UNITED STATES DISTRICT COURT
FOR NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. NEW WORLD AUTO IMPORTS, INC., a corporation, also d/b/a Southwest Kia, NEW WORLD AUTO IMPORTS OF ROCKWALL, INC., a corporation, also d/b/a Southwest Kia and Southwest Kia of Rockwall, and HAMPTON TWO AUTO CORPORATION, a corporation, also d/b/a Southwest Kia and Southwest Kia-NW, and Southwest Kia Mesquite, Defendants.	Case No. 3:16-cv-2401-K

STIPULATED ORDER FOR PERMANENT INJUNCTION AND CIVIL PENALTY JUDGMENT

Plaintiff, the United States of America, acting upon notification and authorization to the Attorney General by the Federal Trade Commission ("Commission" or "FTC"), filed its Complaint for Civil Penalties and Other Relief ("Complaint"), for a permanent injunction, civil penalties, and other relief in this matter, pursuant to Sections 5(*l*) and 16(a) of the Federal Trade Commission Act, 15

U.S.C. §§ 45(*l*) and 56(a), as amended; the Truth In Lending Act ("TILA"), 15 U.S.C. §§ 1601-1667, as amended; and its implementing Regulation Z, 12 C.F.R. Part 226, F. as amended; the Consumer Leasing Act ("CLA"), 15 U.S.C. §§1667-1667f, as amended; and its implementing Regulation M, 12 C.F.R. Part 213, as amended. Defendants have waived service of the summons and the Complaint. Plaintiff and Defendants stipulate to the entry of this Stipulated Order for Permanent Injunction and Civil Penalty Judgment ("Order") to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.

2. In its Complaint, Plaintiff charges that Defendants violated the FTC Decision and Order in FTC Docket No. C-4437 ("FTC Order").

3. Defendants neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendants admit the facts necessary to establish jurisdiction.

4. Defendants waive any claim that they may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agree to bear their own costs and attorney fees.

5. Defendants and Plaintiff waive all rights to appeal or otherwise challenge or contest the validity of this Order.

DEFINITIONS

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

1. "Defendants" means all of the Defendants, individually, collectively, or in any combination.

2. "Advertisement" shall mean a commercial message in any medium that directly or

indirectly promotes a consumer transaction.

3. "Clearly and conspicuously" means that a required disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:

a. In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be made visually or audibly.

b. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.

c. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for

ordinary consumers to easily hear and understand it.

d. In any communication using an interactive electronic medium, such as the Internet or software, the disclosure must be unavoidable.

e. The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the representation that requires the disclosure appears.

f. The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices.

g. The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.

h. When the representation or sales practice targets a specific audience, such as children, the elderly, or the terminally ill, "ordinary consumers" includes reasonable members of that group.

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. "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.

6. "Lease inception" shall mean prior to or at consummation of the lease or by delivery, if delivery occurs after consummation.

7. "Material" shall mean likely to affect a person's choice of, or conduct regarding, goods or services.

8. "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. PROHIBITION AGAINST MISREPRESENTATIONS

IT IS HEREBY ORDERED that Defendants, Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with any advertisement for the purchase, financing, or leasing of motor vehicles are permanently restrained and enjoined from, expressly or by implication:

A. Misrepresenting the cost of 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;

B. misrepresenting the cost of 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;

C. misrepresenting any other material fact about the price, sale, financing, or leasing of any vehicle; or

D. misrepresenting that any consumer, including those with repossessions or foreclosures in their credit history, are likely to receive financing or leasing, including particular financing or leasing terms.

II. PROHIBITION AGAINST VIOLATING THE TRUTH IN LENDING ACT

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, employees and attorneys, and all other persons in active concert and participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with any advertisement for any extension of consumer credit, are permanently restrained and enjoined from, expressly or by implication:

A. Stating 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. stating a rate of finance charge without stating the rate as an "annual percentage rate" or using the abbreviation "APR;" or

C. failing 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. PROHIBITION AGAINST VIOLATING THE CONSUMER LEASING ACT

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, employees and attorneys, and all other persons in active concert and participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with any advertisement for any consumer lease, are permanently restrained and enjoined from, expressly or by implication:

A. Stating 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. failing 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. MONETARY JUDGMENT FOR CIVIL PENALTY

IT IS FURTHER ORDERED that:

A. Judgment in the amount of eighty-five thousand dollars ($85,000) is entered in favor of Plaintiff against Defendants, jointly and severally, as a civil penalty.

B. Defendants are ordered to pay to Plaintiff, by making payment to the Treasurer of the United States, eighty-five thousand dollars ($85,000), which, as Defendants stipulate, their undersigned counsel holds in escrow for no purpose other than payment to Plaintiff. Such payment must be made within 7 days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of Plaintiff.

C. Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

D. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission, including in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order.

V. ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendants obtain acknowledgments of receipt of this Order:

A. Each Defendant, within 14 days of entry of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For 20 years after entry of this Order, each Defendant must deliver a copy of this Order to: (1) all principals, officers, directors, and dealership managers; (2) all employees, agents, and representatives who participate in conduct related to the subject matter of the Order, including advertising, financing, leasing, and sales; and (3) any business entity resulting from any change in structure as set forth in the Part titled Compliance Reporting. Delivery must occur within 14 days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which a Defendant delivered a copy of this Order that Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

VI. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Defendants make timely submissions to the Commission:

A. One year after entry of this Order, each Defendant must submit a compliance report, sworn under penalty of perjury. Each Defendant must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission and Plaintiff may use to communicate with Defendant; (b) identify all of that Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the products and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant; (d) describe in detail whether and how that Defendant is in compliance with each Section of this Order; and (e) provide a copy of each acknowledgement of this Order obtained pursuant to this Order, unless previously submitted to the Commission.

