**Analysis of Proposed Consent Order to Aid Public Comment**
***Jim Burke Automotive, Inc., also doing business as Jim Burke Nissan, File No. 1523036***

The Federal Trade Commission ("FTC") has accepted, subject to final approval, an agreement containing a consent order from Jim Burke Automotive, Inc., also doing business as Jim Burke Nissan. 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. This matter involves the respondent's advertising of the purchase and financing of its motor vehicles. According to the FTC's complaint, the respondent has advertised that vehicles are available for purchase at the prices prominently advertised when in fact, the complaint alleges, consumers must pay an additional $3,000 to purchase the advertised vehicles. The complaint alleges therefore that the representations are false or misleading in violation of Section 5 of the FTC Act.

The complaint further alleges that the respondent has advertised that specific discounts, rebates, bonuses, or incentives are generally available to consumers, when in fact, according to the complaint, they are not generally available to consumers. The complaint alleges therefore that the representations are false or misleading in violation of Section 5 of the FTC Act.

In addition, the complaint alleges that the respondent violated the Truth in Lending Act ("TILA") and Regulation Z by failing to disclose or disclose clearly and conspicuously certain costs and terms when advertising credit.

The proposed order is designed to prevent the respondent from engaging in similar deceptive practices in the future. Part I.A of the proposed order prohibits the respondent from misrepresenting 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 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. Part I.B prohibits the respondent from misrepresenting any other material fact about the price, sale, financing, or leasing of any vehicle.

Part II.A of the proposed order prohibits respondent from representing that a discount, rebate, bonus, incentive or price is available to consumers unless, it is available to all consumers and for all vehicles advertised; or the representation clearly and conspicuously discloses all material qualifications or restrictions, if any, including but not limited to qualifications or restrictions on: (a) a consumer's ability to obtain the discount, rebate, bonus, incentive or price and (b) the vehicles available at the discount, rebate, bonus, incentive or price. Part II.B prohibits respondent from misrepresenting: (1) the existence or amount of any discount, rebate, bonus, incentive or price; (2) the existence, price, value, coverage, or features of any product or service associated with the motor vehicle purchase; (3) the number of vehicles available at particular prices; or 4) any other material fact about the price, sale, financing, or leasing of motor vehicles.

Part III of the proposed order addresses the TILA allegation. Part III.A requires the respondent to make all of the disclosures required by TILA and Regulation Z when any of its advertisements state relevant triggering terms. It also requires that if any finance charge is advertised, the rate be stated as an "annual percentage rate" using that term or the abbreviation "APR." In addition, Part III.C prohibits the respondent from failing to comply in any respect with TILA and Regulation Z.

Part IV of the proposed order requires respondent to keep copies of relevant advertisements and materials substantiating claims made in the advertisements. Part V requires that respondent provide copies of the order to certain of its 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 respondent 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.