Accretive Health's size and complexity, nature and scope of its activities, and the sensitivity of the information collected from or about consumers. Specifically, the proposed order requires Accretive Health to:

- designate an employee or employees to coordinate and be accountable for the information security program;
- identify material internal and external risks to the security, confidentiality, and integrity of personal information that could result in the unauthorized disclosure, misuse, loss, alteration, destruction, or other compromise of such

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information, and assess the sufficiency of any safeguards in place to control these risks;

- design and implement reasonable safeguards to control the risks identified through risk assessment, and regularly test or monitor the effectiveness of the safeguards' key controls, systems, and procedures;
- develop and use reasonable steps to select and retain service providers capable of appropriately safeguarding personal information they receive from Accretive Health, and require service providers by contract to implement and maintain appropriate safeguards; and
- evaluate and adjust its information security program in light of the results of testing and monitoring, any material changes to operations or business arrangement, or any other circumstances that it knows or has reason to know may have a material impact on its information security program.

Part III of the proposed order requires Accretive Health to obtain within the first one hundred eighty (180) days after service of the order, and on a biennial basis thereafter for a period of twenty (20) years, an assessment and report from a qualified, objective, independent third-party professional, certifying, among other things, that: (1) it has in place a security program that provides protections that meet or exceed the protections required by Part II of the proposed order; and (2) its security program is operating with sufficient effectiveness to provide reasonable assurance that the security, confidentiality, and integrity of sensitive consumer, information has been protected.

Parts IV through VIII of the proposed order are reporting and compliance provisions. Part IV requires Accretive Health to retain documents relating to its compliance with the order. For most records, the order requires that the documents be retained for a five-year period. For the third-party assessments and supporting documents, Accretive Health must retain the documents for a period of three years after the date that each assessment is prepared. Part V requires dissemination of the order now and in the future to all current and future principals, officers, directors,

Analysis to Aid Public Comment

and managers, and to persons with responsibilities relating to the subject matter of the order. Part VI ensures notification to the FTC of changes in corporate status. Part VII mandates that Accretive Health submit a compliance report to the FTC within 60 days, and periodically thereafter as requested. Part VIII is a provision “sunsetting” the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed complaint or order or to modify the order’s terms in any way.

Complaint

IN THE MATTER OF

FOWLerville FORD, INC.CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF
SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT, THE TRUTH
IN LENDING ACT, AND REGULATION Z

Docket No. C-4433; File No. 132 3023
Complaint, February 20, 2014 – Decision, February 20, 2014

This consent order addresses Fowlerville Ford, Inc.'s claims made in advertisements and failure to disclose or disclose adequately terms of certain financing offered, despite the respondent's use of certain triggering terms in the advertisements. The complaint alleges that respondent has advertised that consumers have won a prize worth between \$1,000 and \$25,000. The complaint further alleges that, in fact, consumers have not won a prize worth between \$1,000 and \$25,000. The consent order prohibits the respondent from misrepresenting the material terms of any prize, sweepstakes, giveaway, or other incentive, including whether a consumer has won a prize, sweepstakes, giveaway, or other incentive, and the nature, value, or amount of a prize, sweepstakes, giveaway, or other incentive required to be paid at lease inception, and the amounts of all monthly or other periodic payments. The order also requires that the respondent clearly and conspicuously make all of the disclosures required by the Truth in Lending Act and Regulation Z if it states relevant triggering terms, including the monthly financing payment.

Participants

For the *Commission: Sana Chriss, Mark Glassman, John Jacobs, Carole Reynolds, Jason Schall, Christina Tusan, and Katherine Worthman.*

For the *Respondent: Roy R. Hunsinger, solo practitioner.*

COMPLAINT

The Federal Trade Commission ("Commission), having reason to believe that Fowlerville Ford Inc., a corporation ("respondent"), has violated provisions of the Federal Trade Commission Act ("FTC Act"), the Truth in Lending Act ("TILA"), and its implementing Regulation Z, and it appearing to the Commission that this proceeding is in the public interest, alleges:

Complaint

1. Respondent is a Delaware corporation with its principal office or place of business at 8100 Country Corner Dr., Fowlerville, MI 48836. Respondent offers motor vehicles for sale or lease.

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 May 2011, respondent has disseminated or caused to be disseminated advertisements promoting the purchase, financing, and leasing of their motor vehicles.

Mailed Promotions

4. Respondent’s advertisements have included, but are not necessarily limited to, promotions mailed to consumers. A copy of one such promotion is attached as Exhibit A.

- a. This promotion includes a “Match & Win” invitation page, which resembles a sweepstakes entry ticket. It lists a series of winning numbers and prominently represents that “[i]f any of the three cards below match the winning numbers above you have won! Prizes listed to the right.*”
- b. The promotion includes three scratch-off entry “cards,” with prizes listed to the right: \$5,000, \$1,000, and \$25,000. In all or virtually all instances, when consumers have scratched the cards to reveal numbers underneath, at least one set of numbers has corresponded to the winning numbers.
- c. In bold letters across the bottom, the promotion states “BRING THIS INVITATION TO FOWLerville FORD TO CLAIM YOUR PRIZE!” A typical and illustrative “Match & Win” entry page is depicted below:

Complaint

- a. The video shows a 2010 Cobalt LT, accompanied by prominent graphics in the center of the screen representing:

\$234 DOWN

\$234/MONTH

While these representations appear on screen, a Fowlerville Ford representative stands next to the vehicle and states, “We’ve got some holiday deals for you. How about this 2010 Cobalt LT, only \$234 down and \$234 a month?”

Also while these representations appear on screen, small text appears briefly on the bottom of the screen stating, “72 months. 4.55% Interest. With Approved Credit. See dealer for details.”

The advertisement does not clearly and conspicuously disclose the repayment terms and fails to disclose the annual percentage rate, or “APR,” using that term.

- b. The video also shows a 2007 Grand Prix accompanied by prominent graphics in the center of the screen representing:

\$169 DOWN

\$169/MONTH

While these representations appear on screen, the Fowlerville Ford representative continues, “Or this 2007 Grand Prix, only \$169 down and \$169 per month?”

Also while these representations appear on screen, small text appears briefly on the bottom of the screen

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stating, “72 months. 4.55% Interest. With Approved Credit. See dealer for details.”

The advertisement does not clearly and conspicuously disclose the repayment terms and fails to disclose the annual percentage rate, or “APR,” using that term.

- c. The video includes a similar advertisement for a 2008 Suzuki SX4, which also represents down payment and monthly payment amounts. The advertisement does not clearly and conspicuously disclose the repayment terms and fails to disclose the annual percentage rate, or “APR,” using that term.

**VIOLATIONS OF THE FEDERAL TRADE COMMISSION
ACT****Count I****Misrepresentation That Consumers Have Won a Prize**

7. Through the means described in Paragraph 4, respondent has represented expressly or by implication that consumers have won a prize worth between \$1,000 and \$25,000 that can be collected at the Fowlerville Ford dealership.

8. In truth and in fact, consumers have not won a prize worth between \$1,000 and \$25,000.

9. Respondent’s practices constitute deceptive acts or practices 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**

10. 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 (“additional terms”) if they state any of several terms, such as the monthly payment (“TILA triggering terms”).

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11. Respondent's advertisements promoting closed-end credit, including but not necessarily limited to those described in Paragraph 6, are subject to the requirements of the TILA and Regulation Z.

Count II**Failure to Disclose or Disclose Clearly and Conspicuously
Required Credit Information**

12. Respondent's advertisements promoting closed-end credit, including but not necessarily limited to those described in Paragraph 6, have included TILA triggering terms, but have failed to disclose or 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, including any balloon payment.
- c. The "annual percentage rate," using that term, and, if the rate may be increased after consummation, that fact.

13. Therefore, the practices set forth in Paragraph 12 of this Complaint have 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.

THEREFORE, the Federal Trade Commission, this twentieth day of February, 2014, has issued this complaint against respondent.

By the Commission.

Complaint

Exhibit A

FOWLERVILLE FORD'S
AUTOMOTIVE
GAS SAVING EVENT

OUR GOAL IS TO GET YOU IN A MORE FUEL-EFFICIENT VEHICLE!

STOP PAYING TOO MUCH AT THE PUMP!

YOU MAY HAVE WON \$25,000 IN FREE GAS!

OFFICIAL EVENT LOCATION:
FOWLERVILLE FORD | 8100 COUNTRY CORNER DR
FOWLERVILLE, MI 48836
866-409-8847

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MATCH & WIN!

8 13 65 68 92

If any of the three cards below match the winning numbers above you have won! Prizes listed to the right.*

SCRATCH OFF BELOW TO REVEAL YOUR NUMBERS

SCRATCH OFF HERE

MATCH 5 AND WIN! 8 16 65 67 90

\$5,000 CASH
1:30,000 ODDS

SCRATCH OFF BELOW TO REveal YOUR NUMBERS

SCRATCH OFF HERE

MATCH 5 AND WIN! 8 13 65 68 92

\$1,000 CASH
1:30,000 ODDS

SCRATCH OFF BELOW TO REveal YOUR NUMBERS

SCRATCH OFF HERE

MATCH 5 AND WIN! 6 13 65 62 94

\$25,000
29:997:30,000 ODDS WILL RECEIVE A CHARGE AT \$25,000. CARDS PROVIDED BY ODDS ON PROMOTION. ODDS OF WINNING 1:593,775.

\$25,000 IN GAS!

CONGRATULATIONS!

FRESHTO US POSTAGE PAID HOPKINS, MA PERMIT NO. 38

YOU COULD BE THE GRAND PRIZE WINNER OF \$25,000 IN GAS!
SCAN AT THE DEALERSHIP

14963-135

BRING THIS INVITATION TO FOWLerville FORD TO CLAIM YOUR PRIZE!

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OVER 100 CARS IN STOCK FROM \$2950

2008 MERCURY MILAN <small>STK#3418R</small>	RETAIL VALUE \$19,250	FOWLerville FORD PRICE \$15,500
2008 FORD EXPLORER <small>STK#3423R</small>	RETAIL VALUE \$22,600	FOWLerville FORD PRICE \$18,000
2006 LANDROVER LR3 <small>STK#11423A</small>	RETAIL VALUE \$22,000	FOWLerville FORD PRICE \$18,500
2006 LINCOLN TOWNCAR <small>STK#34005</small>	RETAIL VALUE \$16,000	FOWLerville FORD PRICE \$11,500

NO CREDIT? BAD CREDIT?
No Problem!
Bankruptcy Charge Offs, Divorced, Repossession,
Tax Liens, Credit Card Difficulties...
CREDIT AMNESTY GETS YOU THE CREDIT YOU NEED!

WE MAY BE ABLE TO GET YOU INTO A NEW FUEL EFFICIENT VEHICLE FOR LESS THEN YOU ARE PAYING FOR YOUR GUZZLER



PUSH PULL or DRAG \$2,000 MINIMUM TRADE!
* Minimum \$8,000 purchase

\$0 DOWN ON NEW VEHICLES!

With Approved Credit. See dealer for details.

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TUESDAY MAY 3 9AM-8PM	WEDNESDAY MAY 4 9AM-8PM	THURSDAY MAY 5 9AM-8PM	FRIDAY MAY 6 9AM-8PM	SATURDAY MAY 7 10AM-4PM
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2003 FORD TAURUS



Only ONE Available

\$88 Down
\$109 /Month

\$88 down payment / \$109 per month example: 2003 Ford Taurus stock#11048A, selling price \$5,400, 60 months at 5.0% APR plus tax, title, and license. With approved credit.

2005 FORD TAURUS



Only ONE Available

\$99 Down
\$159 /Month

\$99 down payment / \$159 per month example: 2005 Ford Taurus stock#17650, selling price \$7,800, 60 months at 5.0% APR plus tax, title, and license. With approved credit.

OFFICIAL EVENT LOCATION:

FOWLerville FORD

8100 COUNTRY CORNER DR
FOWLerville, MI 48836
866-409-8847



DON'T MISS THIS EVENT!

COME IN BEFORE YOUR TANK HITS EMPTY!



FOWLerville FORD <small>8100 COUNTRY CORNER DRIVE FOWLerville, MI 48836</small>	<i>Clearance Event Savings Certificate</i> <small>Valid May 3rd - May 7th, 2011</small>	<small>Not a Check</small>
TO THE ORDER OF <i>Valued Customer</i>	\$2,876.00	
<i>Two Thousand Eight Hundred Seventy-Six and 00/100 DOLLARS</i>		
<small>MEMO: Certificate good only towards selected pre-owned vehicles. No cash Value. Cannot be used in conjunction with any other offer. Minimum \$8,000 purchase.</small>		
	<i>Fowlerville Ford</i>	

Complaint

Exhibit B

Exhibit B

Fowlerville Ford, LLC

Video Advertisement
(Electronic File)

Complaint

Exhibit C



Exhibit C
Page 1 of 3

Complaint



Exhibit C
Page 2 of 3

Complaint



Exhibit C
Page 3 of 3

Decision and Order

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of respondent named in the caption hereof, and respondent having been furnished thereafter with a copy of a draft complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violations of the Federal Trade Commission Act (“FTC Act”), the Truth in Lending Act (“TILA”), and its implementing Regulation Z; and

Respondent, respondent’s attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order (“consent agreement”), which includes: a statement by respondent that it neither admits nor denies any of the allegations in the draft complaint, except as specifically stated in the Consent Agreement, and, only for purposes of this action, admits the facts necessary to establish jurisdiction; and waives and other provisions as required by the Commission’s Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that respondent has violated the FTC Act, the TILA, and its implementing Regulation Z, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such consent agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, now in further conformity with the procedure prescribed in Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent, Fowlerville Ford, Inc., is a Delaware corporation with its principal office or place of business at 8100 Country Corner Dr., Fowlerville, MI 48836. Respondent offers motor vehicles for sale or lease.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the

Decision and Order

Respondent, and the proceeding is in the public interest.

ORDER**DEFINITIONS**

For the purposes of this order, the following definitions shall apply:

- A. Unless otherwise specified, “respondent” shall mean Fowlerville Ford, Inc., and its successors and assigns.
- B. “Advertisement” shall mean a commercial message in any medium that directly or indirectly promotes a consumer transaction.
- C. “Clearly and conspicuously” shall mean as follows:
 - 1. In a print advertisement, the disclosure shall be in a type size, location, and in print that contrasts with the background against which it appears, sufficient for an ordinary consumer to notice, read, and comprehend it.
 - 2. In an electronic medium, an audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. A video disclosure shall be of a size and shade and appear on the screen for a duration, and in a location, sufficient for an ordinary consumer to read and comprehend it.
 - 3. In a television or video advertisement, an audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. A video disclosure shall be of a size and shade, and appear on the screen for a duration, and in a location, sufficient for an ordinary consumer to read and comprehend it.

Decision and Order

4. In a radio advertisement, the disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it.
 5. In all advertisements, the disclosure shall be in understandable language and syntax. Nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be used in any advertisement or promotion.
- D. “Material” shall mean likely to affect a person’s choice of, or conduct regarding, goods or services.
- E. “Motor vehicle” or “vehicle” shall mean:
1. Any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;
 2. Recreational boats and marine equipment;
 3. Motorcycles;
 4. Motor homes, recreational vehicle trailers, and slide-in campers; and
 5. Other vehicles that are titled and sold through dealers.

I.

IT IS HEREBY ORDERED that respondent and its officers, agents, representatives, and employees, directly or indirectly, in connection with any advertisement for the purchase, financing, or leasing of motor vehicles, shall not, in any manner, expressly or by implication:

- A. Misrepresent the material terms of any prize, sweepstakes, giveaway, or other incentive, including whether a consumer has won a prize, sweepstakes, giveaway, or other incentive, and the nature, value, or

Decision and Order

amount of a prize, sweepstakes, giveaway, or other incentive.

- B. Misrepresent any material fact about the price, sale, financing, or leasing of any vehicle.

II.

IT IS FURTHER ORDERED that respondent and its officers, agents, representatives, and employees, directly or indirectly, in connection with any advertisement for the purchase, financing, or leasing of motor vehicles, shall not, in any manner, expressly or by implication:

- A. State the amount or percentage of any downpayment, the number of payments or period of repayment, the amount of any payment, or the amount of any finance charge, without disclosing clearly and conspicuously all of the following terms:
 - 1. The amount or percentage of the downpayment;
 - 2. The terms of repayment; and
 - 3. The annual percentage rate, using the term “annual percentage rate” or the abbreviation “APR.” If the annual percentage rate may be increased after consummation of the credit transaction, that fact must also be disclosed; or
- B. State a rate of finance charge without stating the rate as an “annual percentage rate” or the abbreviation “APR,” using that term; or
- C. Fail to comply in any respect with Regulation Z, 12 C.F.R. Part 226, as amended, and the Truth in Lending Act, as amended, 15 U.S.C. §§ 1601-1667.

III.

IT IS FURTHER ORDERED that respondent shall, for five (5) years after the last date of dissemination of any representation

Decision and Order

covered by this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. All advertisements and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation;
- C. All evidence in its possession or control that contradicts, qualifies, or calls into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations; and
- D. Any documents reasonably necessary to demonstrate full compliance with each provision of this order, including but not limited to all documents obtained, created, generated, or that in any way relate to the requirements, provisions, or terms of this order, and all reports submitted to the Commission pursuant to this order.

IV.

IT IS FURTHER ORDERED that respondent shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondent shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

V.

IT IS FURTHER ORDERED that respondent shall notify the Commission at least thirty (30) days prior to any change in the corporation(s) that may affect compliance obligations arising

Decision and Order

under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. *Provided, however,* that, with respect to any proposed change in the corporation about which respondent learns less than thirty (30) days prior to the date such action is to take place, respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. Unless otherwise directed by a representative of the Commission in writing, all notices required by this Part shall be emailed to Debrief@ftc.gov or sent by overnight courier (not U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC, 20580. The subject line must begin: FTC v. Fowlerville Ford, Inc.

VI.

IT IS FURTHER ORDERED that respondent, within sixty (60) days after the date of service of this order, shall file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form of its own compliance with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, it shall submit additional true and accurate written reports.

VII.

This order will terminate on February 20, 2034, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; *provided, however,* that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint;

Analysis to Aid Public Comment

- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

**ANALYSIS OF CONSENT ORDER TO AID PUBLIC
COMMENT**

The Federal Trade Commission (“FTC”) has accepted, subject to final approval, an agreement containing a consent order from Fowlerville Ford, Inc. The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the FTC will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement’s proposed order.

The respondent is a motor vehicle dealer. According to the FTC complaint, respondent has advertised that consumers have won a prize worth between \$1,000 and \$25,000. The complaint alleges that, in fact, consumers have not won a prize worth between \$1,000 and \$25,000. The complaint alleges therefore that the respondent’s representations are false or misleading in violation of Section 5 of the FTC Act. In addition, the complaint alleges a violation of the Truth in Lending Act (“TILA”) and its implementing Regulation Z for failing to disclose or disclose

Analysis to Aid Public Comment

adequately terms of certain financing offered, despite the respondent's use of certain triggering terms in the advertisements.

The proposed order is designed to prevent the respondent from engaging in similar deceptive practices in the future. Part I.A prohibits the respondent from misrepresenting the material terms of any prize, sweepstakes, giveaway, or other incentive, including whether a consumer has won a prize, sweepstakes, giveaway, or other incentive, and the nature, value, or amount of a prize, sweepstakes, giveaway, or other incentive required to be paid at lease inception, and the amounts of all monthly or other periodic payments. Part I.B prohibits the respondent from misrepresenting any other material fact about the price, sale, financing, or leasing of any vehicle.

Part II of the proposed order addresses the TILA allegation. It requires that the respondent clearly and conspicuously make all of the disclosures required by TILA and Regulation Z if it states relevant triggering terms, including the monthly financing payment. In addition, Part II prohibits any other violation of TILA and Regulation Z.

Part III of the proposed order requires respondent to keep copies of relevant advertisements and materials substantiating claims made in the advertisements. Part IV requires that respondent provide copies of the order to certain of its personnel. Part V requires notification to the Commission regarding changes in corporate structure that might affect compliance obligations under the order. Part VI requires the respondent to file compliance reports with the Commission. Finally, Part VII is a provision "sunsetting" the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order's terms.

Complaint

IN THE MATTER OF

LUIS ALFONSO SIERRA
D/B/A
CASINO AUTO SALESCONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF
SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket No. C-4434; File No. 132 3107*
Complaint, February 20, 2014 – Decision, February 20, 2014

This consent order addresses Luis Alfonso Sierra d/b/a/ Casino Auto Sales' advertisements of cars for sale. The complaint alleges that the respondent's advertisements feature photographs of numerous cars, with a price prominently displayed below each car, and that the respondent has advertised that each car is available for purchase at the price that is prominently displayed below the car. The complaint further alleges that, in fact, the featured cars are not available for purchase at the prices that are displayed below each car, and that, instead, the purchase price of each car is actually \$5,000 more than the advertised price. The consent order prohibits the respondent from misrepresenting the cost of purchasing a vehicle, including but not necessarily limited to (1) the purchase price of the vehicle, or (2) any finance terms, including the amount or percentage of the down payment, the number of payments or period of repayment, the amount of any payment, and the repayment obligation over the full term of the loan, including any balloon payment.

Participants

For the *Commission: Sana Chriss, Mark Glassman, John Jacobs, Carole Reynolds, Jason Schall, Christina Tusan, and Katherine Worthman.*

For the *Respondent: Alexander J. Petale, Law Offices of Alexander J. Petale.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Luis Alfonso Sierra ("respondent"), an individual trading and doing business as Casino Auto Sales, 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:

Complaint

1. Respondent Luis Alfonso Sierra is an individual trading and doing business as Casino Auto Sales with his principal office or place of business at 13025 Valley Boulevard, La Puente, California 91746. Individually, or in concert with others, he formulates, directs, controls, or participates in the policies, acts, or practices alleged in this complaint. Respondent offers automobiles for sale to consumers.

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 January 2013, respondent has disseminated or caused to be disseminated advertisements to the public promoting the purchase and finance of automobiles.

4. Respondent has placed advertisements in multiple publications. Respondent has placed such advertisements, for example, in numerous editions of a free advertising circular titled *myautoplus.com*. Each edition of this circular is also made available online at www.myautoplus.com. A copy of one such advertisement is attached as Exhibit A. Respondent has also placed such advertisements in numerous editions of a free advertising circular titled *autoaviso.com*. A copy of one such advertisement is attached as Exhibit B. The advertisements attached as Exhibits A and B contain the statements and depictions described in Paragraphs 5 and 6 below. Respondent’s other advertisements in *myautoplus.com* and *autoaviso.com* contain substantially similar statements and depictions.

5. Respondent’s advertisements, including but not limited to those attached as Exhibits A and B, include numerous photographs of individual automobiles offered for sale. A price is prominently displayed immediately below each automobile. For example, Exhibit A features a 2008 Chevy Tahoe LS as follows:

Complaint



6. Respondent's advertisements include statements related to the prices of the featured vehicles in small print at the bottom of the advertisements. For example, Exhibit A contains the following statements:

*Prices after \$5,000 down + Tax, Lic & Doc fees,
on approved credit.

* * *

Precios despues de \$5,000 de pago inicial + Tax,
Lic. & Doc. En crédito aprobado.

(This statement translated into English means
"Prices after \$5,000 down + Tax, Lic. & Doc. In
approved credit.")

7. Thus, the actual price of each of respondent's advertised vehicles is \$5,000 more than the dollar amount that is prominently displayed immediately below the vehicle.

FEDERAL TRADE COMMISSION ACT VIOLATIONS

Count I

Misrepresentation Regarding Purchase Price of the Vehicles

8. In numerous instances, through the means described in Paragraphs 4 and 5, respondent has represented, expressly or by implication, that vehicles are available for purchase at the prices prominently advertised.

Complaint

9. In truth and in fact, vehicles are not available for purchase at the prices prominently advertised. Consumers must pay an additional \$5,000 to purchase the advertised vehicles. Therefore, respondent's representation as alleged in Paragraph 8 was, and is, false and misleading.

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).

THEREFORE, the Federal Trade Commission, this twentieth day of February, 2014, has issued this complaint against respondent.

By the Commission.

