

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

_____)	
In The Matter of)	
)	File No. 9523207
BEUCKMAN FORD, INC.,)	
a corporation, and)	AGREEMENT CONTAINING
)	CONSENT ORDER
FRED J. BEUCKMAN, III,)	
individually and as an)	
officer of the corporation.)	
_____)	

The Federal Trade Commission has conducted an investigation of certain acts and practices of Beuckman Ford, Inc., a corporation, and Fred J. Beuckman, III, individually and as an officer of the corporation ("proposed respondents"). Proposed respondents, having been represented by counsel, are willing to enter into an agreement containing a consent order resolving the allegations contained in the attached draft complaint. Therefore,

IT IS HEREBY AGREED by and between Beuckman Ford, Inc., by its duly authorized officers, and Fred J. Beuckman, III, individually and as an officer of the corporation, and counsel for the Federal Trade Commission that:

- 1.a. Proposed respondent Beuckman Ford, Inc. is a Missouri corporation with its principal office or place of business at 15675 Manchester Road, Ballwin, Missouri 63011.
- 1.b. Proposed respondent Fred J. Beuckman, III is an officer of the corporate respondent. Individually or in concert with others, he formulates, directs, or controls the policies, acts, or practices of the corporation. His principal office or place of business is the same as that of Beuckman Ford, Inc.
2. Proposed respondents admit all the jurisdictional facts set forth in the draft complaint.
3. Proposed respondents waive:
 - a. Any further procedural steps;

- b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and
- c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft complaint, will be placed on the public record for a period of sixty (60) days and information about it publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft complaint, or that the facts as alleged in the draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following order in disposition of the proceeding, and (2) make information about it public. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery of the complaint and the decision and order to proposed respondents by any means specified in Section 4.4 of the Commission's Rules shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order. No agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the draft complaint and consent order. They understand that they may be liable for civil

penalties in the amount provided by law and other appropriate relief for each violation of the order after it becomes final.

ORDER

DEFINITIONS

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

1. "Clearly and conspicuously" shall mean as follows:
 - a. In a television or video advertisement, the audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. The video disclosure shall be of a size and shade, and shall appear on the screen for a duration, sufficient for an ordinary consumer to read and comprehend it.
 - b. 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.
 - c. In a radio advertisement, the disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it.

Nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be used in any advertisement.

2. "Equal prominence" shall mean as follows:
 - a. In a television or video advertisement, the video disclosure shall be presented in the same or similar format, including but not necessarily limited to type size, shade, contrast, duration, and placement. The audio disclosure shall be delivered in the same or similar manner, including but not necessarily limited to volume, cadence, pace, and placement.
 - b. In a print advertisement, the disclosure shall be presented in the same or similar format, including but not necessarily limited to type size, shade, contrast, and placement.

- c. In a radio advertisement, the disclosure shall be delivered in the same or similar manner, including but not necessarily limited to volume, cadence, pace, and placement.

Nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be used in any advertisement.

3. "Total amount due at lease inception" shall mean the total amount of any initial payments required to be paid by the lessee on or before consummation of the lease or delivery of the vehicle, whichever is later.

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

5. Unless otherwise specified, "respondents" shall mean Beuckman Ford, Inc., a corporation, its successors and assigns and its officers; Fred J. Beuckman, III, individually and as an officer of the corporation; and each of the above's agents, representatives, and employees.

I.

IT IS ORDERED that respondents, directly or through any corporation, subsidiary, division, or any other device, in connection with any advertisement to promote, directly or indirectly, any consumer lease in or affecting commerce, as "advertisement" and "consumer lease" are defined in Section 213.2 of Regulation M, 12 C.F.R. § 213.2, as amended, shall not, in any manner, expressly or by implication:

- A. Misrepresent the costs of leasing a vehicle, including but not necessarily limited to the total amount due at lease inception.
- B. State any amount due at lease inception (or that no such amount is required), except for the statement of a periodic payment, unless the advertisement also states with equal prominence the total amount due at lease inception.
- C. State the term "RCL" without disclosing clearly and conspicuously that such term refers to a lease transaction.
- D. State the amount of any payment, the number of required payments, or that any or no downpayment or other payment is required at consummation of the lease unless all of the following items are disclosed, clearly and conspicuously, as required by Regulation M, as amended:
 - (1) that the transaction advertised is a lease;
 - (2) the total amount of any payment such as a security deposit or capitalized cost reduction required at the consummation of the lease, or that no such payments are required;

(3) the number, amounts, due dates or periods of scheduled payments, and the total of such payments under the lease;

(4) a statement of whether or not the lessee has the option to purchase the leased property and at what price and time (the method of determining the price may be substituted for disclosure of the price); and

(5) a statement of the amount or method of determining the amount of any liabilities the lease imposes upon the lessee at the end of the term and a statement that the lessee shall be liable for the difference, if any, between the estimated value of the leased property and its realized value at the end of the lease term, if the lessee has such liability.

For all lease advertisements, respondents may comply with the requirements of this subparagraph by utilizing Section 184(a) of the Consumer Leasing Act ("CLA"), 15 U.S.C. § 1667c(a), as amended by Title II, Section 2605 of the Omnibus Consolidated Appropriations Act for Fiscal Year 1997, Pub. L. No. 104-208, 110 Stat. 3009, 3009-473 (Sept. 30, 1996) (to be codified at 15 U.S.C. § 1667c(a)) ("Section 184(a) of the revised CLA"), as amended, or by utilizing Section 213.7(d) of revised Regulation M, 61 Fed. Reg. 52246, 52261 (October 7, 1996) and 62 Fed. Reg. 15364, 15368 (Apr. 1, 1997) (to be codified at 12 C.F.R. § 213.7(d)) ("revised Regulation M"), as amended. For radio lease advertisements, respondents may also comply with the requirements of this subparagraph by utilizing Section 184(b) of the CLA, 15 U.S.C. § 1667c(b), as amended by Title II, Section 2605 of the Omnibus Consolidated Appropriations Act for Fiscal Year 1997, Pub. L. No. 104-208, 110 Stat. 3009, 3009-473 (Sept. 30, 1996) (to be codified at 15 U.S.C. § 1667c(c)) ("Section 184(c) of the revised CLA"), as amended, or by utilizing Section 213.7(f) of revised Regulation M (to be codified at 12 C.F.R. § 213.7(f)), as amended. For television lease advertisements, respondents may also comply with the requirements of this subparagraph by utilizing Section 213.7(f) of revised Regulation M, as amended.

E. Fail to comply in any other respect with Regulation M, 12 C.F.R. § 213, as amended, and the CLA, 15 U.S.C. §§ 1667-1667e, as amended. Respondents may comply with the requirements of this subparagraph regarding Regulation M by utilizing revised Regulation M, 61 Fed.

Reg. 52246 (Oct. 7, 1996) and 62 Fed. Reg. 15364 (Apr. 1, 1997) (to be codified at 12 C.F.R. § 213), as amended.

II.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, subsidiary, division, or any other device, in connection with any advertisement to promote, directly or indirectly, any extension of consumer credit in or affecting commerce, as "advertisement" and "consumer credit" are defined in Section 226.2 of Regulation Z, 12 C.F.R. § 226.2, as amended, 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 terms required by Section 144 of the Truth in Lending Act ("TILA"), 15 U.S.C. § 1664, as amended, and Section 226.24(c) of Regulation Z, 12 C.F.R. § 226.24(c), as amended, as more fully set out in Section 226.24(c) of the Federal Reserve Board's Official Staff Commentary to Regulation Z, 12 C.F.R. § 226.24(c), as amended, as follows:
1. the amount or percentage of the downpayment;
 2. the terms of repayment; and
 3. the annual percentage rate, using that term or the abbreviation "APR." If the annual percentage rate may be increased after consummation of the credit transaction, that fact must also be disclosed.
- B. Fail to comply in any other respect with Regulation Z, 12 C.F.R. § 226, as amended, and the TILA, 15 U.S.C. §§ 1601-1667, as amended.

III.

IT IS FURTHER ORDERED that respondent Beuckman Ford, Inc., and its successors and assigns, and respondent Fred J. Beuckman, III 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 all records that will demonstrate compliance with the requirements of this order.

IV.

IT IS FURTHER ORDERED that respondent Beuckman Ford, Inc., and its successors and assigns, and respondent Fred J. Beuckman, III 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 such current personnel within thirty (30) days after the date of service of this order, and to such future personnel within thirty (30) days after the person assumes such position or responsibilities.

V.

IT IS FURTHER ORDERED that respondent Beuckman Ford, Inc., and its successors and assigns, shall notify the Commission at least thirty (30) days prior to any change in the corporation that may affect compliance obligations arising under this order, including but not necessarily 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. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

VI.

IT IS FURTHER ORDERED that respondent Fred J. Beuckman, III, for a period of ten (10) years after the date of issuance of this order, shall notify the Commission of the discontinuance of his current business or employment, or of his affiliation with any new business or employment involving the advertising and/or extension of a "consumer lease," as that term is defined in the CLA and its implementing Regulation M, or the advertising and/or extension of "consumer credit," as that term is defined in the TILA and its implementing Regulation Z. The notice shall include respondents' new business address and telephone number and a description of the nature of the business or employment and his duties and responsibilities. All notices required by this Part

shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

VII.

IT IS FURTHER ORDERED that respondent Beuckman Ford, Inc., and its successors and assigns, and respondent Fred J. Beuckman, III shall, within sixty (60) days after the date of service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

VIII.

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; 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 the 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.

Signed this _____ day of _____, 19__

BEUCKMAN FORD, INC.

By:

FRED J. BEUCKMAN, III
President

FRED J. BEUCKMAN, III
individually and as an officer
of the corporation

JOE D. JACOBSON
Green, Schaaf & Margo, P.C.
Attorney for respondents

FEDERAL TRADE COMMISSION

By:

LAUREN B. STEINFELD
Counsel for the Federal Trade
Commission

APPROVED:

DAVID MEDINE
Associate Director
Division of Credit Practices

JOAN Z. BERNSTEIN
Director
Bureau of Consumer Protection

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

In The Matter of)	
)	
BEUCKMAN FORD, INC.,)	DOCKET NO.
a corporation, and)	
)	
FRED J. BEUCKMAN, III,)	
individually and as an)	
officer of the corporation.)	

COMPLAINT

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

1. Respondent Beuckman Ford, Inc. is a Missouri corporation with its principal office or place of business at 15675 Manchester Road, Ballwin, Missouri 63011. Respondent offers automobiles for sale or lease to consumers.
2. Respondent Fred J. Beuckman, III is an officer of the corporate respondent. Individually or in concert with others, he formulates, directs, or controls the policies, acts, or practices of the corporation, including the acts or practices alleged in this complaint. His principal office or place of business is the same as that of Beuckman Ford, Inc.
3. Respondents have disseminated advertisements to the public that promote consumer leases, as the terms "advertisement" and "consumer lease" are defined in Section 213.2 of Regulation M, 12 C.F.R. § 213.2, as amended.

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

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

LEASE ADVERTISING

6. Respondents have disseminated or have caused to be disseminated consumer lease advertisements ("lease advertisements") for automobiles in the print media, including but not necessarily limited to the attached Exhibits A, B, and C. These lease advertisements contain the following statements:

- A. "1994 AEROSTAR
STARTING AT
\$14,988 OR \$278.80**
24 MONTH RCL
INCLUDES ALL TAXES, LICENSE & FEES"

[A fine print statement at the bottom of the ad states, "***10% of MSRP down plus 1st & security, includes all rebates and incentives to qualified buyers."] (Exhibit A)

- B. "'95 WINDSTAR GL
\$17,588* or \$273* PER MO.
24 MONTH RCL
INCLUDES ALL TAXES & FEES!"

[A fine print statement at the bottom of the ad states, "**All prices include Ford rebates, college graduate or commercial rebates where applicable. All payments based on 9.5 APR to qualified buyers. 60 months. No money down.**10% of MSRP plus rebates."] (Exhibit B)

- C. "1995 WINDSTAR GL
\$16,986 OR \$259.99 PER MO.
24 MONTH RCL
INCLUDES TAX AND LICENSE"

[A fine print statement at the bottom of the ad states, "Windstar lease payment in lieu of purchase rebate.

Reg. 10% of MSRP down plus 1st month and security deposit."] (Exhibit C)

FEDERAL TRADE COMMISSION ACT VIOLATIONS

Count I: Failure to Disclose Adequately Inception Fees

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

8. These lease advertisements do not adequately disclose additional terms pertaining to obligations at lease inception, including but not necessarily limited to one or more of the following charges: a required downpayment, security deposit, first month's payment, and taxes. This information does not appear at all, appears in very fine print, and/or is referenced by asterisks that do not correspond to the asterisks depicted in the main text of the advertisements.

9. These additional terms would be material to consumers in deciding whether to visit respondents' dealership and/or whether to lease an automobile from respondents. The failure to disclose adequately these additional terms, in light of the representation made, was, and is, a deceptive practice.

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

Count II: Failure to Disclose that the Transaction
Advertised is a Lease

11. In lease advertisements, including but not necessarily limited to Exhibits A, B, and C, respondents have represented, expressly or by implication, that consumers can purchase the advertised vehicles by financing the vehicles through credit at the advertised monthly payment and term.

12. These lease advertisements fail to disclose that the term "RCL" is an abbreviation for "Red Carpet Lease" or to otherwise disclose that the advertised monthly payment and term are components of a lease offer. The existence of this additional information would be material to consumers in deciding whether to visit respondents' dealership and/or whether to lease or purchase an automobile from respondents. The failure to disclose adequately this additional term, in light of the representation made, was, and is, a deceptive practice.

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

CONSUMER LEASING ACT AND REGULATION M VIOLATIONS
Count III: Failure to Disclose Required Information
Clearly and Conspicuously

14. In lease advertisements, including but not necessarily limited to Exhibits A, B, and C, respondents have stated a monthly payment amount, the number of required payments, and/or an amount "down."

15. These lease advertisements have failed to disclose clearly and conspicuously the following items of information required by Regulation M: that the transaction advertised is a lease; the total amount of any payment such as a security deposit or capitalized cost reduction required at the consummation of the lease or that no such payments are required; the total of scheduled payments due under the lease; a statement of whether or not the lessee has the option to purchase the leased property and at what price and time or, in lieu of disclosure of the price, the method of determining the purchase-option price; and a statement of the amount or method of determining the amount of any liabilities the lease imposes upon the lessee at the end of the term.

16. Respondents' practices have violated Section 184 of the Consumer Leasing Act, 15 U.S.C. § 1667c, and Section 213.5(c) of Regulation M, 12 C.F.R. § 213.5(c).

CREDIT ADVERTISING

17. Respondents have disseminated or have caused to be disseminated credit sale advertisements ("credit advertisements") for automobiles in the print media, including but not necessarily limited to the attached Exhibit B. These advertisements contain the following statements:

``95 MUSTANG GT COUPE
\$17,988* OR \$377.99 PER MO
NO MONEY DOWN"

[A fine print statement at the bottom of the ad states, "All payments based on 9.5 APR to qualified buyers. 60 months, no money down."] (Exhibit B)

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

18. In credit advertisements, including but not necessarily limited to Exhibit B, respondents have stated a monthly payment amount and/or an amount "down" as terms for financing the purchase of the advertised vehicles.

19. These credit advertisements have failed to disclose clearly and conspicuously the following items of information required by Regulation Z: the annual percentage rate and the terms of repayment.

20. The items of information required by Regulation Z are not clear and conspicuous because they appear in very fine print.

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

THEREFORE, the Federal Trade Commission this ___ day of _____, 1997, has issued this complaint against respondents.

By the Commission.

Donald S. Clark
Secretary

SEAL:

[Exhibits A-C attached to paper copies of complaint, but not available in electronic form.]