B. For 20 years after entry of this Order, each Defendant must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following: (a) any designated point of contact; or (b) the structure of any

Defendant or any entity that Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

C. Each Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Defendant within 14 days of its filing.

D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: "I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____" and supplying the date, signatory's full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must 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: New World Auto Imports, Inc, et al.

VII. RECORDKEEPING

IT IS FURTHER ORDERED that Defendants must create certain records for 20 years after entry of this Order, and retain each such record for five 5 years. Specifically, Defendants must maintain the following records:

A. Accounting records showing the revenues from all goods or services related to the subject matter of this Order sold, all costs incurred in generating those revenues, and the resulting net profit or loss. Revenues from consumer credit transactions shall be set forth separately from revenues from consumer lease transactions, and both of the foregoing shall be set forth separately from all other revenues;

B. Personnel records showing, for each person providing services related to the subject matter of this Order, whether as an employee or otherwise, that person's: name, addresses, and telephone numbers; job title or position; dates of service; and, if related to the subject matter of the Order, the reason for termination;

C. Complaints and refund requests related to the subject matter of this Order, whether received directly or indirectly, such as through a third party, and any response;

D. Records sufficient to identify all (1) internal personnel and external persons and entities involved in advertisement creation, review, and publication, (2) lenders of consumer credit doing business with each Defendant, and (3) lessors of consumer leases doing business with each Defendant;

E. Each unique advertisement or other promotional material. Each advertisement or other promotional material presented through interactive electronic mediums, including the internet or mobile devices, must be maintained in a format that shows how consumers would interact with the advertisement or other promotional material;

F. All materials that were relied upon in disseminating any representation referenced in Part VII(E) above;

G. All tests, reports, studies, surveys, calculations, or other evidence in any Defendant's possession or control that contradict, qualify, or call into question any representation referenced in Part VII(E) above, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations; and

H. All other records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission.

VIII. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendants' compliance with this Order:

A. Within 14 days of receipt of a written request from a representative of the Commission or Plaintiff, each Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and

copying. The Commission and Plaintiff are also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

B. For matters concerning this Order, the Commission and Plaintiff are authorized to communicate directly with each Defendant. Defendant must permit representatives of the Commission and Plaintiff to interview any employee or other person affiliated with any Defendant who has agreed to such an interview. The person interviewed may have counsel present.

C. The Commission and Plaintiff may use all other lawful means, including posing, through its representatives as consumers, suppliers, or other individuals or entities, to Defendants or any individual or entity affiliated with Defendants, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

IX. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

SO ORDERED.

Signed August 22nd, 2016.

Ed Kinkeade

ED KINKEADE
UNITED STATES DISTRICT JUDGE

SO STIPULATED AND AGREED:

FOR PLAINTIFF:

THE UNITED STATES OF AMERICA

BENJAMIN C. MIZER
Principal Deputy Assistant Attorney General, Civil Division
United States Department of Justice

JONATHAN F. OLIN
Deputy Assistant Attorney General

MICHAEL S. BLUME
Director
Consumer Protection Branch

ANDREW E. CLARK
Assistant Director

_s/ Jacqueline Blaesi-Freed_____
JACQUELINE BLAESI-FREED
Trial Attorney
Consumer Protection Branch
U.S. Department of Justice
P.O. Box 386
Washington, DC 20044
Phone: (202) 353-2809
Fax: (202) 514-8742
Email: jacqueline.m.blaesi-freed@usdoj.gov

FEDERAL TRADE COMMISSION

JAMES A. KOHM
Associate Director for Enforcement

FRANK M. GORMAN
Assistant Director for Enforcement

MICHELLE SCHAEFER
COLIN D. A. MACDONALD
Attorneys
Federal Trade Commission
600 Pennsylvania Ave. NW
Mailstop CC-9528
Washington, DC 20580
Phone: (202) 326-3515
(202) 326-3192
Fax: (202) 326-3197
Email: mschaefer@ftc.gov
cmadonald@ftc.gov

DEFENDANTS:

Date: 5-26-16

SHABAB SALEHOUN, an officer, on behalf of New World Auto Imports, Inc.; New World Auto Imports of Rockwall, Inc.; and Hampton Two Auto Corporation

FOR DEFENDANTS:

KELLEY DRYE & WARREN LLP
Attorneys for New World Auto Imports, Inc.; New World Auto Imports of Rockwall, Inc.; and Hampton Two Auto Corporation

Date: 5/26/2016

DANA B. ROSENFELD
SHARON KIM SCHIAVETTI
Kelley Drye & Warren LLP
Washington Harbour, Suite 400
3050 K Street, NW
Washington, DC 20007
Phone: (202) 342-8588
(202) 342-8592
Fax: (202) 342-8451
Email: drosenfeld@kelleydrye.com
sschiavetti@kelleydrye.com