

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA,

Plaintiff,

v.

NEW WORLD AUTO IMPORTS, INC., a  
corporation, also d/b/a Southwest Kia

NEW WORLD AUTO IMPORTS OF  
ROCKWALL, INC., a corporation,  
also d/b/a Southwest Kia, and Southwest Kia of  
Rockwall,

and

HAMPTON TWO AUTO CORPORATION, a  
corporation, also d/b/a Southwest Kia, Southwest  
Kia-NW, and Southwest Kia Mesquite

Defendants.

Case No.

COMPLAINT FOR CIVIL PENALTIES AND OTHER RELIEF

Plaintiff, the United States of America, (the "U.S.") and 16(a) of the Federal Trade

Commission, 15 U.S.C. §§ 45 and 56(a) as amended, the Truth In Lending

Act, 15 U.S.C. § 1601, as amended, and its implementing Regulation Z, 12

amended and its implementing Regulation M, 12 C.F.R. ~~213~~, as amended to obtain

district, and through the websites southwestkia.com, southwestkiadallas.com, 250carpayment.com, and DallasTruckWorld.com

6. Defendant New World Auto Imports of Rockwall, Inc. (“Southwest-Kia Rockwall”), also doing business as Southwest Kia and Southwest Kia of Rockwall, is incorporated in the State of Texas as registered agents located at 39650 Lyndon B. Johnson Fwy., Dallas, TX 75237, and its physical retail address is 1790 East Interstate 30, Rockwall, TX 75087. At all times material to this complaint, Defendant has participated in the acts and practices described in this complaint. Defendant transacts business in this district, including through a motor vehicle retail store or lot, through television, print, radio, internet, email, and mobile device

COMMERCE

8. At all times material to this complaint,



III.

IT IS FURTHER ORDERED that [Defendants], directly or indirectly in connection with an advertisement or any consumer lease, shall not, in any manner, expressly or by implication:

- A. State the amount of any payment or that any or no initial payment is required at lease inception, without disclosing clearly and conspicuously the following terms:

- 1.

d. In a radio advertisement, the disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it.

e. In all advertisements, the disclosure shall be in understandable language and syntax. Nothing contrary, inconsistent with, or in mitigation of the disclosure shall be used in any advertisement or promotion.

12. The Consent Order additionally states:

IV.

IT IS FURTHER ORDERED that [Defendants and their] successors and assigns shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All advertisements and promotional materials containing the representation; [and]

B. All materials that were relied upon in disseminating the representation [and]

13. A copy of the Consent Order is attached hereto as Exhibit A. The FTC served the Consent Order on Southwest Mesquite on or about May 30, 2014. The FTC served the Consent Order on Southwest Dallas and Southwest Rockwall on or about June 2, 2014. The Consent Order has remained in full effect since.

DEFENDANTS' CONDUCT

14. Defendant's three motor vehicle dealerships in the Dallas metropolitan area operate under common ownership and management. In addition to three retail stores, Defendants sell cars through several interconnected websites. Defendants advertise their dealerships and websites through a variety of media, including – but not limited to – television, print, radio, Internet, email, and mobile device advertising targeting consumers in the Dallas, Texas metropolitan area. Defendants often advertise jointly for all three dealerships, though

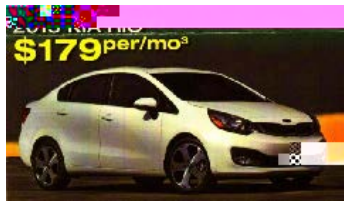
some advertising is Defendant specific. Through these dealerships, Defendants together sell or lease more than 5,000 new and used vehicles per year.

Defendants' Notice of the Consent Order



terms Across all media from the effective date of the Consent Order until February 2015, Defendants regularly used such disclosures and juxtaposition in a manner that tends to mislead consumers.

18. Southwest Kia Mesquites sent consumers direct mail advertisements for the financing of new vehicles in October 2014. According to the prominent terms of the advertisements, consumers could purchase a new vehicle for an attractive low monthly payment. However, in almost illegible fine print far removed from the prominently advertised terms Defendant Southwest Kia Mesquite disclosed that consumers would be required to pay a down payment and an enormous balloon payment of nearly half of the car's suggested retail price at the end of the financing term. For example, the mailer prominently advertised a 2015 Kia Rio for sale for \$179 per month.



Defendant Southwest Kia Mesquite hid terms that raised the price. Only in the fine print – illegible without magnification – could a consumer find the disclosure that \$1,999 (plus tax, title, and license fees) would be due upfront and \$8,271 would be due at the end of the 36-month financing term. A copy of this mailer in the size produced to the FTC by Defendants, is attached as Exhibit C. All three Defendants sent out substantively identical advertisements each month, as well as others that were substantially similar.

19. Defendant Southwest Kia Mesquite ran a Spanish language television advertisement on Dallas, Texas area television stations. A copy of this advertisement is attached



Defendants widely disseminated advertisements that failed to disclose clearly and conspicuously material terms.

Advertisements with Hidden Limitations on the Ability of  
Consumers to Qualify for Advertised Terms

21. Since receiving service of the Consent Order, Defendants have promoted vehicles for lease or for sale on credit advertisements which often featured attractive financing terms or low monthly payments. In some instances, Defendants' advertised terms often were only available to a small subset of the consumers seeing the advertisement, and Defendants failed to disclose clearly and conspicuously – if at all – the limitations on consumers' ability to qualify for the advantageous terms.

22.

After specifically seeking the attention of consumers with such credit issues, the commercial advertises the availability of vehicles for \$250 per month with a \$250 down payment. In the print disclosure it stated that these payments are based on a 4.25 annual percentage rate. In fact, few if any borrowers with issues as severe as a repossession or foreclosure have qualified for that annual percentage rate.

Consumer Credit Advertisements  
Without Required Clear and Conspicuous Disclosures

23. Since receiving service of the Consent Decree, Defendants have promoted the extension of consumer credit for motor vehicles in thousands of

24. Defendants for example, ran an advertisement for used cars sold on credit in the Dallas, Texas area television stations. A copy of this advertisement is attached as Exhibit G. The commercial prominently states that there are 250 cars available with a \$250 down payment for \$250 per month. White fine print at the bottom of the screen appears for about two seconds against a grey background — making it effectively illegible — disclosing the remaining terms of repayment and the finance charge expressed as an annual percentage rate. From the effective date of the Consent Order until February 2015, Defendants widely disseminated advertisements with fine print, difficult to read disclosures about finance terms.

25. Defendants ran an advertisement with a credit offer on Dallas, Texas television stations in or around January 2015. The commercial offered new vehicles with

s

Consumer Lease Advertisements Without  
Required Clear and Conspicuous Disclosures

26. Since receiving service of the Consumer Order, Defendants have promoted the extension of consumer leases for motor vehicles in hundreds of television, radio, direct mail, Internet, email,

28. Defendants ran an Internet advertisement targeting consumers in the Dallas metropolitan area that prominent

If the commercial is for a sale with financing, it fails to disclose (a) the terms of repayment including the number, amount, and timing of payments and (b) the finance charge expressed as an annual percentage rate. If the commercial is for a lease, it fails to disclose (a) that the transaction is a lease; (b) the number, amount, and timing of payments; (c) a statement of whether there is a security deposit; and (d) a statement that an extra charge is imposed at the end of the lease term where the lessee's liability is based on the difference between the



See

35. In various productions in 2014 and 2015, Defendants produced screenshots of mobile and Internet banner advertisements but were unable to provide: (a) copies of the advertisements in their native format or (b) copies of the advertisements in any other format that would show all disclaimers, qualifications, or other information that consumers could view by interacting with the banner using their cursor. For example, Defendants produced a banner advertisement that included buttons for consumers to “view inventory” or “view incentives” but could not or did not produce a version that could show those disclaimers.

See Exhibit E

VIOLATIONS OF CONSENT ORDER

FIRST CAUSE OF ACTION

(CONSENT ORDER PART I – MISREPRESENTATIONS)

a4

C. The prominent costs or terms are for vehicle ~~leases~~ ~~leases~~, not leases

37. In truth and in fact

A. The prominent costs or terms do not include costs and terms such as large

distant location for a short duration, in a fast speed or cadence, in unintelligible language or syntax, or were accompanied by distracting sounds or images.

41. By failing to make the disclosures required by Part (A) of the Consent Order, or failing to make the required disclosures clearly and conspicuously, Defendants violated Part II(A) of the Consent Order

42. In numerous instances from the effective date of the Consent Order until February 2015, the offers for the extension of consumer credit for vehicles included Paragraph 39 stated a finance charge failed to state the finance charge as an annual percentage rate or APR, using those terms.

43. Defendants' failure to make these statements required by Part (B) of the Consent Order constitutes a violation of Part II(B) of the Consent Order.

THIRD CAUSE OF ACTION  
(CONSENT ORDER PART III – CLA / REGULATION M – CONSUMER LE-4(RDE 1 Tf 5(E)-5(-4u

of whether or not a security deposit is required, or the number, amounts, and timing of scheduled payments. These disclosures were not stated “clearly and conspicuously,” because, among other deficiencies, they appeared in small type, in a distant location, for a short duration, in a fast speed or cadence, in unintelligible language or syntax, or were accompanied by distracting sounds or images.

46. By failing to make the disclosures required by Part II (A) of the Consent Order, or failing to make the required disclosures clearly and conspicuously, Defendants

CIVIL PENALTIES

50. Each representation Defendant has made in violation of the Consent Order constitutes a separate violation for which Plaintiff may seek civil penalties. Additionally, each of Defendants' failures to maintain and make available materials and its failure to submit true and accurate written reports constitutes a separate violation for which Plaintiff may seek civil penalties.

51. Each day Defendant has made, or has continued to make, representations in violation of the Consent Order constitutes a separate violation for which Plaintiff may seek civil penalties.

52. Section 5(l) of the FTC Act, 15 U.S.C. § 45 (as modified by the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 (note) Section 1.98(c) of the FTC's Rules of Practice, 16 C.F.R. § 1.98(c), authorizes the Court to award monetary civil penalties of up to \$16,000 for each such violation of the Consent Order.

53. Under Section 5) of the FTC Act, 15 U.S.C. § 45, this Court is authorized to permanently enjoin Defendants from violating the Consent Order and grant ancillary relief.

PRAYER FOR RELIEF

54. WHEREFORE, Plaintiff requests this Court, pursuant to 15 U.S.C. § 45(d) pursuant to the Court's own equitable powers

(1) Enter judgment against Defendants in favor of the Plaintiff for each violation alleged in this complaint;

(2) Award Plaintiff monetary civil penalties from Defendants for each violation of the Consent Order alleged in this complaint;

(3) Enter a permanent injunction to prevent Defendants ~~violating~~ the  
Consent Order;

(4) Award Plaintiff its costs and attorneys' fees incurred in connection with this  
action; and

(5) Award Plaintiff such additional relief as the Court may deem just and proper.

DATED: August 18, 2016

FOR THE COMMISSION:


JAMES A. KOHM  
Associate Director for Enforcement

FRANK M. GORMAN  
Assistant Director for Enforcement



MICHELLE SCHAEFER  
COLIN D. A. MACDONALD

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Jacqueline Blas-Freed  
Trial Attorney  
Consumer Protection Br  
U.S.D.