Complaint

Exhibit A

www.myautoplus.com

800-631-6871

CASINO 13025 Valley Blvd. La Puente, CA

'08 MBZ CL550 AMG automatic, ac, cd, must see, trimac in/out, VIN 013466Z **\$36,995 \$18,995**

'05 CHEVY CORVETTE automatic, full power, turn signal, ac, cd, VIN 6B1383 **\$18,995**

Mal Crédito OK No Crédito OK Matricula OK

'07 CADILLAC ESCALADE EXT automatic, ac, cd, must see, trimac in/out, VIN 013466Z \$25,995	'07 CADILLAC ESCALADE automatic, ac, cd, must see, trimac in/out, VIN 013466Z \$27,995	'07 CADILLAC ESCALADE EXT automatic, ac, cd, must see, trimac in/out, VIN 013466Z \$24,995	'07 CHEVY TAHOE LS automatic, ac, cd, must see, trimac in/out, VIN 013466Z \$16,995
'07 CHEVY TAHOE LTZ automatic, ac, cd, must see, trimac in/out, VIN 013466Z \$18,995	'07 GMC YUKON automatic, ac, cd, must see, trimac in/out, VIN 013466Z \$17,995	'07 CHEVY TAHOE automatic, ac, cd, must see, trimac in/out, VIN 013466Z \$16,995	'08 CHEVY TAHOE LS automatic, ac, cd, must see, trimac in/out, VIN 013466Z \$17,995
'07 GMC YUKON XL automatic, ac, cd, must see, trimac in/out, VIN 013466Z \$16,995	'07 GMC YUKON XL automatic, ac, cd, must see, trimac in/out, VIN 013466Z \$15,995	'07 CHEVY SUBURBAN LT automatic, ac, cd, must see, trimac in/out, VIN 013466Z \$18,995	'07 CHEVY SUBURBAN LT automatic, ac, cd, must see, trimac in/out, VIN 013466Z \$15,995
'08 CHEVY SILVERADO automatic, ac, cd, must see, trimac in/out, VIN 013466Z \$17,995	'07 CHEVY SILVERADO automatic, ac, cd, must see, trimac in/out, VIN 013466Z \$15,995	'07 CHEVY SILVERADO automatic, ac, cd, must see, trimac in/out, VIN 013466Z \$16,995	'09 GMC SIERRA automatic, ac, cd, must see, trimac in/out, VIN 013466Z \$16,995

*Todos los precios no son en efectivo, si no la cantidad para financiar. *Prices after \$5,000 down + Tax, Lic. & Doc fees, on approved credit. Base with a FICO score of 740 & above...special finance available!!! See your sales associate for more details. *Precios después de \$5,000 de pago inicial + Tax, Lic. & Doc. En crédito aprobado. Basado con un puntaje FICO score de 740 puntos. Financiamiento especial disponible!!! Programa a su vendedor por más detalles. *Todos los precios son basados a 60 meses y 5.9% interés. Ad. exp. 01/25/13. Precio especiales disponibles a través de internet. Specials are available at additional cost.

4683EVDMIA

Complaint

www.myautoplus.com

800-631-6871
CASINO
 13025 Valley Blvd.
 La Brea, CA




'08 GMC SIERRA
 automatico, air, cd, imradio in, out. VIN 313704 **\$13,995**

'08 CHEVY SILVERADO
 automatico, air, cd, imradio in, out. VIN 325399 **\$13,995**

Bancarrota OK Reposeciones OK Ter Comprador OK

 '06 BMW 750LI total stock \$16,995	 '06 BMW 750 automatico, air, cd, imradio in, out. VIN 707044 \$16,995	 '09 BMW 750 LI total stock \$39,995	 '06 BMW 325 automatico, air, cd, imradio in, out. VIN 103022 \$9,995
 '10 DODGE CHALLENGER automatico, air, cd, imradio in, out. VIN 200003 \$18,995	 '09 MINI COOPER total stock \$9,995	 '07 CHRYSLER 300C VIN 748093 \$9,995	 '05 DODGE MAGNUM R/T automatico, air, cd, imradio in, out. VIN 200027 \$8,995
 '07 LINCOLN MARK LI VIN 81112 \$17,995	 '05 DODGE RAM HEMI VIN 800072 \$17,995	 '08 CHEVY SILVERADO automatico, air, cd, imradio in, out. VIN 103074 \$11,995	 '09 DODGE RAM automatico, air, cd, imradio in, out. VIN 100406 \$13,995
 '03 HUMMER H2 VIN 81112 \$14,995	 '05 HUMMER H2 total stock \$17,995	 '07 RANGE ROVER automatico, air, cd, imradio in, out. VIN 100162 \$23,995	 '03 HUMMER H2 automatico, air, cd, imradio in, out. VIN 100003 \$14,995

*Todos los precios no son en efectivo, sino la cantidad para financiar. *Precio sin IVA, 2000 down + Tax, Lic. & Doc fees, or approved credit. Base with a FICO score of 740 & above... special finance available!!! See your sales associate for more details. *Precio sin IVA, 2000 de pago inicial + Tax, Lic. & Doc. En crédito aprobado. *Bancarrota con un puntaje FICO de 740 o superior. *Financiamiento especial disponible!! Programa a su elección por más detalles. Todos los precios son basados a 60 meses y 5.9% interés. Ad expires 01/25/13. Prices subject to change without notice. Special rates available at promotional cost.

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Decision and Order

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of respondent named in the caption hereof, and respondent having been furnished thereafter with a copy of a draft complaint which the Western Region-Los Angeles proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act (“FTC Act”); and

Respondent, respondent’s attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order (“consent agreement”), which includes: a statement by respondent that it neither admits nor denies any of the allegations in the draft complaint, except as specifically stated in the Consent Agreement, and, only for purposes of this action, admits the facts necessary to establish jurisdiction; and waivers and other provisions as required by the Commission’s Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that respondent has violated the FTC Act and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such consent agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent, Luis Alfonso Sierra, is an individual trading and doing business as Casino Auto Sales with his principal place of business at 13025 Valley Boulevard, La Puente, California 91746.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

Decision and Order

ORDER**DEFINITIONS**

For the purposes of this order, the following definitions shall apply:

- A. Unless otherwise noted, “respondent” shall mean Luis Alfonso Sierra.
- B. “Advertisement” shall mean a commercial message in any medium that directly or indirectly promotes a consumer transaction.
- C. “Clearly and conspicuously” shall mean as follows:
 - 1. In a print advertisement, the disclosure shall be in a type size, location, and in print that contrasts with the background against which it appears, sufficient for an ordinary consumer to notice, read, and comprehend it.
 - 2. In an electronic medium, an audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. A video disclosure shall be of a size and shade, and appear on the screen for a duration, and in a location, sufficient for an ordinary consumer to read and comprehend it.
 - 3. In a television or video advertisement, an audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. A video disclosure shall be of a size and shade, and appear on the screen for a duration, and in a location, sufficient for an ordinary consumer to read and comprehend it.
 - 4. In a radio advertisement, the disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it.

Decision and Order

5. In all advertisements, the disclosure shall be in understandable language and syntax. Nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be used in any advertisement or promotion.
- D. “Material” shall mean likely to affect a person’s choice of, or conduct regarding, goods or services.
- E. “Motor vehicle” or “vehicle” shall mean:
1. Any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;
 2. Recreational boats and marine equipment;
 3. Motorcycles;
 4. Motor homes, recreational vehicle trailers, and slide-in campers; and
 5. Other vehicles that are titled and sold through dealers.

I.

IT IS HEREBY ORDERED that respondent and its officers, agents, representatives, and employees, directly or indirectly, in connection with any advertisement for the purchase, financing, or leasing of motor vehicles, shall not, in any manner, expressly or by implication:

- A. Misrepresent the cost of purchasing a vehicle, including but not necessarily limited to:
1. The purchase price of the vehicle; or
 2. Any finance terms, including the amount or percentage of the down payment, the number of payments or period of repayment, the amount of any payment, and the repayment obligation over

Decision and Order

the full term of the loan, including any balloon payment; or

- B. Misrepresent any other material fact about the price, sale, financing, or leasing of any vehicle.

II.

IT IS FURTHER ORDERED that respondent shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. All advertisements and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation;
- C. All evidence in its possession or control that contradicts, qualifies, or calls into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations; and
- D. Any documents reasonably necessary to demonstrate full compliance with each provision of this order, including but not limited to all documents obtained, created, generated, or that in any way relate to the requirements, provisions, or terms of this order, and all reports submitted to the Commission pursuant to this order.

III.

IT IS FURTHER ORDERED that respondent shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the

Decision and Order

order. Respondent shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

IV.

IT IS FURTHER ORDERED that respondent shall notify the Commission of the discontinuance of his current business or employment, or of his affiliation with any new business or employment. The notice shall include respondent's new business address and telephone number and a description of the nature of the business or employment and his duties and responsibilities. Unless otherwise directed by a representative of the Commission in writing, all notices required by this Part shall be emailed to Debrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: FTC v. Luis Alfonso Sierra.

V.

IT IS FURTHER ORDERED that respondent, within sixty (60) days after the date of service of this order, shall file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form of respondent's own compliance with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, respondent shall submit additional true and accurate written reports.

VI.

This order will terminate on February 20, 2034, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; *provided, however*, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;

Analysis to Aid Public Comment

- B. This order's application to any respondent that is not named as a defendant in such complaint;
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

**ANALYSIS OF CONSENT ORDER TO AID PUBLIC
COMMENT**

The Federal Trade Commission ("FTC") has accepted, subject to final approval, an agreement containing a consent order from Luis Alfonso Sierra d/b/a/ Casino Auto Sales. The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the FTC will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

The respondent operates a motor vehicle dealership. According to the FTC complaint, the respondent has advertised cars for sale. The complaint alleges that the respondent's advertisements feature photographs of numerous cars, with a price prominently displayed below each car, and that the respondent has advertised that each car is available for purchase at the price that

Analysis to Aid Public Comment

is prominently displayed below the car. The complaint alleges that, in fact, the featured cars are not available for purchase at the prices that are displayed below each car, and that, instead, the purchase price of each car is actually \$5,000 more than the advertised price.

The proposed order is designed to prevent the respondent from engaging in similar deceptive practices and law violations in the future. Part I.A prohibits the respondent from misrepresenting the cost of purchasing a vehicle, including but not necessarily limited to (1) the purchase price of the vehicle, or (2) any finance terms, including the amount or percentage of the down payment, the number of payments or period of repayment, the amount of any payment, and the repayment obligation over the full term of the loan, including any balloon payment. Part I.B prohibits the respondent from misrepresenting any other material fact about the price, sale, financing, or leasing of any vehicle.

Part II of the proposed order requires the respondent to keep copies of relevant advertisements and materials substantiating claims made in the advertisements. Part III requires that the respondent provide copies of the order to certain personnel. Part IV requires notification to the Commission regarding changes in the respondent's business activities or employment, or his affiliation with any new business or employment. Part V requires the respondent to file compliance reports with the Commission. Finally, Part VI is a provision "sunsetting" the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order's terms.

Complaint

IN THE MATTER OF

MOHAMMAD SABHA
D/B/A
RAINBOW AUTO SALES

CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF
SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket No. C-4435; File No. 132 3140
Complaint, February 20, 2014 – Decision, February 20, 2014

This consent order addresses Mohammad Sabha, also d/b/a Rainbow Auto Sales' advertisements of cars for sale. The complaint alleges that the respondent's advertisements feature photographs of numerous cars, with a price prominently displayed below each car, and that the respondent has advertised that each car is available for purchase at the price that is prominently displayed below the car. The complaint further alleges that, in fact, the featured cars are not available for purchase at the prices that are displayed below each car, and that, instead, the purchase price of each car is actually \$5,000 more than the advertised price. The consent order prohibits the respondent from misrepresenting the cost of purchasing a vehicle, including but not necessarily limited to (1) the purchase price of the vehicle, or (2) any finance terms, including the amount or percentage of the down payment, the number of payments or period of repayment, the amount of any payment, and the repayment obligation over the full term of the loan, including any balloon payment.

10.

Participants

For the *Commission: Sana Chriss, Mark Glassman, John Jacobs, Carole Reynolds, Jason Schall, Christina Tusan, and Katherine Worthman.*

For the *Respondent: Sam Nordean, Consumer Protection Law Group.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Mohammad Sabha ("respondent"), an individual trading and doing business as Rainbow Auto Sales, 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:

Complaint

1. Respondent Mohammad Sabha is an individual trading and doing business as Rainbow Auto Sales with his principal office or place of business at 3700 Firestone Blvd., South Gate, California 90280. Individually, or in concert with others, he formulates, directs, controls, or participates in the policies, acts, or practices alleged in this complaint.

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 March 1, 2013, respondent has disseminated or caused to be disseminated advertisements to the public promoting the purchase and finance of automobiles.

4. Respondent has placed advertisements in numerous editions of a free advertising circular titled *myautoplus.com*. Each edition of the circular is also made available online at www.myautoplus.com. A copy of one such advertisement is attached as Exhibit A. This advertisement contains the statements and depictions described in Paragraphs 5 and 6 below. Respondent’s other advertisements in *myautoplus.com* contain substantially similar statements and depictions.

5. Respondent’s advertisements, including but not limited to the advertisement attached as Exhibit A, include numerous photographs of individual automobiles offered for sale. A price is prominently displayed immediately below each automobile. For example, the advertisement attached as Exhibit A features a 2003 Hummer H2 as follows:



6. The following statements related to the prices of the featured vehicles appear in small print at the bottom of

Complaint

respondent's advertisements, including but not limited to the advertisement attached as Exhibit A:

Precios despues de \$5,000 de enganche + tax + licencia + cargos por documentación con crédito aprobado.

(This statement translated into English is: "Prices after \$5,000 down + tax + license + documentation fees with credit approval.")

Prices after \$5,000 down + tax + lic + doc fees on approved credit.

7. Thus, the actual price of each of respondent's advertised vehicles is \$5,000 more than the dollar amount that is prominently displayed immediately below the vehicle.

FEDERAL TRADE COMMISSION ACT VIOLATIONS

Count I

Misrepresentation Regarding Purchase Price of the Vehicles

8. In numerous instances, through the means described in Paragraphs 4 and 5, respondent has represented, expressly or by implication, that vehicles are available for purchase at the prices prominently advertised.

9. In truth and in fact, vehicles are not available for purchase at the prices prominently advertised. Consumers must pay an additional \$5,000 to purchase the advertised vehicles. Therefore, respondent's representation as alleged in Paragraph 8 was, and is, false and misleading.

10. 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).

THEREFORE, the Federal Trade Commission, this twentieth day of February, 2014, has issued this complaint against respondent.

Complaint

www.myautoplus.com

RAINBOW AUTO

3700 FIRESTONE BLVD. SOUTH GATE

<p>'07 CHEVY-AVALANCHE</p>  <p>\$12,995</p>	<p>'05 BMW 645</p>  <p>\$11,995</p>	
<p>'05 FORD F-150 XLT</p>  <p>\$9,995</p>	<p>'07 AUDI A2.0T</p>  <p>\$10,995</p>	<p>'04 CHRYSLER PT CRUISER</p>  <p>\$5,995</p>
<p>'02 BMW 325i</p>  <p>\$9,995</p>	<p>'10 DODGE CHARGER</p>  <p>\$10,995</p>	<p>'06 NISSAN 350Z</p>  <p>\$9,995</p>
<p>'07 CHRYSLER PT CRUISER</p>  <p>\$12,995</p>	<p>'05 MAZD 630 COMPELL</p>  <p>\$7,995</p>	<p>'04 LEXUS RX330</p>  <p>\$14,995</p>
<p>'00 DODGE RAM 3500</p>  <p>\$3,995</p>	<p>'10 SCION TC</p>  <p>\$8,995</p>	<p>'04 AUDI A4</p>  <p>\$6,995</p>
<p>'06 TOYOTA HILUX</p>  <p>\$9,995</p>	<p>'05 CHRYSLER 300</p>  <p>\$8,995</p>	<p>'03 MAZD 630</p>  <p>\$10,995</p>

800-366-0341

Los Angeles FA-17

Decision and Order

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and respondent having been furnished thereafter with a copy of a draft complaint which the Western Region-Los Angeles proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act ("FTC Act"); and

Respondent, respondent's attorney, and counsel for the Commission having thereafter executed an Agreement Containing Consent Order ("Consent Agreement"), which includes: a statement by respondent that he neither admits nor denies any of the allegations in the draft complaint, except as specifically stated in the Consent Agreement, and, only for purposes of this action, admits the facts necessary to establish jurisdiction; and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that respondent has violated the FTC Act and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed Consent Agreement and placed such Consent Agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent, Mohammad Sabha, is an individual trading and doing business as Rainbow Auto Sales, with his principal place of business at 3700 Firestone Blvd., South Gate, California 90280.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

Decision and Order

ORDER**DEFINITIONS**

For the purposes of this order, the following definitions shall apply:

- A. Unless otherwise noted, “respondent” shall mean Mohammad Sabha.
- B. “Advertisement” shall mean a commercial message in any medium that directly or indirectly promotes a consumer transaction.
- C. “Clearly and conspicuously” shall mean as follows:
 - 1. In a print advertisement, the disclosure shall be in a type size, location, and in print that contrasts with the background against which it appears, sufficient for an ordinary consumer to notice, read, and comprehend it.
 - 2. In an electronic medium, an audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. A video disclosure shall be of a size and shade, and appear on the screen for a duration, and in a location, sufficient for an ordinary consumer to read and comprehend it.
 - 3. In a television or video advertisement, an audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. A video disclosure shall be of a size and shade, and appear on the screen for a duration, and in a location, sufficient for an ordinary consumer to read and comprehend it.
 - 4. In a radio advertisement, the disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it.

Decision and Order

5. In all advertisements, the disclosure shall be in understandable language and syntax. Nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be used in any advertisement or promotion.
- D. “Material” shall mean likely to affect a person’s choice of, or conduct regarding, goods or services.
- E. “Motor vehicle” or “vehicle” shall mean:
1. Any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;
 2. Recreational boats and marine equipment;
 3. Motorcycles;
 4. Motor homes, recreational vehicle trailers, and slide-in campers; and
 5. Other vehicles that are titled and sold through dealers.

I.

IT IS HEREBY ORDERED that respondent and respondent’s officers, agents, representatives, and employees, directly or indirectly, in connection with any advertisement for the purchase, financing, or leasing of motor vehicles, shall not, in any manner, expressly or by implication:

- A. Misrepresent the cost of purchasing a vehicle, including but not necessarily limited to:
1. The purchase price of the vehicle; or
 2. Any finance terms, including the amount or percentage of the down payment, the number of payments or period of repayment, the amount of any payment, and the repayment obligation over

Decision and Order

the full term of the loan, including any balloon payment; or

- B. Misrepresent any other material fact about the price, sale, financing, or leasing of any vehicle.

II.

IT IS FURTHER ORDERED that respondent shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. All advertisements and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation;
- C. All evidence in respondent's possession or control that contradicts, qualifies, or calls into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations; and
- D. Any documents reasonably necessary to demonstrate full compliance with each provision of this order, including but not limited to all documents obtained, created, generated, or that in any way relate to the requirements, provisions, or terms of this order, and all reports submitted to the Commission pursuant to this order.

III.

IT IS FURTHER ORDERED that respondent shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the

Decision and Order

order. Respondent shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

IV.

IT IS FURTHER ORDERED that respondent shall notify the Commission at least thirty (30) days prior to any change in the corporation(s) that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation(s); the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. *Provided, however,* that with respect to any proposed change in the corporation(s) about which respondent learns less than thirty (30) days prior to the date such action is to take place, respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. Unless otherwise directed by a representative of the Commission in writing, all notices required by this Part shall be emailed to Debrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: FTC v. Mohammad Sabha.

V.

IT IS FURTHER ORDERED that respondent, within sixty (60) days after the date of service of this order, shall file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form of respondent's own compliance with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, respondent shall submit additional true and accurate written reports.

Analysis to Aid Public Comment

VI.

This order will terminate on February 20, 2034, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; *provided, however*, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint;
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

ANALYSIS OF CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission ("FTC") has accepted, subject to final approval, an agreement containing a consent order from Mohammad Sabha, also d/b/a Rainbow Auto Sales. The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments

Analysis to Aid Public Comment

received during this period will become part of the public record. After thirty (30) days, the FTC will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

The respondent operates a motor vehicle dealership. According to the FTC complaint, the respondent has advertised cars for sale. The complaint alleges that the respondent's advertisements feature photographs of numerous cars, with a price prominently displayed below each car, and that the respondent has advertised that each car is available for purchase at the price that is prominently displayed below the car. The complaint alleges that, in fact, the featured cars are not available for purchase at the prices that are displayed below each car, and that, instead, the purchase price of each car is actually \$5,000 more than the advertised price.

The proposed order is designed to prevent the respondent from engaging in similar deceptive practices and law violations in the future. Part I.A prohibits the respondent from misrepresenting the cost of purchasing a vehicle, including but not necessarily limited to (1) the purchase price of the vehicle, or (2) any finance terms, including the amount or percentage of the down payment, the number of payments or period of repayment, the amount of any payment, and the repayment obligation over the full term of the loan, including any balloon payment. Part I.B prohibits the respondent from misrepresenting any other material fact about the price, sale, financing, or leasing of any vehicle.

Part II of the proposed order requires the respondent to keep copies of relevant advertisements and materials substantiating claims made in the advertisements. Part III requires that the respondent provide copies of the order to certain personnel. Part IV requires notification to the Commission regarding changes in the respondent's business activities or employment, or his affiliation with any new business or employment. Part V requires the respondent to file compliance reports with the Commission. Finally, Part VI is a provision "sunsetting" the order after twenty (20) years, with certain exceptions.

Analysis to Aid Public Comment

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order's terms.

Complaint

IN THE MATTER OF

NORM REEVES, INC.

D/B/A

NORM REEVES HONDA SUPERSTORECONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF
SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT, THE TRUTH
IN LENDING ACT, THE CONSUMER LEASING ACT, REGULATION M,
AND REGULATION Z*Docket No. C-4436; File No. 132 3151
Complaint, February 20, 2014 – Decision, February 20, 2014*

This consent order addresses Norm Reeves, Inc.'s advertising of lease and financing offers and failure to clearly and conspicuously disclose the costs and terms of certain leases offered and the amount or percentage of the downpayment, despite the respondent's use of certain triggering terms in the advertisements. The complaint alleges that the respondent has advertised that consumers can pay "\$0" up-front to lease a car, and has depicted several cars in its advertisements to which this offer applies, listing a specific monthly lease payment for each such car. The complaint further alleges that, in fact, for a \$0 up-front payment, consumers cannot lease the cars shown in the advertisements for the advertised monthly payment amounts, and that instead, consumers must also pay a security deposit and/or significant fees, including but not limited to an acquisition fee. The complaint further alleges, in connection with its advertising of financing offers, that the respondent has advertised that it offers 0% APR financing on all new cars without disclosing adequately that consumers who finance more than a certain amount -- e.g., \$12,000 -- will be charged more than 0% APR. The consent order requires that the respondent clearly and conspicuously make all of the disclosures required by the Consumer Leasing Act, the Truth in Lending Act and Regulations M and Z when any of its advertisements states relevant triggering terms. The order also prohibits the respondent from misrepresenting the cost of: (1) leasing a vehicle, including but not limited to the total amount due at lease inception, the downpayment, amount down, acquisition fee, capitalized cost reduction, any other amount required to be paid at lease inception, and the amounts of all monthly or other periodic payments; or (2) purchasing a vehicle with financing, including but not necessarily limited to the amount or percentage of the downpayment, the number of payments or period of repayment, the amount of any payment, the annual percentage rate or any other finance rate, and the repayment obligation over the full term of the loan, including any balloon payment.

Complaint

Participants

For the *Commission*: Sana Chriss, Mark Glassman, John Jacobs, Carole Reynolds, Jason Schall, Christina Tusan, and Katherine Worthman.

For the *Respondent*: Aaron Jacoby and Melanie Joo, Arent Fox LLP.

COMPLAINT

The Federal Trade Commission, having reason to believe that Norm Reeves, Inc., a corporation also doing business as Norm Reeves Honda Superstore (“respondent”), has violated provisions of the Federal Trade Commission Act (“FTC Act”), the Consumer Leasing Act (“CLA”), and its implementing Regulation M, and the Truth in Lending Act (“TILA”), and its implementing Regulation Z, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Norm Reeves, Inc. is a California corporation, also doing business as Norm Reeves Honda Superstore, with its principal office or place of business at 18500 Studebaker Road, Cerritos, California 90703. Respondent offers automobiles for sale or lease to consumers.

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 March 16, 2013, respondent has disseminated or caused to be disseminated advertisements to the public promoting the purchase, finance, and leasing of automobiles.

4. Respondent has disseminated or caused to be disseminated advertisements 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 has disseminated or caused to be disseminated advertisements to the public promoting credit sales and other

Complaint

extensions of closed-end credit in consumer credit transactions, as the terms “advertisement,” “closed-end credit,” “credit sale,” and “consumer credit” are defined in Section 226.2 of Regulation Z, 12 C.F.R. § 226.2, as amended.

6. Respondent has placed numerous such advertisements promoting consumer leases for automobiles and credit sales and other extensions of closed-end credit in consumer credit transactions in the *Los Angeles Times* newspaper. A copy of one such advertisement that appeared in the *Los Angeles Times* is attached as Exhibit A. This advertisement contains the statements and depictions described in Paragraphs 7 through 8 below. Respondent’s advertisements in other editions of the *Los Angeles Times* contain substantially similar statements and depictions.

7. Respondent’s advertisements deceptively promote lease offers with \$0 due at lease inception.

- a. For example, the following statement is prominently featured at the top of the advertisement attached as Exhibit A:



- b. Photographs of several different 2013-model-year automobiles appear below this statement. Each automobile appears in a separate box that includes a bold graphic stating “**\$0 DOWN,**” in addition to a specific monthly payment amount.
- c. Additional terms are also included below each car in very small print. This fine print states: “All-New 2013 [model name] closed end lease for \$[monthly payment amount shown above] per month plus security deposit, acquisition fee, tax, title and license fees for 36 months on approved credit. \$0 due at lease signing.”
- d. Additional fine print appears at the very bottom of each of respondent’s advertisements, which states:

Complaint

“All advertised prices exclude government fees and taxes, any finance charges, any dealer document processing charge, any electronic filing charge, and any emission testing charge.”

- e. Thus, consumers cannot pay the “\$0 DUE AT LEASE SIGNING” that is prominently stated at the top. They must also pay a security deposit and/or fees, including but not limited to an acquisition fee.

8. Respondent’s advertisements also deceptively promote “0% APR” financing on a vehicle purchase. For example, the advertisement attached as Exhibit A includes the following statements and depictions.

- a. The following statement promoting “0% APR” financing on all new Hondas is prominently featured at or near the top of the advertisement:



- b. The advertisement also includes the following statement promoting 0% APR financing on new models of the “2012 Honda Civic Natural Gas”:



- c. However, the text in fine print below each of the statements depicted immediately above states that the 0% APR does not apply if consumers finance more than a certain amount. For example, the fine print

Complaint

under the statement promoting 0% APR financing on all new Hondas states the following:

0% APR financing available up to \$12,000 financed on approved tier one credit. 0% APR financing for 60 months on all new Honda models is \$16.67 per month per \$1,000 financed. If more than \$12,000 is financed, then the 0% goes to 0.9% on approved tier one credit. Dealer participation may affect consumer cost.

FEDERAL TRADE COMMISSION ACT VIOLATIONS**Count I****Misrepresentation of Amount Due at Lease Inception**

9. Through the means described in Paragraph 7, respondent has represented, expressly or by implication, that consumers can pay \$0 at lease inception to lease the vehicles shown in the advertisements for the advertised monthly payment amount.

10. In truth and in fact, consumers cannot pay \$0 at lease inception to lease the vehicles shown in the advertisement for the advertised monthly payment amount. Consumers must also pay a security deposit and/or significant fees, including but not limited to an acquisition fee. Therefore, the representation set forth in Paragraph 9 was, and is, false or misleading.

11. 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).

Count II**Failure to Adequately Disclose APR**

12. Through the means described in Paragraph 8, respondent has represented that consumers who finance new vehicles purchased from respondent will be charged 0% APR on the amount financed. Respondent has failed to disclose adequately that consumers who finance more than a certain amount will be charged more than 0% APR. This fact would be material to

Complaint

consumers. The failure to disclose this fact, in light of the representations made, was, and is, a deceptive practice.

13. 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 CONSUMER LEASING ACT AND
REGULATION M**

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

15. Respondent's advertisements promoting consumer leases, including but not necessarily limited to the advertisements described in Paragraphs 6 and 7, are subject to the requirements of the CLA and Regulation M.

Count III

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

16. Respondent's advertisements promoting consumer leases, including but not necessarily limited to the advertisements described in Paragraphs 6 and 7, have included CLA triggering terms, but have failed to disclose or to disclose clearly and conspicuously CLA 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 or not a security deposit is required.

Complaint

- d. The number, amount, and timing of scheduled payments.
- 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.

17. Therefore, the practices set forth in Paragraph 16 of this Complaint have violated Section 184 of the CLA, 15 U.S.C. § 1667c, and Section 213.7 of Regulation M, 12 C.F.R. § 213.7.

**VIOLATIONS OF THE TRUTH IN LENDING ACT AND
REGULATION Z**

18. 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”).

19. Respondent’s advertisements promoting closed-end credit, including but not necessarily limited to those described in Paragraph 8, are subject to the requirements of the TILA and Regulation Z.

Count IV

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

20. Respondent’s advertisements promoting closed-end credit, including but not necessarily limited to those described in Paragraph 8, have included TILA triggering terms, but have failed to disclose or disclose clearly and conspicuously TILA additional terms required by the TILA and Regulation Z, including one or more of the following:

- a. The amount or percentage of the downpayment.
- b. The terms of repayment, including any balloon payment.

Complaint

- c. The “annual percentage rate,” using that term, and, if the rate may be increased after consummation, that fact.

21. Therefore, the practices set forth in Paragraph 20 of this Complaint have 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.

THEREFORE, the Federal Trade Commission, this twentieth day of February, 2014, has issued this complaint against respondent.

By the Commission.

Complaint

Exhibit A

NORM REEVES HONDA SUPERSTORE
Cerritos Auto Square

#1 Honda Dealer IN THE U.S.A!
A J.D. Power and Associates award

OVER 3000 Hondas AVAILABLE

\$0 \$0 \$0 \$0 All New Hondas
FIRST MONTH PAYMENT DRIVE OFF SECURITY DEPOSIT ONE AT LEASE SIGNING

FREE \$20 GAS CARD
Must be used on gas within 12 months. Offer good while supplies last. See dealer for details.

0% APR FOR 60 MONTHS
ON ALL NEW HONDAS
See dealer for details. Excludes financing with 0% financing. Offer good while supplies last. See dealer for details.

ALL-NEW 2013 Honda Civic LX 4 DOOR AUTOMATIC
LEASE FOR ONLY **\$159** PER MO. FOR 36 MONTHS
5 AT THIS PAYMENT **\$0 DOWN**

ALL-NEW 2013 Honda Accord LX 4 DOOR SEDAN
LEASE FOR ONLY **\$199** PER MO. FOR 36 MONTHS
5 AT THIS PAYMENT **\$0 DOWN**

NEW 2013 Honda CR-V LX 4 DOOR AUTOMATIC
LEASE FOR ONLY **\$219** PER MO. FOR 36 MONTHS
5 AT THIS PAYMENT **\$0 DOWN**

NEW 2013 Honda Odyssey LX 4 DOOR AUTOMATIC
LEASE FOR ONLY **\$259** PER MO. FOR 36 MONTHS
5 AT THIS PAYMENT **\$0 DOWN**

NEW 2013 Honda Pilot LX 4 DOOR AUTOMATIC
LEASE FOR ONLY **\$289** PER MO. FOR 36 MONTHS
5 AT THIS PAYMENT **\$0 DOWN**

NEW 2012 Honda Civic Natural Gas 4 DOOR AUTOMATIC
FREE \$3000 GAS CARD **0% APR FOR 60 MONTHS**
Must be used on gas within 12 months. Offer good while supplies last. See dealer for details.

PRICE PROTECTION GUARANTEE
If you find the same new Honda for less within 30 days, Norm Reeves will give you the difference or any cash rebate.

18500 STUDEBAKER RD. CERRITOS, CA 90703 (877) 892-5294
NormReevesCerritos.com

Decision and Order

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of respondent named in the caption hereof, and respondent having been furnished thereafter with a copy of a draft complaint which the Western Region-Los Angeles proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act (“FTC Act”), the Consumer Leasing Act (“CLA”), and the Truth in Lending Act (“TILA”); and

Respondent, respondent’s attorney, and counsel for the Commission having thereafter executed an Agreement Containing Consent Order (“Consent Agreement”), which includes: a statement by Respondent that it neither admits nor denies any of the allegations in the draft complaint, except as specifically stated in the Consent Agreement, and, only for purposes of this action, admits the facts necessary to establish jurisdiction; and waives and other provisions as required by the Commission’s Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that respondent has violated the FTC Act, the TILA, and the CLA, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed Consent Agreement and placed such Consent Agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent, Norm Reeves, Inc., is a California corporation with its principal office or place of business at 18500 Studebaker Road, Cerritos, California 90703.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondent, and the proceeding is in the public interest.

Decision and Order

ORDER**DEFINITIONS**

For the purposes of this order, the following definitions shall apply:

- A. Unless otherwise specified, “respondent” shall mean Norm Reeves, Inc., and its successors and assigns.
- B. “Advertisement” shall mean a commercial message in any medium that directly or indirectly promotes a consumer transaction.
- C. “Clearly and conspicuously” shall mean as follows:
 - 1. In a print advertisement, the disclosure shall be in a type size, location, and in print that contrasts with the background against which it appears, sufficient for an ordinary consumer to notice, read, and comprehend it.
 - 2. In an electronic medium, an audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. A video disclosure shall be of a size and shade and appear on the screen for a duration, and in a location, sufficient for an ordinary consumer to read and comprehend it.
 - 3. In a television or video advertisement, an audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. A video disclosure shall be of a size and shade, and appear on the screen for a duration, and in a location, sufficient for an ordinary consumer to read and comprehend it.
 - 4. In a radio advertisement, the disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it.

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5. In all advertisements, the disclosure shall be in understandable language and syntax. Nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be used in any advertisement or promotion.
- D. “Consumer credit” shall mean credit offered or extended to a consumer primarily for personal, family, or household purposes, as set forth in Section 226.2(a)(12) of Regulation Z, 12 C.F.R. § 226.2(a)(12), as amended.
- E. “Consumer lease” shall mean a contract in the form of a bailment or lease for the use of personal property by a natural person primarily for personal, family, or household purposes, for a period exceeding four months and for a total contractual obligation not exceeding the applicable threshold amount, whether or not the lessee has the option to purchase or otherwise become the owner of the property at the expiration of the lease, as set forth in Section 213.2 of Regulation M, 12 C.F.R. § 213.2, as amended.
- F. “Lease inception” shall mean prior to or at consummation of the lease or by delivery, if delivery occurs after consummation.
- G. “Material” shall mean likely to affect a person’s choice of, or conduct regarding, goods or services.
- H. “Motor vehicle” or “vehicle” shall mean:
1. Any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;
 2. Recreational boats and marine equipment;
 3. Motorcycles;
 4. Motor homes, recreational vehicle trailers, and slide-in campers; and

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5. Other vehicles that are titled and sold through dealers.

I.

IT IS HEREBY ORDERED that respondent and its officers, agents, representatives, and employees, directly or indirectly, in connection with any advertisement for the purchase, financing, or leasing of motor vehicles, shall not, in any manner, expressly or by implication:

- A. Misrepresent the cost of:
 1. Leasing a vehicle, including but not necessarily limited to, the total amount due at lease inception, the downpayment, amount down, acquisition fee, capitalized cost reduction, any other amount required to be paid at lease inception, and the amounts of all monthly or other periodic payments; or
 2. Purchasing a vehicle with financing, including but not necessarily limited to, the amount or percentage of the downpayment, the number of payments or period of repayment, the amount of any payment, the annual percentage rate or any other finance rate, and the repayment obligation over the full term of the loan, including any balloon payment; or
- B. Misrepresent any other material fact about the price, sale, financing, or leasing of any vehicle.

II.

IT IS FURTHER ORDERED that respondent and its officers, agents, representatives, and employees, directly or indirectly, in connection with any advertisement for the purchase or financing of motor vehicles, shall not in any manner, expressly or by implication, make any representation regarding an annual percentage rate or other interest rate, unless the representation clearly and conspicuously discloses any material limitation on

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obtaining the rate, including whether different rates apply based on the amount financed, and if so, the different rates that apply.

III.

