

## Complaint

## IN THE MATTER OF

**MARTY SUSSMAN ORGANIZATION, INC., AND  
MARTIN E. SUSSMAN**

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF  
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT, THE  
CONSUMER LEASING ACT, AND THE TRUTH IN LENDING ACT

*Docket C-3923; File No. 992 3078  
Complaint, February 7, 2000 – Decision, February 7, 2000*

Respondents, the owners and operators of several automobile dealerships, are alleged to have violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, by misrepresenting the terms under which consumers can lease respondents' vehicles. Specifically, respondents failed to disclose material terms pertaining to the lease offer, such as the total amount due at lease signing or extra charges that may be imposed at the end of the lease term. The consent order requires respondents to disclose clearly and conspicuously all of the lease terms, including the fact that the transaction advertised is a lease; the total amount due at lease signing; and the annual percentage rate. With respect to credit advertisements, the proposed orders prohibit respondents from stating 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, the amount or percentage of the downpayment; the terms of repayment; and the correct 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. The consent order also prohibits respondents from stating a rate of finance charge without stating the rate as an "annual percentage rate" or "APR."

*Participants*

For the Commission: *Rolando Berrelez, Sally Forman Pitofsky, and David Medine.*

For the Respondents: *Richard M. Meltzer, Mesirov, Gelman, Jaffe, Cramer, & Jamieson.*

## Complaint

**COMPLAINT**

The Federal Trade Commission, having reason to believe that Marty Sussman Organization, Inc., a corporation, also doing business as Sussman Honda, Sussman Acura, Sussman Mazda, Sussman Hyundai, Sussman Oldsmobile, and Sussman Lincoln Mercury, and Martin E. Sussman, 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. §§ 1667-1667f, 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 Marty Sussman Organization, Inc. is a Pennsylvania corporation with its principal office or place of business at Jenkintown & Baeder Roads, Jenkintown, Pennsylvania 19046. Respondent offers automobiles for sale or lease to consumers.

2. Respondent Martin E. Sussman is an officer of the corporate respondent. Individually or in concert with others, he formulates, directs, controls, and participates in 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 the corporate respondent.

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

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“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.

6. Respondents have disseminated or have caused to be disseminated advertisements promoting consumer leases (“lease advertisements”) and/or credit sales (“credit advertisements”) for automobiles, including but not necessarily limited to the attached Sussman Exhibits A and B. Sussman Exhibits A and B are advertisements in the print media. These lease and/or credit advertisements contain the following statements:

- A. [Sussman Exhibit A states several lease and credit offers, including:]

**“1998 CUTLASS GL . . .  
1.9% FINANCING AVAILABLE  
\$199 A MONTH FOR 36 MONTHS”**

[A fine print disclosure next to the monthly payment amount states, “36 month lease based on 12K miles per year with \$2,250 cap cost reduction, bank fee, security deposit, and 1st month payment due at inception with approved credit. Tax and Tags Extra.”]

**“1998 ACURA 2.3 CL  
\$279 A MONTH  
FOR 39 MONTHS . . .**

**1998 ACURA 2.5 TL  
\$339 A MONTH  
FOR 39 MONTHS “**

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[A fine print disclosure below the monthly payment amounts states, "CL & TL 39 month leases based on 12,000 miles per year with \$999 Cap Cost Reduction, bank fee, security deposit, and 1st month payment due at inception with approved credit. Tax and tags extra."]  
(Sussman Exhibit A)

- B. [Sussman Exhibit B states several lease and credit offers, including:]

**"1998 MAZDA  
MILLENNIA L . . .  
\$239 A MO. FOR 36 MOS."**

[A fine print disclosure below the monthly payment amount states, "36 month lease based on 12K miles per year with \$2,000 cap cost reduction, bank fee, and 1st month payment due at inception with approved credit. Tax and tags extra."]  
...

**"LINCOLN MERCURY . . .**

**1.75%  
Financing  
Available**

**1998 MERCURY SABLE LS . . . \$269  
A MONTH FOR 33 MONTHS"**

[A fine print disclosure below the monthly payment amount states, "33 month lease based on 12,000 miles per year with \$1,995 cap cost reduction, 1st month payment, security deposit due at inception with approved credit. Tax and tags extra. Price includes all rebates."]  
(Sussman Exhibit B)

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**FEDERAL TRADE COMMISSION ACT VIOLATIONS****COUNT I: FAILURE TO DISCLOSE LEASE TERMS**

7. In lease advertisements, including but not necessarily limited to Sussman Exhibits A and B, 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 have failed to disclose additional terms pertaining to the lease offer, such as the total amount due at lease inception. This information would be material to consumers in deciding whether to visit respondents' dealerships and/or whether to lease an automobile from respondents. The failure to disclose these additional terms, in light of the representation made, was, and is, a deceptive practice.

9. 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 II: FAILURE TO DISCLOSE REQUIRED  
INFORMATION**

10. Respondents' lease advertisements, including but not necessarily limited to Sussman Exhibits A and B, state a monthly payment amount, but fail to disclose certain additional terms required by the Consumer Leasing Act and Regulation M, including one or more of the following terms:

- a. that the transaction advertised is a lease;

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- b. the total amount due prior to or at consummation, or by delivery, if delivery occurs after consummation. This total amount may: 1) exclude third-party fees that vary by state or locality, such as taxes, licenses, and registration fees, and disclose that fact or 2) provide a total that includes third-party fees based on a particular state or locality as long as that fact and the fact that such fees may vary by state or locality are disclosed;
- c. whether or not a security deposit is required;
- d. the number, amounts, and timing of scheduled payments; and
- e. that an extra charge may be imposed at the end of the lease term in a lease where the liability of the consumer is based on the difference between the residual value of the leased property and its realized value at the end of the lease term.

11. Respondents' practices have violated Section 184 of the Consumer Leasing Act, 15 U.S.C. § 1667c, and Section 213.7 of Regulation M, 12 C.F.R. § 213.7.

**COUNT III: FAILURE TO DISCLOSE THE TOTAL  
AMOUNT DUE AT LEASE SIGNING WITH EQUAL  
PROMINENCE**

12. Respondents' lease advertisements, including but not necessarily limited to Sussman Exhibits A and B, state a downpayment amount more prominently than the disclosure of the total amount due at lease signing, in violation of Section 213.7(b)(1) of Regulation M, 12 C.F.R. § 213.7(b)(1).

13. Respondents' practices have violated Section 213.7(b)(1) of Regulation M, 12 C.F.R. § 213.7(b)(1).

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**TRUTH IN LENDING ACT AND REGULATION Z  
VIOLATIONS**

**COUNT IV: FAILURE TO STATE RATE OF FINANCE  
CHARGE AS ANNUAL PERCENTAGE RATE**

14. In credit advertisements, including but not necessarily limited to Sussman Exhibits A and B, respondents have stated a rate of finance charge without stating that rate as an "annual percentage rate," using that term or the abbreviation "APR."

15. Respondents' practice constitutes a violation of Section 144 and 107 of the TILA, 15 U.S.C. §§ 1664 and 1606, respectively, and Sections 226.24(b) and 226.22 of Regulation Z, 12 C.F.R. §§ 226.24(b) and 226.22, respectively.

THEREFORE, the Federal Trade Commission this seventh day of February, 2000, has issued this complaint against respondents.

By the Commission.

Complaint Exhibits

Exhibit A



Visit us on the web at [www.sussman.org](http://www.sussman.org)



**WE'VE MOVED!**

**TO A NEW SHOWROOM ON EASTON ROAD IN WILLOW GROVE 2 blocks below the Mall.**  
Every car in our new facility is on sale! Every new Honda, Hyundai, Oldsmobile and every pre-owned vehicle is reduced!

**SUSSMAN  
Oldsmobile**

**1998 OUTLASS GL**



\$199

1601 Easton Road  
Willow Grove, PA (215) 887-1800

**SUSSMAN  
HYUNDAI**

**1998 ELANTRA**



\$129

1601 Easton Road  
Willow Grove, PA (215) 887-1800

**SUSSMAN  
MAZDA**

**1998 MAZDA C26 LX**



\$189

1601 Easton Road  
Willow Grove, PA (215) 887-1800



## Pre-Moving Sale!

Sussman Acura will be moving soon to a new showroom on Easton Road in Willow Grove just below the Mall. In preparation for the move, we need to reduce our inventory of new and used automobiles. Hurry in and SAVE!

**1998 ACURA INTEGRA RS**



\$199

1601 Easton Road  
Willow Grove, PA (215) 887-1800

**1998 ACURA 2.3 CL**



\$279

1601 Easton Road  
Willow Grove, PA (215) 887-1800

**SUSSMAN**

Member Triple A & Sears's Buying Club

3801 Philmont Ave. in  
Huntington Valley (215) 938-1300

**1998 ACURA 2.5 TL**



\$339

1601 Easton Road  
Willow Grove, PA (215) 887-1800

HONDA

1998 CRV EX



\$20,495

EX-L	EX-L	EX-L	EX-L
EX-L	EX-L	EX-L	EX-L
EX-L	EX-L	EX-L	EX-L
EX-L	EX-L	EX-L	EX-L

1543 Easton Rd. Willow Grove, PA (215) 657-7050

LINCOLN Mercury

1998 LINCOLN CONTINENTAL



\$359

Continental	Continental	Continental	Continental
Continental	Continental	Continental	Continental
Continental	Continental	Continental	Continental
Continental	Continental	Continental	Continental

OLD YORK RD. & THE FAIRWAY (215) 884-3400

SUSSMAN  
LINCOLN MERCURY

1543 Easton Rd. Willow Grove, PA  
(215) 657-7050

SUSSMAN  
LINCOLN MERCURY

OLD YORK RD. & THE FAIRWAY  
(215) 884-3400



Complaint Exhibits

Exhibit B





HOW YOU CAN VISIT US ON THE INTERNET AT [www.sussman.com](http://www.sussman.com)

# Grand Opening

All stores are celebrating with storewide savings!

**NEW LOCATION**

**HYUNDAI**  
1st Time Buyers  
Fast Credit Approval!



**1998 ACCENT** \$89 A MO. FOR 36 MO.!

2 Door, Front Wheel Drive, Cold Air, Side, Comprehensive Warranty

Price based on 12,000 miles per year with \$1,000 cash down. Price includes dealer ready tax, title and license and optional anti-lock. Tax & Reg. extra. \*Financing subject to credit review.

Sussman Hyundai  
2401 Easton Rd., Willow Grove, PA (215) 887-1800  
Vehicle Service Center is a subsidiary of International and Retail Sales (215) 887-1800

**WE'VE MOVED**

**ACURA, MAZDA, OLDSMOBILE & HYUNDAI SALES**

to new showrooms on Easton Rd, 2 blocks south of the Willow Grove Mall.

**NEW LOCATION**

**MAZDA**



**1998 MAZDA MILLENIA L** \$239 A MO. FOR 36 MO.!

Leather interior, Power Seats, Moonroof, Traction Control, ABS, CD Player, Air, 16" Wheel Control

23 month lease based on 12,000 miles per year with \$1,000 cash down. Tax and license extra. \*Financing subject to credit review.

Sussman Mazda  
1401 Easton Rd., Willow Grove, PA (215) 887-1800  
Vehicle Service Center is a subsidiary of International and Retail Sales (215) 887-1800

**NEW LOCATION**

**Oldsmobile**



**1998 INTRIGUE** \$249 A MO. FOR 36 MO.!

1.9% APR Financing Available

1.9% APR, Power Windows, Entry, ABS, Cruise, New FRONT!

23 month lease based on 12,000 miles per year with \$1,000 cash down. Tax and license extra. \*Financing subject to credit review.

Sussman Oldsmobile  
1401 Easton Rd., Willow Grove, PA (215) 887-1800  
Vehicle Service Center is a subsidiary of International and Retail Sales (215) 887-1800

**Over 600**

New & Used Vehicles to select from on one convenient stretch of Easton Rd. So many cars people are calling it Sussman City.

**NEW LOCATION**

**ACURA**



**1998 ACURA INTEGRA** \$199 A MO. FOR 36 MO.!

17" Wheel Alloy, Cruise with 100,000 Miles, Power Seats, Power Windows, Power Door Locks, ABS, CD, 16"

23 month lease based on 12,000 miles per year with \$1,000 cash down. Tax and license extra. \*Financing subject to credit review.

