

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

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

In the Matter of

**NISSAN OF SOUTH ATLANTA, LLC,
also d/b/a NISSAN SOUTH
a corporation.**

DOCKET NO. C-4441

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”), as amended, 15 U.S.C. §§ 1601-1667; and Regulation Z, 12 C.F.R. Part 226; 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, TILA, and 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, Nissan of South Atlanta, LLC, also doing business as Nissan South, is a Georgia corporation with its principal office or place of business at 6889 Jonesboro Road, Morrow, Georgia 30260.

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

DEFINITIONS

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

1. Unless otherwise specified, “respondent” shall mean Nissan of South Atlanta, LLC, also doing business as Nissan South, 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 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.
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. 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
 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 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 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.

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. NISSAN OF SOUTH ATLANTA, LLC, also d/b/a NISSAN SOUTH.**

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 28, 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.

Donald S. Clark
Secretary

SEAL:

ISSUED: February 28, 2014