IT IS FURTHER ORDERED that respondent and its officers, agents, representatives, and employees, directly or indirectly, in connection with any advertisement for any consumer lease, shall not, in any manner, expressly or by implication:

- A. State the amount of any payment or that any or no initial payment is required at lease inception without disclosing clearly and conspicuously the following terms:
 - 1. That the transaction advertised is a lease;
 - 2. The total amount due at lease signing or delivery;
 - 3. Whether or not a security deposit is required;
 - 4. The number, amounts, and timing of scheduled payments; and
 - 5. That an extra charge may be imposed at the end of the lease term in 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 vehicle; or
- B. Fail to comply in any respect with Regulation M, 12 C.F.R. Part 213, as amended, and the Consumer Leasing Act, 15 U.S.C. §§ 1667-1667f, as amended.

IV.

IS FURTHER ORDERED that respondent and its officers, agents, representatives, and employees, directly or indirectly, in connection with any advertisement for any extension of consumer credit, shall not, in any manner, expressly or by implication:

- A. State the amount or percentage of any downpayment, the number of payments or period of repayment, the

Decision and Order

amount of any payment, or the amount of any finance charge, without disclosing clearly and conspicuously all of the following terms:

1. The amount or percentage of the downpayment;
 2. The terms of repayment; and
 3. The annual percentage rate, using the term “annual percentage rate” or the abbreviation “APR.” If the annual percentage rate may be increased after consummation of the credit transaction, that fact must also be disclosed; or
- B. State a rate of finance charge without stating the rate as an “annual percentage rate” or the abbreviation “APR,” using that term; or
- C. Fail to comply in any respect with Regulation Z, 12 C.F.R. Part 226, as amended, and the Truth in Lending Act, as amended, 15 U.S.C. §§ 1601-1667.

V.

IT IS FURTHER ORDERED that respondent shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. All advertisements and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation;
- C. All evidence in its possession or control that contradicts, qualifies, or calls into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations; and

Decision and Order

- D. Any documents reasonably necessary to demonstrate full compliance with each provision of this order, including but not limited to all documents obtained, created, generated, or that in any way relate to the requirements, provisions, or terms of this order, and all reports submitted to the Commission pursuant to this order.

VI.

IT IS FURTHER ORDERED that respondent shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondent shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

VII.

IT IS FURTHER ORDERED that respondent shall notify the Commission at least thirty (30) days prior to any change in the corporation(s) that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. *Provided, however,* that, with respect to any proposed change in the corporation about which respondent learns less than thirty (30) days prior to the date such action is to take place, respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. Unless otherwise directed by a representative of the Commission in writing, all notices required by this Part shall be emailed to Debrief@ftc.gov or sent by overnight courier (not U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600

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Pennsylvania Avenue, NW, Washington, DC, 20580. The subject line must begin: FTC v. Norm Reeves, Inc.

VIII.

IT IS FURTHER ORDERED that respondent, within sixty (60) days after the date of service of this order, shall file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form of its own compliance with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, it shall submit additional true and accurate written reports.

IX.

This order will terminate on February 20, 2034, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; *provided, however*, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint;
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

Analysis to Aid Public Comment

ANALYSIS OF CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission (“FTC”) has accepted, subject to final approval, an agreement containing a consent order from Norm Reeves, Inc. The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the FTC will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement’s proposed order.

The respondent is a motor vehicle dealer. According to the FTC complaint, respondent has advertised cars for leasing, and has also advertised financing offers. In connection with its advertising of lease offers, the complaint alleges, the respondent has advertised that consumers can pay “\$0” up-front to lease a car, and has depicted several cars in its advertisements to which this offer applies, listing a specific monthly lease payment for each such car. The complaint alleges that, in fact, for a \$0 up-front payment, consumers cannot lease the cars shown in the advertisements for the advertised monthly payment amounts, and that instead, consumers must also pay a security deposit and/or significant fees, including but not limited to an acquisition fee. The complaint alleges that, therefore, the respondent’s representations are false or misleading in violation of Section 5 of the FTC Act. In addition, the complaint alleges a violation of the Consumer Leasing Act and Regulation M for failing to clearly and conspicuously disclose the costs and terms of certain leases offered, despite the respondent’s use of certain triggering terms in the advertisements.

The complaint further alleges, in connection with its advertising of financing offers, that the respondent has advertised that it offers 0% APR financing on all new cars. According to the complaint, the respondent’s advertisements have failed to disclose adequately that consumers who finance more than a certain amount -- *e.g.*, \$12,000 -- will be charged more than 0% APR. The complaint alleges that, therefore, the respondent’s representations are deceptive in violation of Section 5 of the FTC

Analysis to Aid Public Comment

Act. In addition, the complaint alleges a violation of the Truth in Lending Act and Regulation Z for failing to clearly and conspicuously disclose the amount or percentage of the downpayment, despite the respondent's use of certain triggering terms in the advertisements.

The proposed order is designed to prevent the respondent from engaging in similar deceptive practices and law violations in the future. Part I.A prohibits the respondent from misrepresenting the cost of: (1) leasing a vehicle, including but not limited to the total amount due at lease inception, the downpayment, amount down, acquisition fee, capitalized cost reduction, any other amount required to be paid at lease inception, and the amounts of all monthly or other periodic payments; or (2) purchasing a vehicle with financing, including but not necessarily limited to the amount or percentage of the downpayment, the number of payments or period of repayment, the amount of any payment, the annual percentage rate or any other finance rate, and the repayment obligation over the full term of the loan, including any balloon payment. Part I.B prohibits the respondent from misrepresenting any other material fact about the price, sale, financing, or leasing of any vehicle.

Part II of the proposed order prohibits the respondent from making any representation regarding an annual percentage rate or other interest rate, unless the representation clearly and conspicuously discloses any material limitation on obtaining the rate, including whether different rates apply based on the amount financed, and if so, the different rates that apply.

Part III of the proposed order addresses the CLA allegation. It requires that the respondent clearly and conspicuously make all of the disclosures required by CLA and Regulation M when any of its advertisements states relevant triggering terms. In addition, Part III prohibits any other violation of CLA and Regulation M.

Part IV of the proposed order addresses the TILA allegation. It requires that the respondent make all of the disclosures required by TILA and Regulation Z when any of its advertisements states relevant triggering terms. In addition, Part IV prohibits any other violation of TILA and Regulation Z.

Analysis to Aid Public Comment

Part V of the proposed order requires respondent to keep copies of relevant advertisements and materials substantiating claims made in the advertisements. Part VI requires that respondent provide copies of the order to certain of its personnel. Part VII requires notification to the Commission regarding changes in corporate structure that might affect compliance obligations under the order. Part VIII requires the respondent to file compliance reports with the Commission. Finally, Part IX is a provision “sunsetting” the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order’s terms.

Complaint

IN THE MATTER OF

**NEW WORLD AUTO IMPORTS, INC.
D/B/A SOUTHWEST KIA;
NEW WORLD AUTO IMPORTS OF ROCKWALL,
INC.
D/B/A SOUTHWEST KIA AND SOUTHWEST KIA
OF ROCKWALL;
AND
HAMPTON TWO AUTO CORPORATION
D/B/A SOUTHWEST KIA, SOUTHWEST KIA-NW,
AND SOUTHWEST KIA MESQUITE**

CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT, THE TRUTH IN LENDING ACT, THE CONSUMER LEASING ACT, REGULATION M, AND REGULATION Z

Docket No. C-4437; File No. 132 3165

Complaint, February 20, 2014 – Decision, February 20, 2014

This consent order addresses New World Auto Imports, Inc. d/b/a Southwest Kia, New World Auto Imports of Rockwall, Inc. d/b/a Southwest Kia and Southwest Kia of Rockwall, and Hampton Two Auto Corporation d/b/a Southwest Kia, Southwest Kia-NW, and Southwest Kia Mesquite's advertisements for automobiles for sale; and failing to disclose clearly and conspicuously certain costs and terms when advertising leases and credit.] The complaint alleges that respondents have advertised that consumers can finance the purchase of vehicles for the advertised terms, including the advertised monthly payment amount however, the monthly payment increases dramatically at the end of the transaction, because consumers owe a balloon payment of many thousand dollars. The complaint further alleges that respondents have advertised that consumers can pay \$27 at lease inception to lease the advertised vehicles for the advertised monthly payment amount, but do not disclose that consumers must also pay fees, including but not limited to an acquisition fee, which is \$595, and the first month's payment, for a total of at least \$700 for each vehicle. The consent order requires that the respondents clearly and conspicuously make all of the disclosures required by the Truth in Lending Act and Regulation Z if they state the amount or percentage of any downpayment, the number of payments or period of repayment, the amount of any payment, or the amount of any finance charge, and the disclosures required by the Consumer Leasing Act and Regulation M if they state relevant trigger terms, including the monthly lease payment or the amount of any payment or that any or no initial payment is required at lease inception. The order also

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prohibits the respondents from misrepresenting any material fact about the price, sale, financing, or leasing of any vehicle.

Participants

For the *Commission*: Sana Chriss, Mark Glassman, John Jacobs, Carole Reynolds, Jason Schall, Christina Tusan, and Katherine Worthman.

For the *Respondents*: Shahab Salehoun, President, *pro se*.

COMPLAINT

The Federal Trade Commission, having reason to believe that New World Auto Imports, Inc., d/b/a Southwest Kia, a corporation, New World Auto Imports of Rockwall, Inc. d/b/a Southwest Kia and Southwest Kia of Rockwall, a corporation, and Hampton Two Auto Corporation, d/b/a Southwest Kia, Southwest Kia-NW, and Southwest Kia Mesquite, a corporation (“respondents”), have 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 New World Auto Imports, Inc., d/b/a Southwest Kia (“New World Auto”) is a Texas corporation with its principal office or place of business at 39650 Lyndon B. Johnson Freeway, Dallas, TX 75237. New World Auto offers automobiles for sale or lease to consumers.

2. Respondent New World Auto Imports of Rockwall, Inc. d/b/a Southwest Kia and Southwest Kia of Rockwall (“New World Auto Rockwall”) is a Texas corporation with its principal office or place of business at 1790 East Interstate 30, Rockwall, TX 75087. New World Auto Rockwall offers automobiles for sale or lease to consumers.

3. Respondent Hampton Two Auto Corporation, d/b/a Southwest Kia, Southwest Kia-NW, and Southwest Kia Mesquite (“Hampton Two Auto”) is a Texas corporation with its principal

Complaint

office or place of business at 1919 Oates Drive, Mesquite, TX 75150. Hampton Two Auto offers automobiles for sale or lease to consumers.

4. The acts or practices of respondents 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.

5. Since at least April 2012, respondents have disseminated or caused to be disseminated advertisements to the public promoting the purchase and finance of automobiles. Since at least April 2013, respondents have disseminated or caused to be disseminated advertisements to the public promoting the leasing of automobiles.

6. Respondents have 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,” “closed-end credit,” “credit sale,” and “consumer credit” are defined in Section 226.2 of Regulation Z, 12 C.F.R. § 226.2, as amended.

7. Respondents have disseminated or caused to be disseminated advertisements 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.

8. One example of the credit advertisements that New World Auto has disseminated or caused to be disseminated has been posted on the website YouTube.com. A video copy of the advertisement is attached as Exhibit A, and a screenshot capture of the video is attached as Exhibit B. The advertisement contains the following statements and depictions:

- a. A screen depicts a new Kia Soul, accompanied by prominent graphics representing:

Complaint

**2012
KIA SOUL
\$209/mo
\$0 DOWN**

While these representations appear on screen, a voice over states, "\$0 down delivers a brand new Kia Soul for only \$209 a month" and "you can drive a brand new Kia Soul for \$0 down, and only \$209 a month."

Also, for part of the time while these representations appear on screen, a statement consisting of small white text set against a multi-color background appears on the bottom center of the screen, stating:

**\$16450 MSRP, \$1050 discount, TT&L, due at
signing 4.95 APR, \$500 KMF origination support
WAC 36 month balloon financing, 12k miles/yr 20 cent per mile over limit**

After the above small text statement no longer appears on the screen, a person on the screen states, "you can drive a brand new Kia Soul for \$0 down and only \$209 a month."

Based on the terms set forth in small text, consumers' monthly payments will amount to a fraction of the total cost of the vehicle. Consumers thus will owe a final balloon payment of many thousands of dollars for this transaction.

9. One example of the credit advertisements that New World Auto Rockwall has disseminated or caused to be disseminated has been posted on the website YouTube.com. A video copy of the advertisement is attached as Exhibit C, and a screenshot capture

Complaint

of the video is attached as Exhibit D. The advertisement contains the following statements and depictions:

A screen depicts a new 2013 Kia Sorento, accompanied by prominent graphics representing:

**2013 KIA
SORENTO****\$239/**mo

While this representation appears on screen, a person on the screen states, “Drive a brand new 2013 Kia Sorento for only \$239 a month.”

Also, while this representation appears on screen, a statement consisting of small white text set against a multi-color background appears on the bottom of the screen. This statement is virtually illegible, but appears to refer, among other things, to financing of 36 months, a balloon payment of over \$13,000, and a downpayment of \$2439.

Based on the terms set forth in small text, consumers’ monthly payments will amount to a fraction of the total cost of the vehicle. Consumers thus will be obligated to pay a balloon payment of many thousands of dollars for this transaction.

10. Other examples of the credit advertisements that respondents have disseminated or caused to be disseminated have been posted on these companies’ websites at southwestkia.com (ads for New World Auto, New World Auto Rockwall and Hampton Two Auto); Southwestkia-rockwall.com (ads for New World Auto Rockwall); and Southwest Kia-Mesquite.com (ads for Southwest Kia-Mesquite). The screenshot of an ad at www.Southwestkia.com attached as Exhibits E-F depicts a new Kia Optima and new Kia Sorento.

Exhibit E-1 depicts the landing page at www.Southwestkia.com, showing the Kia Optima with the following prominent offer.

Complaint

Exhibit E-2 depicts the landing page at www.Southwestkia.com, showing the Kia Sorento with the following prominent offer.

2013 KIA OPTIMA \$27 DOWN & \$189 MONTH*

2013 KIA SORENTO \$27 DOWN & \$239 Mo*

Beneath the offers are blurred, miniscule fine print statements that are illegible. Links to additional information appear in small print at the bottom of the offers.

Exhibit F depicts the page that is shown when consumers click on the above links. The page shows the same vehicles and prominent offers:

2013 KIA OPTIMA \$27 DOWN & \$189 MONTH*

2013 KIA SORENTO \$27 DOWN & \$239 Mo*

At the bottom of this screen are two fine print statements, one for the Optima and another for the Sorento:

a. Optima fine print statement:

38 Month KMP retail balloon @ 189.00 per month w
\$27 down . . .
Balloon payment of \$11,744.20 (52%). \$289 Payment
based on .70% APR
With KMF balloon program . . .

b. Sorento fine print statement:

38 Month KMF retail balloon @ 239.00 per month w
\$27.00 down. . .
Balloon payment of \$12,187.50 (50%). \$239 Payment
based on 1.8% APR
with KMF balloon program.. .

Complaint

Based on the terms set forth in fine print, consumers' monthly payments will amount to a fraction of the total cost of the vehicles. Consumers thus will be obligated to pay a balloon payment of many thousands of dollars for these transactions.

11. Examples of the lease advertisements that respondents have disseminated or caused to be disseminated have been posted on these companies' websites at Southwest Kia.com (ads for New World Auto, New World Auto Rockwall and Hampton Two Auto); Southwest Kia-Rockwall.com (ads for New World Auto Rockwall); and Southwest Kia-Mesquite.com (ads for Southwest Kia-Mesquite). The screenshot of an ad at www.Southwestkia.com attached as Exhibits G-H depicts a new Kia Soul, Kia Optima, and Kia Sorento.

Exhibit G depicts the landing page at www.Southwestkia.com, with the Kia Soul, Kia Optima, and Kia Sorento, with the following prominent offers:

DRIVE HOME TODAY IN A NEW KIA FOR ONLY \$27 DOWN &

\$169_{MO*}
2013 SOUL

\$189_{MO*}
2013 OPTIMA

\$239_{MO*}
2013 SORENTO

Beneath the Sorento is a minuscule fine print statement that states:

*38 month KMF Lease. Please see dealer for full details.

No further information regarding the lease offer is available on this webpage, or by clicking on this webpage.

A drop-down menu at the top of the landing page is entitled, "Specials." If consumers open this drop-down menu, and if they then click on "Specials, New Vehicles," they are led to a page that again shows the Kia Soul, Kia Optima, and Kia Sorento. Exhibit H depicts the new Kia Soul, Kia Optima, and Kia Sorento, with the following prominent offers:

Complaint

New Kia Specials in Dallas, Mesquite, and Rockwall, TX

DRIVE HOME TODAY IN A NEW KIA FOR ONLY \$27 DOWN &

\$169_{MO*}
2014 SOUL

\$189_{MO*}
2013 OPTIMA

\$239_{MO*}
2013 SORENTO

At the bottom of this page, the following statement appears in miniscule fine print:

2013 Kia Optima . . . 36 Month KMF lease @ \$189 a month with \$27 down. . . Payment is based on \$27 + first payment down. Payment excludes TTL and \$595 acquisition fee . . .

2013 Kia Sorento . . . 36 Month KMF lease @ \$239 a month with \$27 down . . . Payment is based on \$27 + first first payment down. Payment excludes TTL and \$595 acquisition fee . . .

2013 Kia Soul . . . 36 Month KMF lease @ \$169 a month with \$27 down . . . Payment is based on \$27 + first Payment down. Payment excludes TTL and \$595 acquisition fee . . .

Thus, consumers will have to pay hundreds of dollars at lease signing.

FEDERAL TRADE COMMISSION ACT VIOLATIONS**Count I****Misrepresentation Regarding Monthly Payment Amount**

12. Through the means described in Paragraphs 8 – 10, respondents have represented, expressly or by implication, that consumers can finance the purchase of vehicles for the prominently advertised terms, including the advertised monthly payment amount.

Complaint

13. In truth and in fact, consumers cannot finance the purchase of vehicles for the prominently advertised terms, including the advertised monthly payment amount. The consumers' monthly payments for the vehicles increase dramatically at the end of the transaction, because they owe a balloon payment of many thousand dollars. Therefore, respondents' representations as alleged in Paragraph 12 were, and are, false and misleading.

14. Respondents' 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).

Count II**Misrepresentation of Amount Due at Lease Inception**

15. Through the means described in Paragraph 11, respondents have represented, expressly or by implication, that consumers can pay \$27 at lease inception to lease the advertised vehicles for the advertised monthly payment amount.

16. In truth and in fact, consumers cannot pay \$27 at lease inception to lease the advertised vehicles for the advertised monthly payment amount. Consumers must also pay fees, including but not limited to an acquisition fee, which is \$595, and the first month's payment, for a total of at least \$700 for each vehicle. Therefore, the representation set forth in Paragraph 15 was, and is, false and misleading.

17. Respondents' 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).

**VIOLATIONS OF THE TRUTH IN LENDING ACT AND
REGULATION Z**

18. 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").

Complaint

19. Respondents' advertisements promoting closed-end credit, including but not necessarily limited to those described in Paragraphs 8 - 10, are subject to the requirements of the TILA and Regulation Z.

Count III**Failure to Disclose or Disclose Clearly and Conspicuously
Required Credit Information**

20. Respondents' advertisements promoting closed-end credit, including, but not limited to, those described in Paragraphs 8 - 10, have included TILA triggering terms, but have failed to disclose, and/or failed to disclose clearly and conspicuously, TILA additional terms required by the TILA and Regulation Z, including one or more of the following:

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

21. Therefore, the practices set forth in Paragraph 20 of this Complaint have 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**

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

Complaint

23. Respondents' advertisements promoting consumer leases, including but not necessarily limited to those described in Paragraph 11, are subject to the requirements of the CLA and Regulation M.

Count IV**Failure to Disclose or to Disclose Clearly and Conspicuously
Required Lease Information**

24. Respondents' advertisements promoting consumer leases, including but not necessarily limited to those described in Paragraph 11, have included CLA triggering terms, but have failed to disclose or to disclose clearly and conspicuously CLA 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 or not a security deposit is required.
- d. The number, amount, and timing of scheduled payments.
- 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.

25. Therefore, the practices set forth in Paragraph 24 of this Complaint have 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 twentieth day of February, 2014, has issued this complaint against respondents.

By the Commission.

Complaint

Exhibit A

EXHIBIT A

Southwest Kia Video Advertisement

Complaint

Exhibit B

Exhibit B – Southwest Kia Video Advertisement – Screen Shot



Complaint

Exhibit C

Exhibit C

Southwest Kia Video Advertisement

Complaint

Exhibit D

Exhibit D – Southwest Kia Video Advertisement – Screen Shot



Complaint

Exhibit E

Exhibit E-1 – Southwest Kia Website Advertisement – Landing Page (Optima)

Southwest KIA
1-877-3-NEW-KIA

120 @ HAMPTON
20050 Lyndon B Johnson Fwy
Dallas, TX 75227

MESQUITE
10118 Dallas Dr
Mesquite, TX 75754

ROCKWALL
1700 E. Belt Ave
Rockwall, TX 75087

HOME NEW INVENTORY PRE-OWNED INVENTORY SPECIALS FINANCE PARTS & SERVICE CONTACT US LOCATIONS

SEARCH INVENTORY

- PRICE RANGE
- MAKE
- MODEL
- BODY TYPE
- MPG

2013 KIA OPTIMA \$27 DOWN, \$189 MONTH

LOWEST FINANCING OFFER FROM ADVERTISER (SEE US)
\$27 DOWN
\$189 MONTH
KIA FINANCIAL SERVICES
KIA LEASE-TO-OWN
KIA FINANCIAL SERVICES
KIA LEASE-TO-OWN

NEW KIA VEHICLES

- FORTE 5-DOOR FROM \$19,676 [VIEW INVENTORY](#)
- FORTE KOUP FROM \$19,676 [VIEW INVENTORY](#)
- OPTIMA FROM \$22,390 [VIEW INVENTORY](#)
- RIO FROM \$16,065 [VIEW INVENTORY](#)

SEARCH OUR INVENTORY INCENTIVES & SPECIALS GET APPROVED SCHEDULE SERVICE

3 CONVENIENT LOCATIONS

120 @ HAMPTON MESQUITE ROCKWALL

Dallas, TX
Please select a location!

Complaint

Exhibit E-2 – Southwest Kia Website Advertisement – Landing Page (Sorento)

Southwest KIA
 "A PART OF THE KIA WORLDWIDE TRUCK AND AUTOMOBILE GROUP"
 - KIA America
 1-877-3-NEW-KIA

170 @ HAMPTON
 39659 Lyndon B Johnson Fwy
 Dallas, TX 75237

MESQUITE
 1819 Gates Dr
 Mesquite, TX 75100

ROCKWALL
 1780 East I-30
 Rockwall, TX 75087

HOME NEW INVENTORY PRE-OWNED INVENTORY SPECIALS FINANCE PARTS & SERVICE CONTACT US LOCATIONS

SEARCH INVENTORY

- PRICE RANGE
- MAKE
- MODEL
- BODY TYPE
- MPG

2013 KIA SORENTO
LUXURY FOR LIFE
 \$27 DOWN, \$239/mo

- > UVO eServices infotainment system w/voice-activated navigation*
- > Rear camera with Backup warning system*
- > 8 Way power adjustable drivers seat w/lumbar support*
- > Panoramic Sunroof w/Power Shade*

NEW KIA VEHICLES

FORTE FROM \$16,725	FORTE S-DOOR FROM \$19,075	FORTE KOUP FROM \$19,670	OPTIMA FROM \$22,390
VIEW INVENTORY	VIEW INVENTORY	VIEW INVENTORY	VIEW INVENTORY

SEARCH OUR INVENTORY INCENTIVES & SPECIALS GET APPROVED SCHEDULE SERVICE

Complaint

Exhibit G

Exhibit G – Southwest Kia Website Advertisement
Landing Page (Soul, Optima, and Sorento)

Southwest KIA
1-877-3-NEW-KIA

CONTACT US | **LOCATIONS**

SEARCH INVENTORY

- PRICE RANGE
- MAKE
- MODEL
- BODY TYPE
- MPG

DRIVE HOME TODAY IN A NEW KIA FOR ONLY \$27 DOWN.