Sussman Acura  
1401 Easton Rd., Willow Grove, PA (215) 887-1800  
Vehicle Service Center is a subsidiary of International and Retail Sales (215) 887-1800



1998 ACURA INTEGRA	1998 ACURA INTEGRA	1998 ACURA INTEGRA	1998 ACURA INTEGRA
\$199	\$199	\$199	\$199
1998 ACURA INTEGRA	1998 ACURA INTEGRA	1998 ACURA INTEGRA	1998 ACURA INTEGRA
\$199	\$199	\$199	\$199

1998 ACURA INTEGRA	1998 ACURA INTEGRA	1998 ACURA INTEGRA	1998 ACURA INTEGRA
\$199	\$199	\$199	\$199
1998 ACURA INTEGRA	1998 ACURA INTEGRA	1998 ACURA INTEGRA	1998 ACURA INTEGRA
\$199	\$199	\$199	\$199

**HONDA**  
Member of Triple A & Sam's Buying Club



**1998 ACCORD LX SEDAN** \$16,995

3 Speed, Air, P.S., P.W., P.M.S., T.B. Wheel, Cruise, Cassette Player

**IN STOCK NOW**

**1998 ACCORD EX 4 Door V6 Sedan**

Sussman Honda  
1543 Easton Rd., Willow Grove, PA (215) 677-7050

**LINCOLN Mercury**



**1998 MERCURY SABLE LS** \$269 A MONTH FOR 24 MONTHS!

Leather, Automatic, Air Cond., Moonroof, ABS, P.S., P.W., P.M.S., T.B. Wheel, Cassette Stereo

**1.75% Financing Available**

**IN STOCK NOW**

**1999 MERCURY COUGAR**

Sussman Lincoln Mercury  
Old York Rd. & The Fairway Jenkintown, PA (215) 884-3400

Decision and Order

**DECISION AND ORDER**

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of 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 the respondents with violations of the Federal Trade Commission Act, 15 U.S.C. §§ 45-58, as amended, the Consumer Leasing Act, 15 U.S.C. §§ 1667-1667f, 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

The respondents, their attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondents that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true 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 the respondents have violated the said Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

## Decision and Order

1. Respondent Marty Sussman Organization, Inc. is a Pennsylvania corporation with its principal office or place of business at Jenkintown & Baeder Roads, Jenkintown, Pennsylvania 19046.
2. Respondent Martin E. Sussman 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 the corporate respondent.
3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

**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, video, radio, or Internet or other electronic advertisement, an audio disclosure shall be delivered in a volume, cadence, and location sufficient for an ordinary consumer to hear and comprehend it. A video disclosure shall be of a size and shade, and shall appear on the screen for a duration and in a location, sufficient for an ordinary consumer to read and comprehend it.

## Decision and Order

- b. In a print advertisement, a disclosure shall be in a type size and location sufficiently noticeable for an ordinary consumer to read and comprehend it, in print that contrasts with the background against which it appears.

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.

2. "Equal prominence" shall mean as follows:
  - a. In a television, video, radio, or Internet or other electronic advertisement, a video disclosure shall be presented in the same or similar format, including but not necessarily limited to type size, shade, contrast, duration, and placement. An 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, a disclosure shall be presented in the same or similar format, including but not necessarily limited to type size, shade, contrast, 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 signing or delivery" as used herein 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, as required by Regulation M, 12 C.F.R. § 213, as amended. The total amount due at lease signing or delivery may 1) exclude third-party fees, such as taxes, licenses, and registration fees, and

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disclose that fact or 2) provide a total that includes third-party fees based on a particular state or locality as long as that fact and the fact that such fees may vary by state or locality are disclosed. (Section 213.7 of Regulation M, 12 C.F.R. § 213.7, as amended.)

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 Marty Sussman Organization, Inc., a corporation, its successors and assigns and its officers; Martin E. Sussman, 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. Make any reference to any charge that is part of the total amount due at lease signing or delivery or that no such charge is required, not including a statement of the periodic payment, unless the advertisement also states with equal prominence the total amount due at lease signing or delivery.
- B. State the amount of any payment or that any or no initial payment is required at lease signing or delivery, if delivery occurs after consummation, without

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disclosing clearly and conspicuously all of the terms required by Regulation M, as follows:

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.

(Section 184(a) of the Consumer Leasing Act (“CLA”), 15 U.S.C. § 1667c(a), as amended, and Section 213.7 of Regulation M, 12 C.F.R. § 213.7, as amended.)

For radio advertisements, respondents may also comply with the requirements of this subparagraph by utilizing Section 184(c) of the CLA, 15 U.S.C. § 1667c(C), and Section 213.7(f) of Regulation M, 12 C.F.R. § 213.7(f), as amended. For television advertisements, respondents may also comply with the requirements of this subparagraph by utilizing Section 213.7(f) of Regulation M, as amended.

- C. Fail to comply in any other respect with Regulation M, 12 C.F.R. § 213, as amended, and the CLA, 15 U.S.C. §§ 1667-1667f, as amended.

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**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 Regulation Z, as follows:
1. the amount or percentage of the downpayment;
  2. the terms of repayment; and
  3. the correct 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.

(Sections 107 and 144(d) of the TILA, 15 U.S.C. §§ 1606 and 1664(d), as amended, and Sections 226.22 and 226.24(c) of Regulation Z, 12 C.F.R. §§ 226.22 and 226.24(c), as amended.)

- B. State a rate of finance charge without stating the rate as an “annual percentage rate” or the abbreviation “APR,” using that term.

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- C. 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 Marty Sussman Organization, Inc., and its successors and assigns, and respondent Martin E. Sussman 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 Marty Sussman Organization, Inc., and its successors and assigns, and respondent Martin E. Sussman 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 Marty Sussman Organization, 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



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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 Martin E. Sussman, 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 respondent's 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 Marty Sussman Organization, Inc., and its successors and assigns, and respondent Martin E. Sussman shall, within sixty (60) days after the date of service of this order, and at such other times as the

## Decision and Order

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 on February 7, 2020, 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 respondents 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.

Analysis to Aid Public Comment

## **ANALYSIS OF PROPOSED CONSENT ORDERS TO AID PUBLIC COMMENT**

### **Summary**

The Federal Trade Commission has accepted separate agreements, subject to final approval, orders from respondents Dunphy Nissan, Inc. and Serge Naumovsky (“Dunphy”); Norristown Automobile Co., Inc. and William Milliken (“Norristown”); Northeast Auto Outlet, Inc. and Arthur Micchelli (“Northeast”); Pacifico Ardmore, Inc. and Kerry J. Pacifico (“Pacifico Ardmore”); Pacifico Ford, Inc. and Kerry T. Pacifico (“Pacifico Ford”); and Marty Sussman Organization, Inc. and Martin E. Sussman (“Sussman”)(together “respondents”). The persons named in these actions are named individually and as officers of their respective corporations.

The proposed consent orders have been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreements and the comments received and will decide whether it should withdraw from the agreement or make final the agreements' proposed orders.

### **I. Complaint Allegations**

#### **A. FTC Act Violations**

The complaints against the respondents allege that their automobile lease advertisements violate the Federal Trade Commission Act (“FTC Act”), the Consumer Leasing Act (“CLA”), and Regulation M. The complaints also allege that respondents' credit advertisements have violated the Truth in Lending Act (“TILA”) and Regulation Z. Section 5 of the FTC Act prohibits false, misleading, or deceptive representations or

## Analysis to Aid Public Comment

omissions of material information in advertisements. In addition, Congress established statutory disclosure requirements for lease and credit advertising under the CLA and the TILA, respectively, and directed the Federal Reserve Board ("Board") to promulgate regulations implementing such statutes -- Regulations M and Z respectively. *See* 15 U.S.C. §§ 1601-1667e; 12 C.F.R. Part 213; 12 C.F.R. Part 226.

The complaints against respondents allege that their lease advertisements represent 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 and the downpayment amount. These lease advertisements, according to the complaints, have failed to disclose, and/or failed to disclose adequately, additional terms pertaining to the lease offer, such as the total amount due at lease inception. The complaints allege that this information does not appear at all or appears in fine print in the advertisements and that the information would be material to consumers in deciding whether to visit respondents' dealerships and/or whether to lease an automobile from respondents. These practices, according to the complaints, constitute deceptive practices in violation of Section 5(a) of the FTC Act.

The complaints against Dunphy and Northeast also allege that these respondents misrepresent that consumers can purchase the advertised vehicles for the monthly payment amounts prominently stated in the advertisements. According to the complaints, the monthly payment amounts prominently stated in the advertisements are components of lease offers and not credit offers. These practices, according to the complaints, constitute deceptive practices in violation of Section 5(a) of the FTC Act.

The complaint against Dunphy further alleges that Dunphy misrepresents that the amount stated as "down" or "downpayment" is the total amount consumers must pay at lease inception to lease the advertised vehicles. According to the complaint, however, consumers are required to pay additional fees beyond the amount

## Analysis to Aid Public Comment

stated as “down” or “downpayment,” including but not limited to the first month's payment, a security deposit, and/or a bank fee. This practice, according to the complaint, constitutes a deceptive practice in violation of Section 5(a) of the FTC Act.

The complaint against Northeast also alleges that Northeast misrepresents that the offer to double consumers' downpayments up to \$4,000 applied to the lease or credit offers advertised. According to the complaint, the offer to double consumers' downpayments up to \$4,000 was not available with the advertised lease or credit offers. This practice, according to the complaint, constitutes a deceptive practice in violation of Section 5(a) of the FTC Act.

The complaints against Dunphy, Northeast, Norristown, and Pacifico Ardmore allege that their credit advertisements represent that consumers can purchase the advertised vehicles at the terms prominently stated in the advertisements, including but not necessarily limited to the sales price and/or downpayment amount. According to the complaints, these credit advertisements fail to disclose additional terms pertaining to the credit offer, such as the terms of repayment and the annual percentage rate. Such information is alleged to be material to consumers in deciding whether to visit respondents' dealerships and/or whether to purchase an automobile from respondents. These practices, according to the complaints, constitute deceptive practices in violation of Section 5(a) of the FTC Act.

### **B. CLA and Regulation M Violations**

The complaints allege that all respondents violated the CLA and Regulation M. The complaints allege that respondents' lease ads state a monthly payment amount and/or downpayment amount, but fail to disclose, and/or fail to disclose clearly and conspicuously, one or more of the following required terms: that the transaction advertised is a lease; the total amount due prior to

## Analysis to Aid Public Comment

or at consummation, or by delivery, if delivery occurs after consummation and that such amount: 1) excludes third-party fees that vary by state or locality, such as taxes, licenses, and registration fees, and discloses that fact or 2) includes third-party fees based on a particular state or locality and discloses that fact and the fact that such fees may vary by state or locality; whether or not a security deposit is required; the number, amounts, and timing of scheduled payments; and that an extra charge may be imposed at the end of the lease term in a lease where the liability of the consumer is based on the difference between the residual value of the leased property and its realized value at the end of the lease term.

According to the complaints, the lease disclosures in respondents' lease advertisements are not clear and conspicuous because they appear in fine print and/or in an inconspicuous location. These practices, according to the complaints, violate the advertising requirements of the CLA and Regulation M

The complaints also allege that respondents' lease advertisements state a downpayment amount more prominently than the disclosure of the total amount due at lease signing. According to the complaints, these practices violate Regulation M.

### **C. TILA and Regulation Z Violations**

The complaints against Dunphy, Norristown, Northeast, Pacifico Ardmore, and Pacifico Ford allege that these respondents violated the TILA and Regulation Z. According to the complaints, these respondents state a monthly payment amount and/or a downpayment amount as terms for financing the purchase of the advertised vehicles, but fail to disclose the following items of information required by Regulation Z: the annual percentage rate and the terms of repayment. In addition, the complaints against all respondents allege that their credit ads do not properly state the finance charge as the annual percentage rate, as required by Regulation Z.

## Analysis to Aid Public Comment

**II. Proposed Orders**

The proposed orders prohibit respondents from disseminating advertisements that state the amount of any payment due at inception (excluding the monthly payment amount) or the fact that any or no inception payment is due without also disclosing with “equal prominence” the total amount a consumer must pay at lease signing or delivery. This requirement parallels an identical requirement found in Regulation M.

The proposed orders also prohibit respondents from disseminating advertisements that state the amount of any payment or that any or no initial payment is required at lease signing or delivery, if delivery occurs after consummation, without disclosing clearly and conspicuously all of the terms required by Regulation M, as follows: that the transaction advertised is a lease; the total amount due at lease signing or delivery; whether or not a security deposit is required; the number, amounts, and timing of scheduled payments; and 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. This requirement is intended to enjoin the respondents from deceptively advertising only the most attractive portions of its lease offers by requiring clear and conspicuous disclosure of the information necessary for consumers to make informed decisions about advertised lease offers. This paragraph parallels the advertising disclosure requirements from the CLA and Regulation M. The proposed orders also prohibit respondents from violating the CLA and Regulation M.

In addition, the proposed order for Dunphy prohibits Dunphy from misrepresenting the costs of leasing, including the total due at lease inception. The proposed orders for respondents Dunphy and Northeast prohibit these respondents from misrepresenting

## Analysis to Aid Public Comment

that advertised terms apply to a cash or credit offer, when, in fact, the terms apply to an offer to lease the advertised vehicle. The proposed order for Northeast also prohibits Northeast from misrepresenting the availability of any advertised offer.

With respect to credit advertisements, the proposed orders prohibit respondents from stating 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 Regulation Z, as follows: the amount or percentage of the downpayment; the terms of repayment; and the correct 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.

The proposed orders also prohibit respondents from stating a rate of finance charge without stating the rate as an "annual percentage rate" or "APR." The proposed orders also prohibit all respondents from violating the TILA or Regulation Z.

The purpose of this analysis is to facilitate public comment on the proposed orders, and it is not intended to constitute an official interpretation of the agreements and proposed orders or to modify in any way their terms.



## Complaint

## IN THE MATTER OF

**PACIFICO FORD, INC., ET AL.**

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF  
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT, THE  
CONSUMER LEASING ACT, AND THE TRUTH IN LENDING ACT

*Docket C-3921; File No. 992 3079  
Complaint, February 7, 2000 – Decision, February 7, 2000*

This consent order prohibits respondents from disseminating advertisements that state the amount of any payment due at inception (excluding the monthly payment amount) or the fact that any or no inception payment is due without also disclosing with “equal prominence” the total amount a consumer must pay at lease signing or delivery. The consent orders also prohibit respondents from disseminating advertisements that state the amount of any payment or that any or no initial payment is required at lease signing or delivery, if delivery occurs after consummation, without disclosing clearly and conspicuously all of the terms required, that the transaction advertised is a lease; the total amount due at lease signing or delivery; whether or not a security deposit is required; the number, amounts, and timing of scheduled payments; and 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. With respect to credit advertisements, the proposed orders prohibit respondents from 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 terms, the amount or percentage of the down payment; the terms of repayment; and the correct 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. The consent orders also prohibit respondents from stating a rate of finance charge without stating the rate as an “annual percentage rate” or “APR.”

*Participants*

For the Commission: *Rolando Berrelez, David Medine, and Sally Forman Pitofsky.*

## Complaint

For the Respondents: *Richard A. Sprague, Sprague & Sprague.*

**COMPLAINT**

The Federal Trade Commission, having reason to believe that Pacifico Ford, Inc., a corporation, and Kerry T. Pacifico, 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. §§ 1667-1667f, 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 Pacifico Ford, Inc. is a Pennsylvania corporation with its principal office or place of business at 6701 Essington Avenue, Philadelphia, Pennsylvania 19153. Respondent offers automobiles for sale or lease to consumers.

2. Respondent Kerry T. Pacifico is an officer of the corporate respondent. Individually or in concert with others, he formulates, directs, controls, and participates in 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 the corporate respondent.

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

## Complaint

“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.

6. Respondents have disseminated or have caused to be disseminated advertisements promoting consumer leases (“lease advertisements”) and credit sales (“credit advertisements”) for automobiles, including but not necessarily limited to the attached Pacifico Ford Exhibit A and B. Pacifico Ford Exhibits A and B are advertisements in the print media. These lease and/or credit advertisements contain the following statements:

- A. [Pacifico Ford Exhibit A states several lease and credit offers, including:]

“NEW ‘99 FORD TAURUS LX. . .  
1.9%  
Financing up  
to 36 mos.

BUY FOR \$15,995

LEASE FOR: OR \$199 A MO.  
FOR 36 MOS.. . .

NEW ‘99 FORD WINDSTAR . . .

BUY FOR \$21,999

OR LEASE FOR \$229 A MO. FOR  
36 MOS.

## Complaint

0.9% FINANCING UP TO 48 MONTHS TO  
QUALIFIED BUYERS . . .”

[A fine print disclosure at the bottom of the ad states, “. . . All leases 36 mo. cel with \$2,500 down cash or trade. 1st mo. pymt., ref., sec.dep., bank fee, plus tax & tags.] (Pacifco Ford Exhibit A)

B. [Pacifco Ford Exhibit B states several lease offers including:]

“FACTORY AUTHORIZED CLEARANCE. . .  
ALL NEW 1998 TAURUS YOU GET \$750  
REBATE AND 0.9% FINANCING . . .

98 EXPLORER XLT 4X4 . . .

BUY	\$26,998	OR	\$369	PER MO.
FOR		LEASE		36 MOS.
		FOR		***”

[A fine print disclosure at the bottom of the ad states, “\*\*\* 36 Mo. Closed End Lease, Due at inception \$2,500 down cash or trade, 1st mo. payment, ref.sec.dep., bank fee (if req.) Tax & Tags Extra to qualified buyers.”] (Pacifco Ford Exhibit B)

### FEDERAL TRADE COMMISSION ACT VIOLATIONS

#### COUNT I: FAILURE TO DISCLOSE, AND/OR FAILURE TO DISCLOSE ADEQUATELY, LEASE TERMS

7. In lease advertisements, including but not necessarily limited to Pacifco Ford Exhibits A and B, 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.

## Complaint

8. These lease advertisements have failed to disclose, and/or failed to disclose adequately, additional terms pertaining to the lease offer, such as the total amount due at lease inception. This information either does not appear at all or appears in fine print in the advertisements. This information would be material to consumers in deciding whether to visit respondents' dealerships and/or whether to lease an automobile from respondents. The failure to disclose, and/or failure to disclose adequately, these additional terms, in light of the representation made, was, and is, a deceptive practice.

9. 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 II: FAILURE TO DISCLOSE, AND/OR FAILURE  
TO DISCLOSE CLEARLY AND CONSPICUOUSLY,  
REQUIRED INFORMATION**

10. Respondents' lease advertisements, including but not necessarily limited to Pacifico Ford Exhibits A and B, state a monthly payment amount, but fail to disclose, and/or fail to disclose clearly and conspicuously, certain additional terms required by the Consumer Leasing Act and Regulation M, including one or more of the following terms:

- 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. This total amount may: 1) exclude third-party fees that vary by state or locality, such as taxes, licenses, and registration fees, and disclose that fact or 2) provide a

## Complaint

total that includes third-party fees based on a particular state or locality as long as that fact and the fact that such fees may vary by state or locality are disclosed;

- c. whether or not a security deposit is required;
- d. the number, amounts, and timing of scheduled payments; and
- e. that an extra charge may be imposed at the end of the lease term in a lease where the liability of the consumer is based on the difference between the residual value of the leased property and its realized value at the end of the lease term.

11. The lease disclosures required by Regulation M, if provided, are not clear and conspicuous because they appear in fine print and/or in an inconspicuous location.

12. Respondents' practices have violated Section 184 of the Consumer Leasing Act, 15 U.S.C. § 1667c, and Section 213.7 of Regulation M, 12 C.F.R. § 213.7.

**COUNT III: FAILURE TO DISCLOSE THE TOTAL  
AMOUNT DUE AT LEASE SIGNING WITH EQUAL  
PROMINENCE**

13. Respondents' lease advertisements, including but not necessarily limited to Pacifico Ford Exhibits A and B, state a downpayment amount more prominently than the disclosure of the total amount due at lease signing, in violation of Section 213.7(b)(1) of Regulation M, 12 C.F.R. § 213.7(b)(1).

14. Respondents' practices have violated Section 213.7(b)(1) of Regulation M, 12 C.F.R. § 213.7(b)(1).

## Complaint

**TRUTH IN LENDING ACT AND REGULATION Z  
VIOLATIONS****COUNT IV: FAILURE TO DISCLOSE REQUIRED  
INFORMATION**

15. In credit advertisements, including but not necessarily limited to Pacifico Ford Exhibit A, respondents have stated the period of repayment, but have failed to disclose clearly and conspicuously, the following items of information required by Regulation Z: the amount or percentage of the downpayment, the terms of repayment, and/or the annual percentage rate.

16. 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).

**COUNT V: FAILURE TO STATE RATE OF FINANCE  
CHARGE AS ANNUAL PERCENTAGE RATE**

17. In credit advertisements, including but not necessarily limited to Pacifico Ford Exhibits A and B, respondents have stated a rate of finance charge without stating that rate as an "annual percentage rate," using that term or the abbreviation "APR."

18. Respondents' practice constitutes a violation of Section 144 and 107 of the TILA, 15 U.S.C. §§ 1664 and 1606, respectively, and Sections 226.24(b) and 226.22 of Regulation Z, 12 C.F.R. §§ 226.24(b) and 226.22, respectively.

THEREFORE, the Federal Trade Commission this seventh day of February, 2000, has issued this complaint against respondents.

By the Commission.

Complaint Exhibits

Exhibit A

**WE'RE CLOSING OUT 1998 WITH THE... BIGGEST SAVINGS BLAST OF THE YEAR!**

**NEW '99 FORD TAURUS LX**  
V6 Auto, CD, P.S., P.B. & MORE! Stock #11208

**TOTAL SAVINGS \$2,051**

**BUY FOR \$15,995** **1.9%**

OR **LEASE FOR \$199** A MO. FOR 36 MO.

RETAIL PRICE \$18,050  
FORD REBATE \$500  
PACIFIC DISC. \$1,551  
SALE PRICE \$15,999

**ONLY AT PACIFICO WILL YOU GET 1.9% FINANCING AND THE REBATE ON ALL NEW 1999 FORD TAURUS LX MODELS**

**NEW '99 FORD ESCORT ZX3 COUPE**  
2.0L 130HP, 1642 Ccu, City, AUTO/MAT, 1581 Year Math, Anti-Hair/Nerote Entry, P.S., Air, AM/FM Stereo Cass. Stock #119222

**TOTAL SAVINGS \$1,878**

**BUY FOR \$12,697**

OR **LEASE FOR \$129** A MO. FOR 36 MO.

RETAIL PRICE \$14,575  
FORD DISCOUNT \$1,000  
PACIFIC DISC. \$878  
SALE PRICE \$12,697

**INVENTORIES ARE AT AN ALL TIME HIGH. WE MUST SELL 100 VEHICLES THIS WEEK REGARDLESS OF PROFIT!**

**TRUCK HEADQUARTERS**

**NEW '99 FORD CONTOUR LX**  
4 Cylinder, Automatic, CD, R.D.W., AM/FM Stereo Cass., P.W., P.D.L. Stock #128163

**TOTAL SAVINGS \$2,241**

**BUY FOR \$13,999** **1.9%**

OR **LEASE FOR \$199** A MO. FOR 36 MO.

RETAIL PRICE \$16,240  
FORD REBATE \$500  
PACIFIC DISC. \$1,741  
SALE PRICE \$13,999

**ALL SALE PRICES WITH NO MONEY DOWN**

**0.9% FINANCING UP TO 48 MONTHS TO QUALIFIED BUYERS**

**NEW '99 FORD F150 RITZLEHIDE PICK-UP**  
V-6 Engine, 5.0L 200 Hrs, Super Duty, Windows Air, AM/FM Stereo, P.S., P.B., P.D.L. Stock #143205

**TOTAL SAVINGS \$2,616**

**BUY FOR \$13,999**

OR **LEASE FOR \$129** A MO. FOR 36 MO.

RETAIL PRICE \$16,615  
FORD DISCOUNT \$1,000  
PACIFIC DISC. \$1,016  
SALE PRICE \$13,999

**NEW '99 FORD WINDSTAR**  
2.0L Auto, CD, 7 Passenger, Cloth, 16. Year, Right Hand/Left Hand drive, 15" Alloy Wheels, 2nd/3rd row privacy glass, P.S., Air, St. #108295

**TOTAL SAVINGS \$4,196**

**BUY FOR \$21,999**

OR **LEASE FOR \$229** A MO. FOR 36 MO.

RETAIL PRICE \$26,195  
FORD DISCOUNT \$800  
FORD REBATE \$1,000  
PACIFIC DISC. \$821  
SALE PRICE \$21,999

**NEW '99 FORD EXPLORER 4WD**  
V6 Auto, All Terrain Tires, AM/FM Stereo & Cass. & CD, Day After Chrome Wheels, Fog Lamps, #109443

**TOTAL SAVINGS \$3,771**

**BUY FOR \$24,999** **1.9%**

OR **LEASE FOR \$269** A MO. FOR 36 MO.

RETAIL PRICE \$28,770  
FORD DISCOUNT \$1,200  
PACIFIC DISC. \$821  
SALE PRICE \$24,999

**RECEIVE A 4 DAY-3 NIGHT FAMILY VACATION TO ONE OF THE FOLLOWING SUN-FILED DESTINATIONS:**

- MYRTLE BEACH
- POCONOS
- ORLANDO
- VIRGINIA BEACH
- MONTREAL
- STATTON
- NIAGARA FALLS
- WILLIAMSBURG, VA

**4 DAY - 3 NIGHT COMPLIMENTARY VACATION With Every New Escort/Taurus Purchase (thru 12/31/98)**

**Bad Credit? No Problem! CALL MRS. HENDERSON 215-492-1700 EXT. 268 For Pacifico's Credit Connection**

**ALL NEW TAURUS SHO MODELS 4 TO CHOOSE FROM! MINIMUM DISC \$4,500**

On all Newer SHO's in Stock! For a limited time!

**Philadelphin Airport Automall**

**Pacifico Ford**

**6701 ESSINGTON AVE. (215) 492-1700**

All Sale Prices include all rebates including fact and/or direct mail rebates. All leases 36 mo. call with \$500 down cash or trade in the form, incl. reg. & title fees, plus tax & tag. 12% interest per year. 15¢ coverage to qualified buyers. Vacation for 2 adults, children stay free. Vacation must be used within 1 year and does not include airfare. Offer expires 7 days from publication date.

ONLY 0% SALES TAX TO NON-CITY RESIDENCE VISIT US AT OUR WEB SITE: <http://www.pacifcoford.com>

Pacifico Ford Exhibit A



Complaint Exhibits

Exhibit B

08-MW The Philadelphia Inquirer Sunday, August 9, 1998

**SEDAN HEAD QUARTERS**

**'98 ESCORT LX** SAVE \$2,177

1.8L 100hp 5-Speed Manual Trans. Front/Plan. Fog. Max. Pkg. AM/FM Stereo. Cass. CD/6V/Win/ Lock/Back-Door-Release. VIN #8P9W0203

RETAIL PRICE	\$12,175
FORD REBATE	\$1,000
PACIFICO DISCOUNT	\$1,077
SALE PRICE	\$10,100

BUY FOR: **\$9,988** OR LEASE FOR: **\$139** PER MO. 36 MOS.

**ALL SALE PRICES WITH NO MONEY DOWN!**

**FACTORY AUTHORIZED**

**TRUCK HEAD QUARTERS**

**'98 F150 STYLESIDE** SAVE \$2,207

PEP #80A, 4.3L 151hp Eng. 5-Speed Manual 4.8L Turbo. Heavy-Duty Winch. Backup. Cass. AM/FM. CD/6V/Win/ Lock. VIN #1WMC31467

RETAIL PRICE	\$19,700
PACIFICO DISC.	\$1,200
FORD DISCOUNT	\$1,000
SALE PRICE	\$17,500

BUY FOR: **\$14,498** OR LEASE FOR: **\$169** PER MO. 36 MOS.

**BUY A NEW ESCORT IN AUGUST & GET A FREE VACUUM!**  
\*See Salesperson for Details.

**CLEARANCE**

**'98 CONTOUR LX** SAVE \$2,542

2.0L DOHC 4-Cyl. Eng. 5-Speed 5-SP. Trans. AM Conv. 17" Power Windows. Power Mirr. 70" Wheel. AM/FM Stereo. Cass. AM/FM. CD/6V/Win/ Lock. VIN #1WMC31467

RETAIL PRICE	\$16,300
FORD REBATE	\$1,000
PACIFICO DISCOUNT	\$1,000
SALE PRICE	\$14,300

BUY FOR: **\$13,698** OR LEASE FOR: **\$179** PER MO. 36 MOS.

**ALL NEW 1998 TAURUS**

**YOU GET BOTH \$750 REBATE AND 0.9% FINANCING**

**'98 F-150 SUPERCAB 4x4** SAVE \$3,117

PEP #80A, 4.3L 151hp Eng. 5-Speed Manual 4.8L Turbo. Heavy-Duty Winch. Backup. Cass. AM/FM. CD/6V/Win/ Lock. VIN #1WMC31467

RETAIL PRICE	\$28,715
PACIFICO DISCOUNT	\$2,500
FORD DISCOUNT	\$1,500
SALE PRICE	\$24,715

BUY FOR: **\$24,598** OR LEASE FOR: **\$239** PER MO. 36 MOS.

**'98 TAURUS LX** SAVE \$3,897

2.0L 4-Cyl. Eng. AUTOMATIC 5-SP. Trans. Fuel Injection. Cass. AM/FM. CD/6V/Win/ Lock. VIN #1WMC31467

RETAIL PRICE	\$18,890
FORD REBATE	\$1,000
PACIFICO DISCOUNT	\$1,000
SALE PRICE	\$16,890

BUY FOR: **\$14,998** OR LEASE FOR: **\$199** PER MO. 36 MOS.

**'98 CONVERSION VAN** SAVE \$2,915

B-100 BENCHMOUNT, PEP #743A. 4.9L Eng. 4.0L V6 Eng. Auto. CD Trans. 7 Speakers. Power Windows. Cass. AM/FM. CD/6V/Win/ Lock. VIN #1WMC31467

RETAIL PRICE	\$28,915
PACIFICO DISCOUNT	\$2,400
FORD REBATE	\$1,500
SALE PRICE	\$24,998

BUY FOR: **\$24,998** OR LEASE FOR: **\$379** PER MO. 36 MOS.

**'98 EXPLORER XLT 4x4** SAVE \$3,707

Standard, PEP #80A, 4.6L 250hp Eng. 4-SP. Auto. 4.0L V6. Heavy-Duty Winch. Backup. Cass. AM/FM. CD/6V/Win/ Lock. VIN #1WMC31467

RETAIL PRICE	\$31,300
PACIFICO DISCOUNT	\$2,000
FORD DISCOUNT	\$1,000
SALE PRICE	\$28,300

BUY FOR: **\$26,998** OR LEASE FOR: **\$369** PER MO. 36 MOS.

**Pacifico Ford** **6701 ESSINGTON AVE.**

**Philadelphia Airport Automall** **(215) 492-1700** **Pacifico**

\*See Salesperson for Details. \*See Salesperson for Details. \*See Salesperson for Details.

Decision and Order

**DECISION AND ORDER**

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of 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 the respondents with violations of the Federal Trade Commission Act, 15 U.S.C. §§ 45-58, as amended, the Consumer Leasing Act, 15 U.S.C. §§ 1667-1667f, 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

The respondents, their attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondents that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true 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 the respondents have violated the said Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

## Decision and Order

1. Respondent Pacifico Ford, Inc. is a Pennsylvania corporation with its principal office or place of business at 6701 Essington Avenue, Philadelphia, Pennsylvania 19153.
2. Respondent Kerry T. Pacifico 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 the corporate respondent.
3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

**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, video, radio, or Internet or other electronic advertisement, an audio disclosure shall be delivered in a volume, cadence, and location sufficient for an ordinary consumer to hear and comprehend it. A video disclosure shall be of a size and shade, and shall appear on the screen for a duration and in a location, sufficient for an ordinary consumer to read and comprehend it.

## Decision and Order

- b. In a print advertisement, a disclosure shall be in a type size and location sufficiently noticeable for an ordinary consumer to read and comprehend it, in print that contrasts with the background against which it appears.

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.

2. "Equal prominence" shall mean as follows:
  - a. In a television, video, radio, or Internet or other electronic advertisement, a video disclosure shall be presented in the same or similar format, including but not necessarily limited to type size, shade, contrast, duration, and placement. An 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, a disclosure shall be presented in the same or similar format, including but not necessarily limited to type size, shade, contrast, 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 signing or delivery" as used herein 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, as required by Regulation M, 12 C.F.R. § 213, as amended. The total amount due at lease signing or delivery may 1) exclude third-party fees, such as taxes, licenses, and registration fees, and

## Decision and Order

disclose that fact or 2) provide a total that includes third-party fees based on a particular state or locality as long as that fact and the fact that such fees may vary by state or locality are disclosed. (Section 213.7 of Regulation M, 12 C.F.R. § 213.7, as amended.)

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 Pacifico Ford, Inc., a corporation, its successors and assigns and its officers; Kerry T. Pacifico, 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. Make any reference to any charge that is part of the total amount due at lease signing or delivery or that no such charge is required, not including a statement of the periodic payment, unless the advertisement also states with equal prominence the total amount due at lease signing or delivery.
- B. State the amount of any payment or that any or no initial payment is required at lease signing or delivery, if delivery occurs after consummation, without

## Decision and Order

disclosing clearly and conspicuously all of the terms required by Regulation M, as follows:

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.

(Section 184(a) of the Consumer Leasing Act (“CLA”), 15 U.S.C. § 1667c(a), as amended, and Section 213.7 of Regulation M, 12 C.F.R. § 213.7, as amended.)

For radio advertisements, respondents may also comply with the requirements of this subparagraph by utilizing Section 184(c) of the CLA, 15 U.S.C. § 1667c(C), and Section 213.7(f) of Regulation M, 12 C.F.R. § 213.7(f), as amended. For television advertisements, respondents may also comply with the requirements of this subparagraph by utilizing Section 213.7(f) of Regulation M, as amended.

- C. Fail to comply in any other respect with Regulation M, 12 C.F.R. § 213, as amended, and the CLA, 15 U.S.C. §§ 1667-1667f, 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

## Decision and Order

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 Regulation Z, as follows:
  - 1. the amount or percentage of the downpayment;
  - 2. the terms of repayment; and
  - 3. the correct 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.

(Sections 107 and 144(d) of the TILA, 15 U.S.C. §§ 1606 and 1664(d), as amended, and Sections 226.22 and 226.24(c) of Regulation Z, 12 C.F.R. §§ 226.22 and 226.24(c), as amended.)
- B. State a rate of finance charge without stating the rate as an “annual percentage rate” or the abbreviation “APR,” using that term.
- C. 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.

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**III.**

**IT IS FURTHER ORDERED** that respondent Pacifico Ford, Inc., and its successors and assigns, and respondent Kerry T. Pacifico 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 Pacifico Ford, Inc., and its successors and assigns, and respondent Kerry T. Pacifico 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 Pacifico 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



## Decision and Order

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 respondents Kerry T. Pacifico, 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 respondent's 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 Pacifico Ford, Inc., and its successors and assigns, and respondent Kerry T. Pacifico 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.

## Decision and Order

**VIII.**

This order will terminate on February 7, 2020, 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 respondents 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.

Analysis to Aid Public Comment

## **Analysis of Proposed Consent Orders to Aid Public Comment**

### **Summary**

The Federal Trade Commission has accepted separate agreements, subject to final approval, orders from respondents Dunphy Nissan, Inc. and Serge Naumovsky (“Dunphy”); Norristown Automobile Co., Inc. and William Milliken (“Norristown”); Northeast Auto Outlet, Inc. and Arthur Micchelli (“Northeast”); Pacifico Ardmore, Inc. and Kerry J. Pacifico (“Pacifico Ardmore”); Pacifico Ford, Inc. and Kerry T. Pacifico (“Pacifico Ford”); and Marty Sussman Organization, Inc. and Martin E. Sussman (“Sussman”)(together “respondents”). The persons named in these actions are named individually and as officers of their respective corporations.

The proposed consent orders have been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreements and the comments received and will decide whether it should withdraw from the agreement or make final the agreements' proposed orders.

### **I. Complaint Allegations**

#### **A. FTC Act Violations**

The complaints against the respondents allege that their automobile lease advertisements violate the Federal Trade Commission Act (“FTC Act”), the Consumer Leasing Act (“CLA”), and Regulation M. The complaints also allege that respondents' credit advertisements have violated the Truth in Lending Act (“TILA”) and Regulation Z. Section 5 of the FTC Act prohibits false, misleading, or deceptive representations or

## Analysis to Aid Public Comment

omissions of material information in advertisements. In addition, Congress established statutory disclosure requirements for lease and credit advertising under the CLA and the TILA, respectively, and directed the Federal Reserve Board ("Board") to promulgate regulations implementing such statutes -- Regulations M and Z respectively. See 15 U.S.C. §§ 1601-1667e; 12 C.F.R. Part 213; 12 C.F.R. Part 226.

The complaints against respondents allege that their lease advertisements represent 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 and the downpayment amount. These lease advertisements, according to the complaints, have failed to disclose, and/or failed to disclose adequately, additional terms pertaining to the lease offer, such as the total amount due at lease inception. The complaints allege that this information does not appear at all or appears in fine print in the advertisements and that the information would be material to consumers in deciding whether to visit respondents' dealerships and/or whether to lease an automobile from respondents. These practices, according to the complaints, constitute deceptive practices in violation of Section 5(a) of the FTC Act.

The complaints against Dunphy and Northeast also allege that these respondents misrepresent that consumers can purchase the advertised vehicles for the monthly payment amounts prominently stated in the advertisements. According to the complaints, the monthly payment amounts prominently stated in the advertisements are components of lease offers and not credit offers. These practices, according to the complaints, constitute deceptive practices in violation of Section 5(a) of the FTC Act.

The complaint against Dunphy further alleges that Dunphy misrepresents that the amount stated as "down" or "downpayment" is the total amount consumers must pay at lease inception to lease the advertised vehicles. According to the complaint, however, consumers are required to pay additional fees beyond the amount

## Analysis to Aid Public Comment

stated as “down” or “downpayment,” including but not limited to the first month's payment, a security deposit, and/or a bank fee. This practice, according to the complaint, constitutes a deceptive practice in violation of Section 5(a) of the FTC Act.

The complaint against Northeast also alleges that Northeast misrepresents that the offer to double consumers' downpayments up to \$4,000 applied to the lease or credit offers advertised. According to the complaint, the offer to double consumers' downpayments up to \$4,000 was not available with the advertised lease or credit offers. This practice, according to the complaint, constitutes a deceptive practice in violation of Section 5(a) of the FTC Act.

The complaints against Dunphy, Northeast, Norristown, and Pacifico Ardmore allege that their credit advertisements represent that consumers can purchase the advertised vehicles at the terms prominently stated in the advertisements, including but not necessarily limited to the sales price and/or downpayment amount. According to the complaints, these credit advertisements fail to disclose additional terms pertaining to the credit offer, such as the terms of repayment and the annual percentage rate. Such information is alleged to be material to consumers in deciding whether to visit respondents' dealerships and/or whether to purchase an automobile from respondents. These practices, according to the complaints, constitute deceptive practices in violation of Section 5(a) of the FTC Act.

### **B. CLA and Regulation M Violations**

The complaints allege that all respondents violated the CLA and Regulation M. The complaints allege that respondents' lease ads state a monthly payment amount and/or downpayment amount, but fail to disclose, and/or fail to disclose clearly and conspicuously, one or more of the following required terms: that the transaction advertised is a lease; the total amount due prior to

## Analysis to Aid Public Comment

or at consummation, or by delivery, if delivery occurs after consummation and that such amount: 1) excludes third-party fees that vary by state or locality, such as taxes, licenses, and registration fees, and discloses that fact or 2) includes third-party fees based on a particular state or locality and discloses that fact and the fact that such fees may vary by state or locality; whether or not a security deposit is required; the number, amounts, and timing of scheduled payments; and that an extra charge may be imposed at the end of the lease term in a lease where the liability of the consumer is based on the difference between the residual value of the leased property and its realized value at the end of the lease term.

According to the complaints, the lease disclosures in respondents' lease advertisements are not clear and conspicuous because they appear in fine print and/or in an inconspicuous location. These practices, according to the complaints, violate the advertising requirements of the CLA and Regulation M

The complaints also allege that respondents' lease advertisements state a downpayment amount more prominently than the disclosure of the total amount due at lease signing. According to the complaints, these practices violate Regulation M.

### **C. TILA and Regulation Z Violations**

The complaints against Dunphy, Norristown, Northeast, Pacifico Ardmere, and Pacifico Ford allege that these respondents violated the TILA and Regulation Z. According to the complaints, these respondents state a monthly payment amount and/or a downpayment amount as terms for financing the purchase of the advertised vehicles, but fail to disclose the following items of information required by Regulation Z: the annual percentage rate and the terms of repayment. In addition, the complaints against all respondents allege that their credit ads do not properly state the finance charge as the annual percentage rate, as required by Regulation Z.

## Analysis to Aid Public Comment

**II. Proposed Orders**

The proposed orders prohibit respondents from disseminating advertisements that state the amount of any payment due at inception (excluding the monthly payment amount) or the fact that any or no inception payment is due without also disclosing with “equal prominence” the total amount a consumer must pay at lease signing or delivery. This requirement parallels an identical requirement found in Regulation M.

The proposed orders also prohibit respondents from disseminating advertisements that state the amount of any payment or that any or no initial payment is required at lease signing or delivery, if delivery occurs after consummation, without disclosing clearly and conspicuously all of the terms required by Regulation M, as follows: that the transaction advertised is a lease; the total amount due at lease signing or delivery; whether or not a security deposit is required; the number, amounts, and timing of scheduled payments; and 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. This requirement is intended to enjoin the respondents from deceptively advertising only the most attractive portions of its lease offers by requiring clear and conspicuous disclosure of the information necessary for consumers to make informed decisions about advertised lease offers. This paragraph parallels the advertising disclosure requirements from the CLA and Regulation M. The proposed orders also prohibit respondents from violating the CLA and Regulation M.

In addition, the proposed order for Dunphy prohibits Dunphy from misrepresenting the costs of leasing, including the total due at lease inception. The proposed orders for respondents Dunphy and Northeast prohibit these respondents from misrepresenting

## Analysis to Aid Public Comment

that advertised terms apply to a cash or credit offer, when, in fact, the terms apply to an offer to lease the advertised vehicle. The proposed order for Northeast also prohibits Northeast from misrepresenting the availability of any advertised offer.

With respect to credit advertisements, the proposed orders prohibit respondents from stating 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 Regulation Z, as follows: the amount or percentage of the downpayment; the terms of repayment; and the correct 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.

The proposed orders also prohibit respondents from stating a rate of finance charge without stating the rate as an "annual percentage rate" or "APR." The proposed orders also prohibit all respondents from violating the TILA or Regulation Z.

The purpose of this analysis is to facilitate public comment on the proposed orders, and it is not intended to constitute an official interpretation of the agreements and proposed orders or to modify in any way their terms.



## Complaint

## IN THE MATTER OF

**NORTHEAST AUTO OUTLET, INC., ET AL.**

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF  
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT, THE  
CONSUMER LEASING ACT, AND THE TRUTH IN LENDING ACT

*Docket C-3925; File No. 992 3080*  
*Complaint, February 7, 2000 – Decision, February 7, 2000*

This consent order prohibits respondents from disseminating advertisements that state the amount of any payment due at inception (excluding the monthly payment amount) or the fact that any or no inception payment is due without also disclosing with “equal prominence” the total amount a consumer must pay at lease signing or delivery. The consent orders also prohibit respondents from disseminating advertisements that state the amount of any payment or that any or no initial payment is required at lease signing or delivery, if delivery occurs after consummation, without disclosing clearly and conspicuously all of the terms required, that the transaction advertised is a lease; the total amount due at lease signing or delivery; whether or not a security deposit is required; the number, amounts, and timing of scheduled payments; and 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. With respect to credit advertisements, the proposed orders prohibit respondents from 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 terms, the amount or percentage of the down payment; the terms of repayment; and the correct 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. The consent orders also prohibit respondents from stating a rate of finance charge without stating the rate as an “annual percentage rate” or “APR.”

*Participants*

For the Commission: *Rolando Berrelez, David Medine, and Sally Forman Pitofsky.*

## Complaint

For the Respondents: *Richard A. Sprague, Sprague & Sprague.*

**COMPLAINT**

The Federal Trade Commission, having reason to believe that Northeast Auto Outlet, Inc and Northeast Auto Outlet Corporation, corporations, also doing business as Northeast Chevy/Geo, Northeast Kia, Northeast Dodge, Northeast Hyundai, Northeast Buick, Northeast Isuzu, Northeast Jeep/Eagle, Northeast Volkswagen, and Arthur Micchelli, individually and as an officer of the corporations, ("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. §§ 1667-1667f, 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 Northeast Auto Outlet, Inc. is a Pennsylvania corporation with its principal office or place of business at 3301 Grant Avenue, Philadelphia, PA 19114. Respondent offers automobiles for sale or lease to consumers.

2. Respondent Northeast Auto Outlet Corporation is a Pennsylvania corporation with its principal office or place of business at 3301 Grant Avenue, Philadelphia, PA 19114. Respondent offers automobiles for sale or lease to consumers.

3. Respondent Arthur Micchelli is an officer of the corporate respondents. Individually or in concert with others, he formulates, directs, controls, and participates in the policies, acts, or practices of the corporations, including the acts or practices alleged in this complaint. His principal office or place of business is the same as that of the corporate respondents.

## Complaint

4. 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.

5. 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.

6. 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.

7. Respondents have disseminated or have caused to be disseminated advertisements promoting consumer leases (“lease advertisements”) and/or credit sales (“credit advertisements”) for automobiles, including but not necessarily limited to the attached Northeast Exhibits A, B, and C. Northeast Exhibits A, B, and C are advertisements in the print media. These lease and/or credit advertisements contain the following statements:

- A. [Northeast Exhibit A states numerous lease and credit offers, including:]

**“98 CARAVANS *You Pay Only* . . .  
From \$13,985 OR \$189 PER MO.  
36 MO.†**

. . .

**Northeast Auto Outlet Will . . .  
DOUBLE YOUR DOWN PAYMENT  
UP \$4000!\*  
TO**

## Complaint

**'98 TROOPER**  
**\$22,985**  
 OR  
**\$299 PER MO.†**  
**36 MO.**

...

**'98 CAVALIER LS *You Pay Only***  
**\$8695**  
 OR  
**\$169 PER MO.**  
**36 MO.†”**

[A fine print disclosure at the bottom of the ad states, “To qualified buyers. Sales prices and leases based on \$1250 (\$3000 on Cavalier & Jetta \$2000 on Jeeps and Buicks) down cash or trade, plus bank fee, M.V. & tax. All rebates & incentives to dealer, including \$400 college grad rebates. \*\* Severity of credit affects term, down payment & A.P.R. Bankruptcies must be discharged. †Lease down payment + first mo., ref.sec.dep & bank fee due at lease signing + m.v. & tax. . . . \*Applies to purchase at dealer retail only. Not available on advertised specials or in conjunction with any ad or offer. All rebates & incentives to dealer.”](Northeast Exhibit A)

- B. [Northeast Exhibit B states numerous lease and credit offers, including:]

**“FINANCING AS LOW AS 0%\***

...

**'98 CAVALIER**  
**\$7995 OR \$109 Per Month Lease”**

Complaint

[A fine print disclosure adjacent to the above cost information states: "To qualified buyers, lease payments of \$109/mo. For 48 mos. \$2854 due at lease signing plus M.V. & tax. . . Security deposit may apply."]

**"98 CARAVANS  
\$13,995 OR \$159 Per Month Lease"**

[A fine print disclosure adjacent to the above cost information states: "To qualified buyers, lease payments of \$159/mo. For 36 mos. \$2924 due at lease signing plus M.V. & tax. . . Security deposit may apply."]

**"98 CHEROKEE SE  
\$13,595 OR \$139 Per Month Lease"**

[A fine print disclosure adjacent to the cost information states: To qualified buyers, lease payments of \$139/mo. for 36 mos. \$3645 due at lease signing plus M.V. & tax. . . Security deposit may apply."]

[A fine print disclosure at the bottom of the ad states, "\*Up to 60 months on select vehicles. Sales prices (including used vehicles) based on \$2000 down cash or trade, plus bank fee, M.V. & tax. . . .] (Northeast Exhibit B).

C. [Northeast Exhibit C states three lease and credit offers:]

<b>"98 Jetta GL . . .</b>	<b>'98 Jetta TDI . . .</b>	<b>'98 Passat GLS . . .</b>	
<b>\$11,995</b>	<b>\$13,795</b>	<b>\$17,095</b>	
<b>OR</b>	<b>OR</b>	<b>OR</b>	<b>PER</b>
<b>LEASE \$149</b>	<b>LEASE \$179</b>	<b>LEASE</b>	<b>\$199</b>
<b>MONTH</b>	<b>MONTH</b>		
<b>FOR</b>	<b>FOR</b>	<b>FOR</b>	<b>36</b>
	<b>36</b>	<b>36</b>	<b>MO."</b>
	<b>MO.</b>	<b>MO.</b>	

## Complaint

[A fine print disclosure at the bottom of the ad states: “Prices and leases include \$1250 (\$3000 on GL) down cash or trade. Down payment, sec. deposit, bank fee & 1st month due at lease signing. MV, tax & tag not included. . . .”] (Northeast Exhibit C)

**FEDERAL TRADE COMMISSION ACT VIOLATIONS****COUNT I: MISREPRESENTATION OF ADVERTISED TRANSACTION**

8. In lease advertisements, including but not necessarily limited to Northeast Exhibit A, respondents have represented, expressly or by implication, that consumers can purchase the advertised vehicles by financing the vehicle through credit for the monthly payment amounts prominently stated in the advertisements.

9. In truth and in fact, consumers cannot purchase the advertised vehicles by financing the vehicle through credit for the monthly payment amounts prominently stated in the advertisements. The monthly payment amounts prominently stated in the advertisements are components of lease offers and not credit offers. Therefore, respondents’ representation as alleged in Paragraph 8 was, and is, false or misleading.

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: MISREPRESENTATION OF THE AVAILABILITY OF ADVERTISED OFFERS**

11. In lease and/or credit advertisements, including but not necessarily limited to Northeast Exhibit A, respondents have represented, expressly or by implication, that the offer to double consumers’ downpayments up to \$4,000 would be available for the lease or credit offers advertised.

## Complaint

12. In truth and in fact, the offer to double consumers' downpayments up to \$4,000 was not available with the advertised lease or credit offers. Therefore, respondents' representation as alleged in Paragraph 11 was, and is, false or misleading.

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).

**COUNT III: FAILURE TO DISCLOSE, AND/OR FAILURE TO DISCLOSE ADEQUATELY, LEASE TERMS**

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

15. These lease advertisements have failed to disclose, and/or failed to disclose adequately, additional terms pertaining to the lease offer, such as the total amount due at lease inception. This information either does not appear at all or appears in fine print in the advertisements. This information would be material to consumers in deciding whether to visit respondents' dealerships and/or whether to lease an automobile from respondents. The failure to disclose, and/or failure to disclose adequately, these additional terms, in light of the representation made, was, and is, a deceptive practice.

16. 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).

## Complaint

**COUNT IV: FAILURE TO DISCLOSE, AND/OR FAILURE  
TO DISCLOSE ADEQUATELY, CREDIT TERMS**

17. In credit advertisements, including but not necessarily limited to Northeast Exhibits A, B, and C, respondents have represented, expressly or by implication, that consumers can finance the purchase of the advertised vehicles at the terms stated in the advertisements, including but not necessarily limited to the sales price and/or the downpayment amount.

18. These credit advertisements have failed to disclose, and/or failed to disclose adequately, additional terms pertaining to the credit offer, such as the annual percentage rate, and/or the terms of repayment. This information either does not appear at all or appears in fine print in the advertisements. This information would be material to consumers in deciding whether to visit respondents' dealerships and/or whether to purchase an automobile from respondents. The failure to disclose adequately these additional terms, in light of the representation made, was, and is, a deceptive practice.

19. 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 V: FAILURE TO DISCLOSE, AND/OR FAILURE  
TO DISCLOSE CLEARLY AND CONSPICUOUSLY,  
REQUIRED INFORMATION**

20. Respondents' lease advertisements, including but not necessarily limited to Northeast Exhibits A, B, and C, state a monthly payment amount, but fail to disclose, and/or fail to disclose clearly and conspicuously, certain additional terms



## Complaint

required by the Consumer Leasing Act and Regulation M, including one or more of the following terms:

- 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. This total amount may: 1) exclude third-party fees that vary by state or locality, such as taxes, licenses, and registration fees, and disclose that fact or 2) provide a total that includes third-party fees based on a particular state or locality as long as that fact and the fact that such fees may vary by state or locality are disclosed;
- c. whether or not a security deposit is required;
- d. the number, amounts, and timing of scheduled payments; and
- e. that an extra charge may be imposed at the end of the lease term in a lease where the liability of the consumer is based on the difference between the residual value of the leased property and its realized value at the end of the lease term.

21. The lease disclosures required by Regulation M, if provided, are not clear and conspicuous because they appear in fine print and/or in an inconspicuous location.

22. Respondents' practices have violated Section 184 of the Consumer Leasing Act, 15 U.S.C. § 1667c, and Section 213.7 of Regulation M, 12 C.F.R. § 213.7.

## Complaint

**COUNT VI: FAILURE TO DISCLOSE THE TOTAL  
AMOUNT DUE AT LEASE SIGNING WITH EQUAL  
PROMINENCE**

23. Respondents' lease advertisements, including but not necessarily limited to Northeast Exhibits A, B, and C, state a downpayment amount more prominently than the disclosure of the total amount due at lease signing, in violation of Section 213.7(b)(1) of Regulation M, 12 C.F.R. § 213.7(b)(1).

24. Respondents' practices have violated Section 213.7(b)(1) of Regulation M, 12 C.F.R. § 213.7(b)(1).

**TRUTH IN LENDING ACT AND REGULATION Z  
VIOLATIONS****COUNT VII: FAILURE TO DISCLOSE, AND/OR  
FAILURE TO DISCLOSE CLEARLY AND  
CONSPICUOUSLY, REQUIRED INFORMATION**

25. In credit advertisements, including but not necessarily limited to Northeast Exhibits A, B, and C, respondents have stated the amount of the downpayment as terms for financing the purchase of the advertised vehicles, but have failed to disclose, and/or failed to disclose clearly and conspicuously, the following items of information required by Regulation Z: the amount of any downpayment, the annual percentage rate, and/or the terms of repayment.

26. The credit disclosures required by Regulation Z, if provided, are not clear and conspicuous because they appear in fine print and/or in an inconspicuous location.

27. 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).

## Complaint

**COUNT VIII: FAILURE TO STATE RATE OF FINANCE  
CHARGE AS ANNUAL PERCENTAGE RATE**

28. In credit advertisements, including but not necessarily limited to Northeast Exhibit B, respondents have stated a rate of finance charge without stating that rate as an "annual percentage rate," using that term or the abbreviation "APR."

29. Respondents' practice constitutes a violation of Section 144 and 107 of the TILA, 15 U.S.C. §§ 1664 and 1606, respectively, and Sections 226.24(b) and 226.22 of Regulation Z, 12 C.F.R. §§ 226.24(b) and 226.22, respectively.

THEREFORE, the Federal Trade Commission this seventh day of February, 2000, has issued this complaint against respondents.

By the Commission.

Complaint Exhibits

Exhibit A

Northeast Auto Outlet Will...

**DOUBLE YOUR DOWN PAYMENT**

**\$4,000!**

TAX RETURNS WELCOME

UP TO

100% SATISFACTION GUARANTEED LOWEST PRICE

**DODGE OUTLET**

'98 CARAVANS \$13,985 - \$169  
'98 DAKOTA PU \$8,125 - \$129  
'98 STRATUS \$12,895 - \$159  
'98 INTREPID \$16,995 - \$299  
'98 DURANGO \$22,972 - \$299

**JEEP OUTLET**

'98 CHEROKEE SE \$14,995 - \$239  
'98 WRANGLER SPORT \$17,495 - \$199  
'98 PLYMOUTH LADRO \$22,995 - \$309  
'97 EAGLE TALON \$14,997 - \$199

**ISUZU OUTLET**

'98 RODEO \$19,575 - \$229  
'98 TROOPER \$22,985 - \$299

**BUICK OUTLET**

'98 LESABRE \$18,995 - \$279  
'98 CENTURY \$14,995 - \$259

**CHEVY OUTLET**

'98 CAVALIER LS \$8,695 - \$169  
'98 MALIBU \$13,995 - \$239  
'98 CAMARO \$13,795 - \$219  
'98 EL CAMINO \$22,295 - \$299  
'97 LUMINA \$11,995 - \$299

**MINI/MINI OUTLET**

'98 ACCENT \$6,895  
'97 ELANTRA GLS \$9,595

**VW OUTLET**

'98 PASSAT GLS \$17,095 - \$199  
'98 JETTA GL \$11,995 - \$149

**FIAT OUTLET**

'97 SPORTAGE \$13,995 - \$219  
'97 SEPHIA LS \$7,495 - \$189

**USED CAR & TRUCK OUTLET**

'97 Buick Skyline \$695  
'98 Plymouth Voyager \$1,995  
'98 Mitsubishi Eclipse \$4,995  
'93 Ford Probe \$5,295  
'93 Dodge Cavalier \$5,695  
'93 Dodge Dakota \$5,995  
'93 Chrysler Conv. \$6,495  
'97 Ford \$7,495  
'92 Ford F-150 P/U \$7,895  
'94 Saturn SC \$7,895  
'94 Dodge Cavalier SE \$9,995  
'93 Nissan Maxima \$10,995  
'97 Jeep Wrangler \$13,495  
'96 GMC Pickup \$15,995

**WE'LL BEAT ANY PRICE ON ANY MAKE OR MODEL**

**NORTHEAST AUTO OUTLET**

FRANK AVE. & ACADEMY RD. 215-824-0800 Buy Online at WWW.NORTHEASTAUTO.COM

Complaint Exhibits

Exhibit B

**SENSATIONAL Summer Spectacular!**

**NO PAYMENTS 1999**

**\$1000 IN SUMMER MERCHANDISE OF EQUAL CASH SAVINGS!**

**CHEVY OUTLET DODGE OUTLET**

'98 Cavalier	7995-109	'98 Neon	9255-143
'98 Camaro	2995-179	'98 Stratus	12595-169
'98 Blazer	3695-219	'98 Intrepid	15895-179
'98 Tahoe LS	2795-219	'98 Caravans	13995-159
	2795-249	'98 Dakota 4x4 Club Cab	17227-227

**BUICK OUTLET**

'98 Falcon TSi	13995	'98 Regal GS	10000-270
'98 Buick	13595-139	'98 Century	14495-240
'98 Grand Cherokee	19995	'98 Park Ave	22995

**MINI OUTLET SUZUKI OUTLET**

'98 Suzuki	16995	'98 Accord	5895	'98 Cavalier	15995-189	'98 Amigos	12995
'98 Pontiac	12995	'98 Blazer	8195	'98 Buick	13195-89	'98 Rodeos	17995
'98 Ford	12995	'98 Tiburon	10695	'97 Jetta	12795	'98 Troopers	19995

**Special Models Sale!**

'88 Buick	11595	'91 Ford	2295	'94 Plymouth	2995	'95 Plymouth	3995
'93 Buick	5495	'94 Ford	5595	'95 Jeep	12995	'92 Jaguar	16995
'98 Buick	9995	'98 Buick	13995	'98 Buick	13995	'98 Buick	13995
'97 Buick	14995	'98 Buick	16995	'98 Buick	16995	'98 Buick	16995

**WE'LL BEAT ANY PRICE ON ANY MAKE OR MODEL!**

**NORTHEAST AUTO OUTLET**

GRANT AVENUE & ACADEMY ROAD

ISUZU & USED ext 369

Complaint Exhibits

Exhibit C

Autos for Sale Autos for Sale Autos for Sale Auto: for Sale Autos for Sale




1.9% APR AVAILABLE ON SELECT MODELS

**NORTHEAST** Buy Online at [WWW.NORTHEASTAUTO.COM](http://WWW.NORTHEASTAUTO.COM)

# VOLKSWAGEN

*Of Philadelphia*

**'98 Jetta GL '98 Jetta TDI '98 Passat GLS**

		
4 Dr, 4 Cyl, 5 Spd, FWD, P/S/B, Air, AM/FM Cass, R/Def, T/Glss, Int/Wpr, P/Roof, Cruise, MSRP-\$16,835, SIK#680013	4 Dr, 4 Cyl, 5 Spd, FWD, P/S/B, Air, AM/FM Cass, P/L, R/Def, T/Glss, P/Win, Int/Wpr, Moonroof, Velour Buckets, Radials, MSRP-\$18,380, SIK#680033	4 Dr, 4 Cyl, 5 Spd, FWD, P/S/B, Air, AM/FM Cass, P/L, Tilt, R/Def, T/Glss, P/Win, Int/Wpr, Velour Buckets, Radials, MSRP-\$21,250, SIK#680050
<b>\$11,995</b>	<b>\$13,795</b>	<b>\$17,095</b>
OR LEASE FOR <b>\$149</b> PER MONTH 36 MO.	OR LEASE FOR <b>\$179</b> PER MONTH 36 MO.	OR LEASE FOR <b>\$199</b> PER MONTH 36 MO.

**Drivers wanted.**

**NORTHEAST** *Of Philadelphia*

# VOLKSWAGEN

GRANT AVE. & ACADEMY RD. 31 MILE FROM FRANKLIN MILLS MALL

**215-824-0800** SALES: MON-FRI 9-9 • SAT 9-6  
Buy Online at: [WWW.NORTHEASTAUTO.COM](http://WWW.NORTHEASTAUTO.COM)

Northeast Exhibit C

## Decision and Order

**DECISION AND ORDER**

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of 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 the respondents with violations of the Federal Trade Commission Act, 15 U.S.C. §§ 45-58, as amended, the Consumer Leasing Act, 15 U.S.C. §§ 1667-1667f, 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

The respondents, their attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondents that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true 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 the respondents have violated the said Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its

## Decision and Order

complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Northeast Auto Outlet, Inc. is a Pennsylvania corporation with its principal office or place of business at 3301 Grant Avenue, Philadelphia, PA 19114.
2. Respondent Northeast Auto Outlet Corporation is a Pennsylvania corporation with its principal office or place of business at 3301 Grant Avenue, Philadelphia, PA 19114.
3. Respondent Arthur Micchelli is an officer of the corporate respondents. Individually or in concert with others, he formulates, directs, or controls the policies, acts, or practices of the corporations. His principal office or place of business is the same as that of the corporate respondents.
4. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

**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, video, radio, or Internet or other electronic advertisement, an audio disclosure shall be delivered in a volume, cadence, and location sufficient for an ordinary consumer to hear and



## Decision and Order

comprehend it. A video disclosure shall be of a size and shade, and shall appear on the screen for a duration and in a location, sufficient for an ordinary consumer to read and comprehend it.

- b. In a print advertisement, a disclosure shall be in a type size and location sufficiently noticeable for an ordinary consumer to read and comprehend it, in print that contrasts with the background against which it appears.

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.

2. "Equal prominence" shall mean as follows:
  - a. In a television, video, radio, or Internet or other electronic advertisement, a video disclosure shall be presented in the same or similar format, including but not necessarily limited to type size, shade, contrast, duration, and placement. An 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, a disclosure shall be presented in the same or similar format, including but not necessarily limited to type size, shade, contrast, and placement.

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

## Decision and Order

3. "Total amount due at lease signing or delivery" as used herein 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, as required by Regulation M, 12 C.F.R. § 213, as amended. The total amount due at lease signing or delivery may 1) exclude third-party fees, such as taxes, licenses, and registration fees, and disclose that fact or 2) provide a total that includes third-party fees based on a particular state or locality as long as that fact and the fact that such fees may vary by state or locality are disclosed. (Section 213.7 of Regulation M, 12 C.F.R. § 213.7, as amended.)
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 Northeast Auto Outlet, Inc. and Northeast Auto Outlet Corporation, corporations, their successors and assigns and their officers; Arthur Micchelli, individually and as an officer of the corporations; 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 that any advertised lease terms, including but not limited to a monthly payment amount or downpayment, pertain to a credit offer.

## Decision and Order

- B. Misrepresent the availability of advertised lease or credit offers to consumers.
- C. Make any reference to any charge that is part of the total amount due at lease signing or delivery or that no such charge is required, not including a statement of the periodic payment, unless the advertisement also states with equal prominence the total amount due at lease signing or delivery.
- D. State the amount of any payment or that any or no initial payment is required at lease signing or delivery, if delivery occurs after consummation, without disclosing clearly and conspicuously all of the terms required by Regulation M, as follows:
  - 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.

(Section 184(a) of the Consumer Leasing Act ("CLA"), 15 U.S.C. § 1667c(a), as amended, and Section 213.7 of Regulation M, 12 C.F.R. § 213.7, as amended.)

## Decision and Order

For radio advertisements, respondents may also comply with the requirements of this subparagraph by utilizing Section 184(c) of the CLA, 15 U.S.C. § 1667c(C), and Section 213.7(f) of Regulation M, 12 C.F.R. § 213.7(f), as amended. For television advertisements, respondents may also comply with the requirements of this subparagraph by utilizing Section 213.7(f) of 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. §§ 1667-1667f, 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 Regulation Z, as follows:
  1. the amount or percentage of the downpayment;
  2. the terms of repayment; and
  3. the correct 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.

## Decision and Order

(Sections 107 and 144(d) of the TILA, 15 U.S.C. §§ 1606 and 1664(d), as amended, and Sections 226.22 and 226.24(c) of Regulation Z, 12 C.F.R. §§ 226.22 and 226.24(c), as amended.)

- B. State a rate of finance charge without stating the rate as an “annual percentage rate” or the abbreviation “APR,” using that term.
- C. 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 Northeast Auto Outlet, Inc. and Northeast Auto Outlet Corporation, and their successors and assigns, and respondent Arthur Micchelli, 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 Northeast Auto Outlet, Inc. and Northeast Auto Outlet Corporation, and their successors and assigns, and respondent Arthur Micchelli, 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

## Decision and Order

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 Northeast Auto Outlet, Inc. and Northeast Auto Outlet Corporation, and their successors and assigns, shall notify the Commission at least thirty (30) days prior to any change in either 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 either corporation about which respondents learn less than thirty (30) days prior to the date such action is to take place, respondents 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 Arthur Micchelli, 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

## Decision and Order

include respondent's 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 Northeast Auto Outlet, Inc. and Northeast Auto Outlet Corporation, and their successors and assigns, and respondent Arthur Micchelli, 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 on February 7, 2020, 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.

## Analysis to Aid Public Comment

*Provided, further,* that if such complaint is dismissed or a federal court rules that the respondents 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.

**Analysis of Proposed Consent Orders  
to Aid Public Comment**

**Summary**

The Federal Trade Commission has accepted separate agreements, subject to final approval, orders from respondents Dunphy Nissan, Inc. and Serge Naumovsky (“Dunphy”); Norristown Automobile Co., Inc. and William Milliken (“Norristown”); Northeast Auto Outlet, Inc. and Arthur Micchelli (“Northeast”); Pacifico Ardmore, Inc. and Kerry J. Pacifico (“Pacifico Ardmore”); Pacifico Ford, Inc. and Kerry T. Pacifico (“Pacifico Ford”); and Marty Sussman Organization, Inc. and Martin E. Sussman (“Sussman”)(together “respondents”). The persons named in these actions are named individually and as officers of their respective corporations.

The proposed consent orders have been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreements and the comments received and will



## Analysis to Aid Public Comment

decide whether it should withdraw from the agreement or make final the agreements' proposed orders.

## **I. Complaint Allegations**

### **A. FTC Act Violations**

The complaints against the respondents allege that their automobile lease advertisements violate the Federal Trade Commission Act ("FTC Act"), the Consumer Leasing Act ("CLA"), and Regulation M. The complaints also allege that respondents' credit advertisements have violated the Truth in Lending Act ("TILA") and Regulation Z. Section 5 of the FTC Act prohibits false, misleading, or deceptive representations or omissions of material information in advertisements. In addition, Congress established statutory disclosure requirements for lease and credit advertising under the CLA and the TILA, respectively, and directed the Federal Reserve Board ("Board") to promulgate regulations implementing such statutes -- Regulations M and Z respectively. See 15 U.S.C. §§ 1601-1667e; 12 C.F.R. Part 213; 12 C.F.R. Part 226.

The complaints against respondents allege that their lease advertisements represent 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 and the down payment amount. These lease advertisements, according to the complaints, have failed to disclose, and/or failed to disclose adequately, additional terms pertaining to the lease offer, such as the total amount due at lease inception. The complaints allege that this information does not appear at all or appears in fine print in the advertisements and that the information would be material to consumers in deciding whether to visit respondents' dealerships and/or whether to lease an automobile from respondents. These practices, according to the

## Analysis to Aid Public Comment

complaints, constitute deceptive practices in violation of Section 5(a) of the FTC Act.

The complaints against Dunphy and Northeast also allege that these respondents misrepresent that consumers can purchase the advertised vehicles for the monthly payment amounts prominently stated in the advertisements. According to the complaints, the monthly payment amounts prominently stated in the advertisements are components of lease offers and not credit offers. These practices, according to the complaints, constitute deceptive practices in violation of Section 5(a) of the FTC Act.

The complaint against Dunphy further alleges that Dunphy misrepresents that the amount stated as “down” or “down payment” is the total amount consumers must pay at lease inception to lease the advertised vehicles. According to the complaint, however, consumers are required to pay additional fees beyond the amount stated as “down” or “down payment,” including but not limited to the first month's payment, a security deposit, and/or a bank fee. This practice, according to the complaint, constitutes a deceptive practice in violation of Section 5(a) of the FTC Act.

The complaint against Northeast also alleges that Northeast misrepresents that the offer to double consumers' down payments up to \$4,000 applied to the lease or credit offers advertised. According to the complaint, the offer to double consumers' down payments up to \$4,000 was not available with the advertised lease or credit offers. This practice, according to the complaint, constitutes a deceptive practice in violation of Section 5(a) of the FTC Act.

The complaints against Dunphy, Northeast, Norristown, and Pacifico Ardmore allege that their credit advertisements represent that consumers can purchase the advertised vehicles at the terms prominently stated in the advertisements, including but not necessarily limited to the sales price and/or down payment amount. According to the complaints, these credit advertisements

## Analysis to Aid Public Comment

fail to disclose additional terms pertaining to the credit offer, such as the terms of repayment and the annual percentage rate. Such information is alleged to be material to consumers in deciding whether to visit respondents' dealerships and/or whether to purchase an automobile from respondents. These practices, according to the complaints, constitute deceptive practices in violation of Section 5(a) of the FTC Act.

**B. CLA and Regulation M Violations**

The complaints allege that all respondents violated the CLA and Regulation M. The complaints allege that respondents' lease ads state a monthly payment amount and/or down payment amount, but fail to disclose, and/or fail to disclose clearly and conspicuously, one or more of the following required terms: that the transaction advertised is a lease; the total amount due prior to or at consummation, or by delivery, if delivery occurs after consummation and that such amount: 1) excludes third-party fees that vary by state or locality, such as taxes, licenses, and registration fees, and discloses that fact or 2) includes third-party fees based on a particular state or locality and discloses that fact and the fact that such fees may vary by state or locality; whether or not a security deposit is required; the number, amounts, and timing of scheduled payments; and that an extra charge may be imposed at the end of the lease term in a lease where the liability of the consumer is based on the difference between the residual value of the leased property and its realized value at the end of the lease term.

According to the complaints, the lease disclosures in respondents' lease advertisements are not clear and conspicuous because they appear in fine print and/or in an inconspicuous location. These practices, according to the complaints, violate the advertising requirements of the CLA and Regulation M.

## Analysis to Aid Public Comment

The complaints also allege that respondents' lease advertisements state a down payment amount more prominently than the disclosure of the total amount due at lease signing. According to the complaints, these practices violate Regulation M.

### **C. TILA and Regulation Z Violations**

The complaints against Dunphy, Norristown, Northeast, Pacifico Ardmore, and Pacifico Ford allege that these respondents violated the TILA and Regulation Z. According to the complaints, these respondents state a monthly payment amount and/or a down payment amount as terms for financing the purchase of the advertised vehicles, but fail to disclose the following items of information required by Regulation Z: the annual percentage rate and the terms of repayment. In addition, the complaints against all respondents allege that their credit ads do not properly state the finance charge as the annual percentage rate, as required by Regulation Z.

## **II. Proposed Orders**

The proposed orders prohibit respondents from disseminating advertisements that state the amount of any payment due at inception (excluding the monthly payment amount) or the fact that any or no inception payment is due without also disclosing with "equal prominence" the total amount a consumer must pay at lease signing or delivery. This requirement parallels an identical requirement found in Regulation M.

The proposed orders also prohibit respondents from disseminating advertisements that state the amount of any payment or that any or no initial payment is required at lease signing or delivery, if delivery occurs after consummation, without disclosing clearly and conspicuously all of the terms required by Regulation M, as follows: that the transaction advertised is a lease; the total amount due at lease signing or delivery; whether or not a security deposit is required; the

## Analysis to Aid Public Comment

number, amounts, and timing of scheduled payments; and 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. This requirement is intended to enjoin the respondents from deceptively advertising only the most attractive portions of its lease offers by requiring clear and conspicuous disclosure of the information necessary for consumers to make informed decisions about advertised lease offers. This paragraph parallels the advertising disclosure requirements from the CLA and Regulation M. The proposed orders also prohibit respondents from violating the CLA and Regulation M.

In addition, the proposed order for Dunphy prohibits Dunphy from misrepresenting the costs of leasing, including the total due at lease inception. The proposed orders for respondents Dunphy and Northeast prohibit these respondents from misrepresenting that advertised terms apply to a cash or credit offer, when, in fact, the terms apply to an offer to lease the advertised vehicle. The proposed order for Northeast also prohibits Northeast from misrepresenting the availability of any advertised offer.

With respect to credit advertisements, the proposed orders prohibit respondents from 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 terms required by Regulation Z, as follows: the amount or percentage of the down payment; the terms of repayment; and the correct 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.

## Analysis to Aid Public Comment

The proposed orders also prohibit respondents from stating a rate of finance charge without stating the rate as an “annual percentage rate” or “APR.” The proposed orders also prohibit all respondents from violating the TILA or Regulation Z.

The purpose of this analysis is to facilitate public comment on the proposed orders, and it is not intended to constitute an official interpretation of the agreements and proposed orders or to modify in any way their terms.

## Complaint

## IN THE MATTER OF

**NORRISTOWN AUTOMOBILE CO., INC., ET AL.**

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF  
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT, THE  
CONSUMER LEASING ACT, AND THE TRUTH IN LENDING ACT

*Docket C-3922; File No. 992 3081*  
*Complaint, February 7, 2000 – Decision, February 7, 2000*

This consent order prohibits respondents from disseminating advertisements that state the amount of any payment due at inception (excluding the monthly payment amount) or the fact that any or no inception payment is due without also disclosing with “equal prominence” the total amount a consumer must pay at lease signing or delivery. The consent orders also prohibit respondents from disseminating advertisements that state the amount of any payment or that any or no initial payment is required at lease signing or delivery, if delivery occurs after consummation, without disclosing clearly and conspicuously all of the terms required, that the transaction advertised is a lease; the total amount due at lease signing or delivery; whether or not a security deposit is required; the number, amounts, and timing of scheduled payments; and 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. With respect to credit advertisements, the proposed orders prohibit respondents from 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 terms, the amount or percentage of the down payment; the terms of repayment; and the correct 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. The consent orders also prohibit respondents from stating a rate of finance charge without stating the rate as an “annual percentage rate” or “APR.”

*Participants*

For the Commission: *Rolando Berrelez, David Medine, and Sally Forman Pitofsky.*

## Complaint

For the Respondents: *Paul R. Rosen, Spector, Gadon & Rosen, P.C.*

**COMPLAINT**

The Federal Trade Commission, having reason to believe that Norristown Automobile Co., Inc., a corporation, doing business as Norristown Ford, and William Milliken, 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. §§ 1667-1667f, 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 Norristown Automobile Co., Inc. is a Pennsylvania corporation with its principal office or place of business at Ridge Pike, Norristown, Pennsylvania 19404. Respondent offers automobiles for sale or lease to consumers.

2. Respondent William Milliken is an officer of the corporate respondent. Individually or in concert with others, he formulates, directs, controls, and participates in 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 the corporate respondent.

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



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“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.

6. Respondents have disseminated or have caused to be disseminated advertisements promoting consumer leases (“lease advertisements”) and credit sales (“credit advertisements”) for automobiles, including but not necessarily limited to the attached Norristown Exhibits A and B. Norristown Exhibits A and B are advertisements in the print media. These lease and/or credit advertisements contain the following statements:

- A. [Norristown Exhibit A states numerous lease and credit offers, including:]

**“NEW 1998 FORD  
TAURUS GL SEDAN. . .**

MSRP.....\$19,070  
Pkg Disc./Rebate...\$1,000  
College Grad.....\$400  
Norristown Disc....\$1,242  
Cash or Trade.....\$3,000

**LEASE FOR     \$169  
24  
MOS.  
or BUY FOR  
                  \$13,428”**

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[A fine print disclosure at the bottom of the ad states, “. . . Prices and payments are based upon \$3000 down cash or trade. All rebates including recent 24 months college grad rebate applied. All leases are closed end with 1st month payment, security deposit, bank fee, tax and tags due at lease signing. All purchase prices exclude title, tax and tags. . . .”] (Norristown Exhibit A)

- B. [Norristown Exhibit B states numerous lease and credit offers, including:]

**“FINANCING\***AS **0.9%** . . .

LOW

AS

NEW 1998 FORD

**TAURUS SE SEDAN . . .**

MSRP.....\$20,425

Rebate.....\$750

College Grad.....\$400

Cash or Trade.....\$3,000

Norristown Discount..\$2,360

**BUY \$13,915****FOR****OR \$195 PER****LEASE MONTH****FOR 24****MONTHS”**

[A fine print disclosure at the bottom of the ad states, “. . . Prices and payments on new vehicles and special purchase vehicles are with \$3000 down cash or trade. All rebates including recent 24 months college grad rebate applied. All leases are closed end with 1st month payment, security deposit, bank fee, tax and tags due at

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lease signing. All purchase prices exclude title, tax and tags. . . ."]  
(Norristown Exhibit B)

**FEDERAL TRADE COMMISSION ACT VIOLATIONS****COUNT I: FAILURE TO DISCLOSE, AND/OR FAILURE  
TO DISCLOSE ADEQUATELY, LEASE TERMS**

7. In lease advertisements, including but not necessarily limited to Norristown Exhibits A and B, 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 and/or the downpayment amount.

8. These lease advertisements have failed to disclose, and/or failed to disclose adequately, additional terms pertaining to the lease offer, such as the total amount due at lease inception. This information does not appear at all or appears in fine print in the advertisements. This information would be material to consumers in deciding whether to visit respondents' dealerships and/or whether to lease an automobile from respondents. The failure to disclose, and/or failure to disclose adequately, these additional terms, in light of the representation made, was, and is, a deceptive practice.

9. 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 CREDIT TERMS**

10. In credit advertisements, including but not necessarily limited to Norristown Exhibits A and B, respondents have represented, expressly or by implication, that consumers can purchase the advertised vehicles at the terms prominently stated in

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the advertisements, including but not necessarily limited to the sales price and downpayment amount.

11. These credit advertisements have failed to disclose additional terms pertaining to the credit offer, such as the annual percentage rate and the terms of repayment. This information would be material to consumers in deciding whether to visit respondents' dealerships and/or whether to purchase an automobile from respondents. The failure to disclose these additional terms, in light of the representation made, was, and is, a deceptive practice.

12. 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, AND/OR FAILURE  
TO DISCLOSE CLEARLY AND CONSPICUOUSLY,  
REQUIRED INFORMATION**

13. Respondents' lease advertisements, including but not necessarily limited to Norristown Exhibits A and B, state a monthly payment amount and down payment amount, but fail to disclose, and/or fail to disclose clearly and conspicuously, certain additional terms required by the Consumer Leasing Act and Regulation M, including one or more of the following terms:

- 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. This total amount may: 1) exclude third-party fees that vary by state or locality, such as taxes, licenses, and registration fees, and disclose that fact or 2) provide a total that includes third-party fees

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based on a particular state or locality as long as that fact and the fact that such fees may vary by state or locality are disclosed;

- c. whether or not a security deposit is required;
- d. the number, amounts, and timing of scheduled payments; and
- e. that an extra charge may be imposed at the end of the lease term in a lease where the liability of the consumer is based on the difference between the residual value of the leased property and its realized value at the end of the lease term.

14. The lease disclosures required by Regulation M, if provided, are not clear and conspicuous because they appear in fine print and/or in an inconspicuous location.

15. Respondents' practices have violated Section 184 of the Consumer Leasing Act, 15 U.S.C. § 1667c, and Section 213.7 of Regulation M, 12 C.F.R. § 213.7.

**COUNT IV: FAILURE TO DISCLOSE THE TOTAL  
AMOUNT DUE AT LEASE SIGNING WITH EQUAL  
PROMINENCE**

16. Respondents' lease advertisements, including but not necessarily limited to Norristown Exhibits A and B, state a downpayment amount more prominently than the disclosure of the total amount due at lease signing, in violation of Section 213.7(b)(1) of Regulation M, 12 C.F.R. § 213.7(b)(1).

17. Respondents' practices have violated Section 213.7(b)(1) of Regulation M, 12 C.F.R. § 213.7(b)(1).

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**TRUTH IN LENDING ACT AND REGULATION Z  
VIOLATIONS****COUNT V: FAILURE TO DISCLOSE REQUIRED  
INFORMATION**

18. In credit advertisements, including but not necessarily limited to Exhibits A and B, respondents have stated the downpayment amount, but have failed to disclose the following items of information required by Regulation Z: the annual percentage rate and the terms of repayment.

19. 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).

**COUNT VI: FAILURE TO STATE RATE OF FINANCE  
CHARGE AS ANNUAL PERCENTAGE RATE**

20. In credit advertisements, including but not necessarily limited to Norristown Exhibit B, respondents have stated a rate of finance charge without stating that rate as an "annual percentage rate," using that term or the abbreviation "APR."

21. Respondents' practice constitutes a violation of Section 144 and 107 of the TILA, 15 U.S.C. §§ 1664 and 1606, respectively, and Sections 226.24(b) and 226.22 of Regulation Z, 12 C.F.R. §§ 226.24(b) and 226.22, respectively.

THEREFORE, the Federal Trade Commission this seventh day of February, 2000, has issued this complaint against respondents.

By the Commission.

Complaint Exhibits

Exhibit A

Lease for Sale    Lease for Sale    Lease for Sale    Lease for Sale    Lease for Sale    Lease for Sale    Lease for Sale

# HURRY! IT ENDS TOMORROW!

## ONE GREAT NORRISTOWN FORD SALE

**ZX-2 COUPE**  
 LEASE FOR **\$89**  
 BUY FOR **\$9491**

**ESCORT LX SEDAN**  
 LEASE FOR **\$99**  
 BUY FOR **\$8851**

**CONTOUR LX SEDAN**  
 LEASE FOR **\$119**  
 BUY FOR **\$11,593**

**MUSTANG LX CPE**  
 LEASE FOR **\$119**  
 BUY FOR **\$11,992**

**2.9% FINANCING**    **LO/JACK AUTHORIZED DEALER**    **REBATES \$2000**

**TAURUS GL SEDAN**  
 LEASE FOR **\$169**  
 BUY FOR **\$13,428**

**THUNDERBOLT LX CPE**  
 LEASE FOR **\$295**  
 BUY FOR **\$12,493**

**ASPIRE**  
 LEASE FOR **\$75**  
 BUY FOR **\$3,995**

**CONTOUR SDN**  
 LEASE FOR **\$79**  
 BUY FOR **\$7,966**

**MONTGOMERY COUNTY'S LARGEST & FINEST SELECTION OF QUALITY TRADES**

<p><b>ECONOMY</b></p> <p>'83 BUICK 323 SEDAN \$2730</p> <p>'84 FORD LTD LX \$2890</p> <p>'84 FORD ASPIRE \$3290</p> <p>'84 FORD ESCORT LX \$3395</p> <p>'84 LINCOLN TOWN CAR \$3770</p> <p>'83 FORD TEMPO \$3890</p> <p>'84 CHEVY CORTAZA \$4990</p> <p>'84 BUICK MATRIZ \$4995</p> <p>'83 LAMBORGHINI \$6495</p>	<p><b>MANAGER'S SPECIAL</b></p> <p><b>MINI CONVERTIBLE</b></p> <p><b>\$164</b></p> <p><b>\$13,495</b></p> <p><b>LUXURY</b></p> <p>'83 CHEVY TRUCK &amp; COUNTRY \$970</p> <p>'83 CHEVY VICTORIA LX \$17,895</p> <p>'84 CHEVY SUPERSPORT \$18,994</p> <p>'84 CHEVY ASTERIZES \$21,495</p> <p>'84 CHEVY CHEVROCK SE \$9960</p>	<p>'83 CHEVY BLAZER \$-18,434</p> <p>'82 FORD EXPLORER \$11,890</p> <p>'83 FORD EXPLORER \$12,998</p> <p>'84 FORD EXPLORER \$13,990</p> <p>'86 LINCOLN TOWN CAR \$15,999</p> <p>'84 FORD EXPLORER \$17,480</p> <p>'86 FORD EXPLORER \$19,880</p> <p>'87 CHEVY BLAZER \$21,495</p> <p>'87 FORD EXPLORER \$21,740</p>	<p>'84 FORD EXPLORER \$10,860</p> <p>'84 FORD EXPLORER \$12,000</p> <p>'84 FORD EXPLORER \$10,995</p> <p>'86 FORD RANGER SUPERDUTY \$12,870</p> <p>'83 FORD AEROSTAR \$8980</p> <p>'83 FORD AEROSTAR \$7380</p> <p>'83 FORD AEROSTAR \$8430</p> <p>'84 FORD F-150 PICK-UP \$8995</p> <p>'84 FORD F-150 PICK-UP \$9220</p> <p>'84 FORD AEROSTAR WAGON \$9320</p>
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**NORRISTOWN**    **FOR OVER 37 YEARS... WE'RE THE DEALER PEOPLE TRUST!**

**RIDGE PIKE & TROOPER ROAD**

**610 539-5400**





## Decision and Order

**DECISION AND ORDER**

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of 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 the respondents with violations of the Federal Trade Commission Act, 15 U.S.C. §§ 45-58, as amended, the Consumer Leasing Act, 15 U.S.C. §§ 1667-1667f, 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

The respondents, their attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondents that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true 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 the respondents have violated the said Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its

## Decision and Order

complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Norristown Automobile Co., Inc. is a Pennsylvania corporation with its principal office or place of business at Ridge Pike, Norristown, Pennsylvania 19404.
2. Respondent William Milliken 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 the corporate respondent.
3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

**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, video, radio, or Internet or other electronic advertisement, an audio disclosure shall be delivered in a volume, cadence, and location sufficient for an ordinary consumer to hear and comprehend it. A video disclosure shall be of a size and shade, and shall appear on the screen for a duration and in a location, sufficient for an ordinary consumer to read and comprehend it.

## Decision and Order

- b. In a print advertisement, a disclosure shall be in a type size and location sufficiently noticeable for an ordinary consumer to read and comprehend it, in print that contrasts with the background against which it appears.

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.

2. "Equal prominence" shall mean as follows:
  - a. In a television, video, radio, or Internet or other electronic advertisement, a video disclosure shall be presented in the same or similar format, including but not necessarily limited to type size, shade, contrast, duration, and placement. An 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, a disclosure shall be presented in the same or similar format, including but not necessarily limited to type size, shade, contrast, 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 signing or delivery" as used herein 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, as required by Regulation M, 12 C.F.R. § 213, as amended. The total amount due at

## Decision and Order

lease signing or delivery may 1) exclude third-party fees, such as taxes, licenses, and registration fees, and disclose that fact or 2) provide a total that includes third-party fees based on a particular state or locality as long as that fact and the fact that such fees may vary by state or locality are disclosed. (Section 213.7 of Regulation M, 12 C.F.R. § 213.7, as amended.)

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 Norristown Automobile Co., Inc., a corporation, its successors and assigns and its officers; William Milliken, 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. Make any reference to any charge that is part of the total amount due at lease signing or delivery or that no such charge is required, not including a statement of the periodic payment, unless the advertisement also states with equal prominence the total amount due at lease signing or delivery.
- B. State the amount of any payment or that any or no initial payment is required at lease signing or delivery, if delivery occurs after consummation, without

## Decision and Order

disclosing clearly and conspicuously all of the terms required by Regulation M, as follows:

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.

(Section 184(a) of the Consumer Leasing Act (“CLA”), 15 U.S.C. § 1667c(a), as amended, and Section 213.7 of Regulation M, 12 C.F.R. § 213.7, as amended.)

For radio advertisements, respondents may also comply with the requirements of this subparagraph by utilizing Section 184(c) of the CLA, 15 U.S.C. § 1667c(C), and Section 213.7(f) of Regulation M, 12 C.F.R. § 213.7(f), as amended. For television advertisements, respondents may also comply with the requirements of this subparagraph by utilizing Section 213.7(f) of Regulation M, as amended.

- C. Fail to comply in any other respect with Regulation M, 12 C.F.R. § 213, as amended, and the CLA, 15 U.S.C. §§ 1667-1667f, as amended.