

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

COMMISSIONERS: **Edith Ramirez, Chairwoman**
 Julie Brill
 Maureen K. Ohlhausen
 Joshua D. Wright

In the Matter of

**COURTESY AUTO GROUP, INC.,
a corporation.**

DOCKET NO. 9359

COMPLAINT

The Federal Trade Commission, having reason to believe that Courtesy Auto Group, Inc., a corporation (“respondent”), has violated provisions of the Federal Trade Commission Act (“FTC Act”), 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 is a Massachusetts corporation with its principal office or place of business at 11 Scott Street, Attleboro, Massachusetts 02703. 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 October 2012, 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. One such advertisement has been posted on the website YouTube.com. A video copy of the advertisement is attached as Exhibit A, and screenshot captures of the video are attached as Exhibit B. The advertisement contains the following statements and depictions:

2013 KIA Sorento

\$239/mo *buy for*
with \$0 Down or \$20,980

While these statements appear, a voice-over states:

Get behind the wheel of the new 2013 Kia Sorento, now lease priced for \$239 a month with zero down, or sale priced at \$20,980.

At the end of the advertisement, a 380-word block of text scrolls past at high speed, comprised of 33 lines of small, blurry white print against a black background. The text contains the following statements:

. . . . Sorento: Priced with all applicable Manufacturer rebates and incentives. Does not include tax, title, acquisition, registration or doc fees. Soul: APR financing available, subject to credit approval by Kia Motors Finance (KMF) [Hyundai Motor Finance (HMF) in Massachusetts and D.C.], through KMF/HMK, to very well qualified buyers and not available on balloon financing. Only a limited number of buyers will qualify for advertised APR. Downpayment will vary depending on APR. . . .

6. A similar advertisement has appeared on respondent's website, www.courtesyma.com. A video copy of the advertisement is attached as Exhibit C, and screenshot captures of the video are attached as Exhibit D. The advertisement includes a still photo depicting a 2013 Kia Sorento underneath the following prominent text:

2013 Kia Sorento
Lease for
\$239/mo
with \$0 down
OR
Buy for \$20,980

Adjacent to the still photo is a box in which a video advertisement for the vehicle plays, with a voice-over stating "Get behind the wheel of the new 2013 Kia Sorento, now lease priced for \$239 a month."

Near the end of the video ad, a block of text appears briefly within the box containing the video screen, before being replaced at the end of the video with a graphic allowing consumers to enter personal information to initiate contact with respondent. The block of text states:

. . . . Sorento: Priced with all applicable Manufacturer rebates and incentives. Does not include tax, title, acquisition, registration or doc fees. Not all model trim levels will be applicable. Kelley Blue

Book: Minus the mileage, wear and tear up to \$10,000 fair. Not to be combined with any other offer. See dealer for complete details.

If consumers scroll down using the bar to the right of the web browser screen, a block of small text appears near the bottom of the screen containing the first four sentences of the statement above.

Thus, consumers cannot pay “\$0 down” to lease the advertised vehicles for the monthly payment amounts offered; they must also pay significant fees, including but not limited to an acquisition fee. Respondent has represented that its acquisition fee is \$595.

7. Additional advertisements have appeared on the landing page of respondent’s website. One such advertisement has appeared in a “slider” panel that automatically presents a sequence of automobile offers prominently at the top of the landing page. A video depicting a user navigating through the advertisement and its links described below is attached as Exhibit E, and screenshot captures of the video are attached as Exhibit F.

The banner includes a still photo depicting a 2013 Kia Soul accompanied by the following text:

2013 Kia Soul

\$199 a Month

\$0 Due at Signing

**Now at
Courtesy Kia!**

See Dealer for full details

The landing page includes no additional information about the offer. If consumers click on the banner, they are taken to a page apparently showing respondent’s inventory of 2013 Kia Souls. This page includes no additional information regarding lease offers, and instead lists various sale prices for each of the cars. If consumers click on the link for a particular car, they are taken to a page for that car, which includes a box labeled “Current Specials.” In some but not all instances, the box includes among other things a monthly payment amount. In such cases, if consumers click on a small “Disclaimer” link at the bottom of the box, a pop-up box containing dense, small, light gray text against a white background appears. The pop-up box includes the statement:

(1) Disclaimer - \$199 a Month with \$0 due at signing 2013 Kia Soul. See dealer for details. Not all applicants will qualify.

Respondent’s website thus does not disclose important additional terms of the prominently advertised lease, including but not limited to whether consumers must pay tax, tags, registration or doc fees, the number of lease payments, and whether an extra charge may be imposed at the end of the lease.

FEDERAL TRADE COMMISSION ACT VIOLATIONS

Count I

Misrepresentation of Amount Due at Lease Inception

8. Through the means described in Paragraphs 5 through 7, respondent has represented, expressly or by implication, that consumers can pay \$0 at lease inception to lease the advertised vehicle for the advertised monthly payment amount.
9. In truth and in fact, consumers cannot pay \$0 at lease inception to lease the advertised vehicle for the advertised monthly payment amount. Consumers must also pay significant fees, including but not limited to an acquisition fee. Therefore, the representation set forth in Paragraph 8 was, and is, false or 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).