\$169 2013 SOUL
\$189 2013 OPTIMA
\$239 2013 SORENTO

INSTANT CREDIT SCORE
No Social Security # required

FREE - No Obligation Vehicle Appraisal

120 @ 39650 Lyndon B
MESQUITE 1919 Clales Dr Mesquite, TX 75150
ROCKWALL 1790 East 130 Rockwall, TX 75087

Exhibit H

Southwest KIA
1-877-3-NEW-KIA

CONTACT US | **LOCATIONS**

New Kia Specials in Dallas, Mesquite, & Rockwall, TX

DRIVE HOME TODAY IN A NEW KIA FOR ONLY \$27 DOWN.

\$169 2013 SOUL
\$189 2013 OPTIMA
\$239 2013 SORENTO

INSTANT CREDIT SCORE
NO SOCIAL SECURITY # required
Instant Pre-qualification **GET THERE**

FREE No Obligation Vehicle Appraisal
Get **VALUE YOURS** started now.

Stop by today and see why **Southwest KIA** has over **10 years of proven Customer Satisfaction** **KIA** PRESIDENTS CLUB 2011 10 Year Elite Member 2002-2011

120 @ 39650 Lyndon B
MESQUITE 1919 Clales Dr Mesquite, TX 75150
ROCKWALL 1790 East 130 Rockwall, TX 75087

Decision and Order

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of respondents named in the caption hereof, and respondents having been furnished thereafter with a copy of a draft complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act (“FTC Act”), the Truth in Lending Act (“TILA”), and the Consumer Leasing Act (“CLA”); and

Respondents and counsel for the Commission having thereafter executed an agreement containing consent order (“consent agreement”), which includes: a statement by respondents that they neither admit nor deny any of the allegations in the draft complaint, except as specifically stated in the consent agreement, and, only for purposes of this action, admit the facts necessary to establish jurisdiction; and waivers and other provisions as required by the Commission’s Rules; and

The Commission having thereafter considered the matter and having determined that it has reason to believe that respondents have violated the FTC Act, the TILA, and the CLA, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such consent agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, now in further conformity with the procedure prescribed in Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent New World Auto Imports, Inc., d/b/a Southwest Kia (“New World Auto Imports, Inc.”) is a Texas corporation with its principal office or place of business at 39650 Lyndon B. Johnson Freeway, Dallas, TX 75236.
2. Respondent New World Auto Imports of Rockwall, Inc., d/b/a Southwest Kia and Southwest Kia of Rockwall (“New World Auto Imports of Rockwall,

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Inc.”) is a Texas corporation with its principal office or place of business at 190 East Interstate 30, Rockwall, TX 750887.

3. Respondent Hampton Two Auto Corporation, d/b/a Southwest Kia, Southwest Kia-NW, and Southwest Kia Mesquite (“ Hampton Two Auto Corporation”) is a Texas corporation with its principal office or place of business at 1919 Oates Drive, Mesquite, TX 75150.
4. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondents, and the proceeding is in the public interest.

ORDER**DEFINITIONS**

For the purposes of this order, the following definitions shall apply:

- A. Unless otherwise specified, “respondents” shall mean New World Auto Imports, Inc., New World Auto Imports of Rockwall, Inc., and Hampton Two Auto Corporation, and their successors and assigns.
- B. “Advertisement” shall mean a commercial message in any medium that directly or indirectly promotes a consumer transaction.
- C. “Clearly and conspicuously” shall mean as follows:
 1. In a print advertisement, the disclosure shall be in a type size, location, and in print that contrasts with the background against which it appears, sufficient for an ordinary consumer to notice, read, and comprehend it.
 2. In an electronic medium, an audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it.

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A video disclosure shall be of a size and shade and appear on the screen for a duration, and in a location, sufficient for an ordinary consumer to read and comprehend it.

3. In a television or video advertisement, an audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. A video disclosure shall be of a size and shade, and appear on the screen for a duration, and in a location, sufficient for an ordinary consumer to read and comprehend it.
 4. In a radio advertisement, the disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it.
 5. In all advertisements, the disclosure shall be in understandable language and syntax. Nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be used in any advertisement or promotion.
- D. “Consumer credit” shall mean credit offered or extended to a consumer primarily for personal, family, or household purposes, as set forth in Section 226.2(a)(12) of Regulation Z, 12 C.F.R. § 226.2(a)(12), as amended.
- E. “Consumer lease” shall mean a contract in the form of a bailment or lease for the use of personal property by a natural person primarily for personal, family, or household purposes, for a period exceeding four months and for a total contractual obligation not exceeding the applicable threshold amount, whether or not the lessee has the option to purchase or otherwise become the owner of the property at the expiration of the lease, as set forth in Section 213.2 of Regulation M, 12 C.F.R. § 213.2, as amended.

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- F. “Lease inception” shall mean prior to or at consummation of the lease or by delivery, if delivery occurs after consummation.
- G. “Material” shall mean likely to affect a person’s choice of, or conduct regarding, goods or services.
- H. “Motor vehicle” or “vehicle” shall mean:
1. Any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;
 2. Recreational boats and marine equipment;
 3. Motorcycles;
 4. Motor homes, recreational vehicle trailers, and slide-in campers; and
 5. Other vehicles that are titled and sold through dealers.

I.

IT IS HEREBY ORDERED that respondents and their officers, agents, representatives, and employees, directly or indirectly, in connection with any advertisement for the purchase, financing, or leasing of motor vehicles, shall not, in any manner, expressly or by implication:

- A. Misrepresent the cost of:
1. Purchasing a vehicle with financing, including but not necessarily limited to, the amount or percentage of the down payment, the number of payments or period of repayment, the amount of any payment, and the repayment obligation over the full term of the loan, including any balloon payment; or

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2. Leasing a vehicle, including but not necessarily limited to, the total amount due at lease inception, the down payment, amount down, acquisition fee, capitalized cost reduction, any other amount required to be paid at lease inception, and the amounts of all monthly or other periodic payments; or
- B. Misrepresent any other material fact about the price, sale, financing, or leasing of any vehicle.

II.

IT IS FURTHER ORDERED that respondents and their officers, agents, representatives, and employees, directly or indirectly, in connection with any advertisement for any extension of consumer credit, shall not in any manner, expressly or by implication:

- A. State the amount or percentage of any down payment, the number of payments or period of repayment, the amount of any payment, or the amount of any finance charge, without disclosing clearly and conspicuously all of the following terms:
1. The amount or percentage of the down payment;
 2. The terms of repayment; and
 3. The annual percentage rate, using the term “annual percentage rate” or the abbreviation “APR.” If the annual percentage rate may be increased after consummation of the credit transaction, that fact must also be disclosed; or
- B. State a rate of finance charge without stating the rate as an “annual percentage rate” or the abbreviation “APR,” using that term; or
- C. Fail to comply in any respect with Regulation Z, 12 C.F.R. Part 226, as amended, and the Truth in Lending Act, as amended, 15 U.S.C. §§ 1601-1667.

Decision and Order

III.

IT IS FURTHER ORDERED that respondents and their officers, agents, representatives, and employees, directly or indirectly, in connection with any advertisement for any consumer lease, shall not, in any manner, expressly or by implication:

- A. State the amount of any payment or that any or no initial payment is required at lease inception, without disclosing clearly and conspicuously the following terms:
 - 1. That the transaction advertised is a lease;
 - 2. The total amount due at lease signing or delivery;
 - 3. Whether or not a security deposit is required;
 - 4. The number, amounts, and timing of scheduled payments; and
 - 5. That an extra charge may be imposed at the end of the lease term in 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 vehicle; or
- B. Fail to comply in any respect with Regulation M, 12 C.F.R. Part 213, as amended, and the Consumer Leasing Act, 15 U.S.C. §§ 1667-1667f, as amended.

IV.

IT IS FURTHER ORDERED that respondents shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. All advertisements and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation;

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- C. All evidence in its possession or control that contradicts, qualifies, or calls into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations; and
- D. Any documents reasonably necessary to demonstrate full compliance with each provision of this order, including but not limited to all documents obtained, created, generated, or that in any way relate to the requirements, provisions, or terms of this order, and all reports submitted to the Commission pursuant to this order.

V.

IT IS FURTHER ORDERED that respondents shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondents shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

VI.

IT IS FURTHER ORDERED that respondents shall notify the Commission at least thirty (30) days prior to any change in the entities that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the entity's name or address. *Provided, however*, that, with respect to any proposed change in the corporation about which respondents learn less than thirty (30) days prior to the date such action is to take place, respondents shall notify the

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Commission as soon as is practicable after obtaining such knowledge. Unless otherwise directed by a representative of the Commission in writing, all notices required by this Part shall be emailed to Debrief@ftc.gov or sent by overnight courier (not U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC, 20580. The subject line must begin: FTC v. Southwest Kia.

VII.

IT IS FURTHER ORDERED that respondents, within sixty (60) days after the date of service of this order, shall file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form of its own compliance with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, they shall submit additional true and accurate written reports.

VIII.

This order will terminate on February 20, 2034, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; *provided, however*, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint;
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that respondents did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order

Analysis to Aid Public Comment

will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

ANALYSIS OF CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission (“FTC”) has accepted, subject to final approval, an agreement containing a consent order from New World Auto Imports, Inc., d/b/a Southwest Kia, New World Auto Imports of Rockwall, Inc., d/b/a Southwest Kia, and Southwest Kia of Rockwall, and Hampton Two Auto Corporation, d/b/a Southwest Kia, Southwest Kia-NW, and Southwest Kia Mesquite. The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the FTC will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement’s proposed order.

The respondents are motor vehicle dealers. According to the FTC complaint, respondents have advertised that consumers can finance the purchase of vehicles for the advertised terms, including the advertised monthly payment amount. The complaint alleges that, in fact, the monthly payment increases dramatically at the end of the transaction, because consumers owe a balloon payment of many thousand dollars. The complaint alleges, therefore, that respondents’ representations are false or misleading in violation of Section 5 of the FTC Act. The complaint also alleges that respondents have advertised that consumers can pay \$27 at lease inception to lease the advertised vehicles for the advertised monthly payment amount. The complaints alleges that, in fact, consumers must also pay fees,

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including but not limited to an acquisition fee, which is \$595, and the first month's payment, for a total of at least \$700 for each vehicle. The complaint alleges, therefore, that respondents' representations are false or misleading in violation of Section 5 of the FTC Act. In addition, the complaint alleges a violation of the Truth in Lending Act ("TILA") and Regulation Z for failing to disclose clearly and conspicuously certain costs and terms when advertising credit. The complaint also alleges a violation of the Consumer Leasing Act ("CLA") and Regulation M for failing to clearly and conspicuously disclose the costs and terms when advertising leases.

The proposed order is designed to prevent the respondents from engaging in similar deceptive practices in the future. Part I.A prohibits the respondents from misrepresenting the cost of: (1) purchasing a vehicle with financing, including but not necessarily limited to the amount or percentage of the downpayment, the number of payments or period of repayment, the amount of any payment, and the repayment obligation over the full term of the loan, including any balloon payment; or (2) leasing a vehicle, including but not limited to the total amount due at lease inception, the downpayment, amount down, acquisition fee, capitalized cost reduction, any other amount required to be paid at lease inception, and the amounts of all monthly or other periodic payments. Part I.B prohibits the respondents from misrepresenting any other material fact about the price, sale, financing, or leasing of any vehicle.

Part II of the proposed order addresses the TILA allegation. It requires that the respondents clearly and conspicuously make all of the disclosures required by TILA and Regulation Z if they state the amount or percentage of any downpayment, the number of payments or period of repayment, the amount of any payment, or the amount of any finance charge. In addition, Part II prohibits the respondents from stating a rate of finance charge without stating the rate as an "annual percentage rate" or the abbreviation "APR," using that term. Part II also prohibits any other violation of TILA and Regulation Z.

Part III of the proposed order addresses the CLA allegation. It requires that the respondents clearly and conspicuously make all of the disclosures required by CLA and Regulation M if they state

Analysis to Aid Public Comment

relevant trigger terms, including the monthly lease payment or the amount of any payment or that any or no initial payment is required at lease inception.

Part IV of the proposed order requires respondents to keep copies of relevant advertisements and materials substantiating claims made in the advertisements. Part V requires that respondents provide copies of the order to certain of their personnel. Part VI requires notification to the Commission regarding changes in corporate structure that might affect compliance obligations under the order. Part VII requires the respondents to file compliance reports with the Commission. Finally, Part VIII is a provision “sunsetting” the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order’s terms.