VIOLATION OF THE CONSUMER LEASING ACT AND REGULATION M

11. Under Section 184 of the CLA and Section 213.7 of Regulation M, advertisements promoting consumer leases are required to make certain disclosures ("additional terms") if they state any of several terms, such as the amount of any payment ("CLA triggering terms"). 15 U.S.C. § 1667c; 12 C.F.R. § 213.7.
12. Respondent's advertisements promoting consumer leases, including but not necessarily limited to those described in Paragraphs 5 through 7, are subject to the requirements of the CLA and Regulation M.

Count II

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

13. Respondent's advertisements promoting consumer leases, including but not necessarily limited to those described in Paragraphs 5 through 7, have included CLA triggering terms, but have failed to disclose or to disclose clearly and conspicuously additional terms required by the CLA and Regulation M, including one or more of the following:
 - a. That the transaction advertised is a lease.
 - b. The total amount due prior to or at consummation or by delivery, if delivery occurs after consummation.
 - c. Whether 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.
14. Therefore, the practices set forth in Paragraph 13 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.

NOTICE

Notice is hereby given to the respondent that the ninth day of September, 2014, at 10:00 a.m., is hereby fixed as the time, and the Federal Trade Commission offices at 600 Pennsylvania Avenue, N.W., Room 532-H, Washington, D.C. 20580, as the place when and where a hearing will be had before an Administrative Law Judge of the Federal Trade Commission, on the charges set forth in this complaint, at which time and place you will have the right under the Federal Trade Commission Act to appear and show cause why an order should not be entered requiring you to cease and desist from the violations of law charged in this complaint.

You are notified that the opportunity is afforded you to file with the Federal Trade Commission an answer to this complaint on or before the fourteenth (14th) day after service of it upon you. An answer in which the allegations of the complaint are contested shall contain a concise statement of the facts constituting each ground of defense; and specific admission, denial, or explanation of each fact alleged in the complaint or, if you are without knowledge thereof, a statement to that effect. Allegations of the complaint not thus answered shall be deemed to have been admitted.

If you elect not to contest the allegations of fact set forth in the complaint, the answer shall consist of a statement that you admit all of the material facts to be true. Such an answer shall constitute a waiver of hearings as to the facts alleged in the complaint and, together with the complaint, will provide a record basis on which the Commission shall issue a final decision containing appropriate findings and conclusions, and a final order disposing of the proceeding. In such answer, you may, however, reserve the right to submit proposed findings of fact and conclusions of law under Rule 3.46 of the Commission's Rules of Practice for Adjudicative Proceedings.

Failure to answer within the time above provided shall be deemed to constitute a waiver of your right to appear and to contest the allegations of the complaint, and shall authorize the Commission, without further notice to you, to find the facts to be as alleged in the complaint and to enter a final decision containing appropriate findings and conclusions and a final order disposing of the proceeding.

The Administrative Law Judge shall hold a prehearing scheduling conference not later than ten (10) days after the answer is filed by the respondent. Unless otherwise directed by the Administrative Law Judge, the scheduling conference and further proceedings will take place at

the Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Room 532-H, Washington, D.C. 20580. Rule 3.21(a) requires a meeting of the parties' counsel as early as practicable before the prehearing scheduling conference, but in any event no later than five (5) days after the answer is filed by the respondent. Rule 3.31(b) obligates counsel for each party, within five (5) days of receiving respondent's answer, to make certain disclosures without awaiting a formal discovery request.

The following is the form of order which the Commission has reason to believe should issue if the facts are found to be as alleged in the complaint. If, however, the Commission should conclude from record facts developed in any adjudicative proceedings in this matter that the proposed order provisions might be inadequate to fully protect the consuming public, the Commission may order such other relief as it finds necessary or appropriate.

Moreover, the Commission has reason to believe that, if the facts are found as alleged in the complaint, it may be necessary and appropriate for the Commission to seek relief to redress injury to consumers, or other persons, partnerships or corporations, in the form of restitution for past, present, and future consumers and such other types of relief as are set forth in Section 19(b) of the Federal Trade Commission Act. The Commission will determine whether to apply to a court for such relief on the basis of the adjudicative proceedings in this matter and such other factors as are relevant to consider the necessity and appropriateness of such action.

ORDER

DEFINITIONS

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

1. Unless otherwise specified, "respondent" shall mean Courtesy Auto Group, Inc., and its successors and assigns.
2. "Advertisement" shall mean a commercial message in any medium that directly or indirectly promotes a consumer transaction.
3. "Clearly and conspicuously" shall mean as follows:
 - a. 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.
 - b. 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.

- c. 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.
 - d. In a radio advertisement, the disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it.
 - e. 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.
4. “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.
5. “Lease inception” shall mean prior to or at consummation of the lease or by delivery, if delivery occurs after consummation.
6. “Material” shall mean likely to affect a person’s choice of, or conduct regarding, goods or services.
7. “Motor vehicle” or “vehicle” shall mean:
- a. Any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;
 - b. Recreational boats and marine equipment;
 - c. Motorcycles;
 - d. Motor homes, recreational vehicle trailers, and slide-in campers; and
 - e. 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, 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 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.

III.

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.

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 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. Courtesy Auto Group, 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 twenty (20) years from the date of its issuance, 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.

IN WITNESS WHEREOF, the Federal Trade Commission has caused this complaint to be signed by its Secretary and its official seal to be hereto affixed, at Washington, D.C. this seventh day of January, 2014.

By the Commission.

Donald S. Clark
Secretary

SEAL: