

# FEDERAL TRADE COMMISSION DECISIONS

Findings, Opinions, and Orders

IN THE MATTER OF

FRANK BOMMARITO OLDSMOBILE, INC., ET AL.

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

*Docket C-3774. Complaint, Jan. 5, 1998--Decision, Jan. 5, 1998*

This consent order prohibits, among other things, the St. Louis Missouri-area automobile dealership and its officer from omitting or burying key cost information in small, and at times, unreadable print in their automobile lease advertisements and from misrepresenting the costs of leasing, including the total amount due at lease signing. The consent order requires the respondents to disclose certain information clearly and conspicuously and to comply with all provisions of the specified acts and regulations.

## *Appearances*

For the Commission: *Lauren Steinfeld* and *David Medine*.

For the respondents: *Brian E. McGovern, McCarthy, Leonard, Kaemmerer, Owen, Lamkrin & McGovern*, Chesterfield, MO.

## COMPLAINT

The Federal Trade Commission, having reason to believe that Frank Bommarito Oldsmobile, Inc., a corporation, and Frank J. Bommarito, 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. 1667-1667e, as amended, and its implementing Regulation M, 12 CFR 213, as amended, and the Truth in Lending Act, 15 U.S.C. 1601-1667, as amended, and its implementing Regulation Z, 12 CFR 226, as amended, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Frank Bommarito Oldsmobile, Inc. is a Delaware corporation with its principal office or place of business at 15736 Manchester Road, Ballwin, Missouri. Respondent offers automobiles for sale or lease to consumers.

2. Respondent Frank J. Bommarito 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, including the acts or practices alleged in this complaint. His principal office or place of business is the same as that of Frank Bommarito Oldsmobile, Inc.

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 CFR 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 "advertisement," "credit sale," and "consumer credit" are defined in Section 226.2 of Regulation Z, 12 CFR 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.

#### LEASE ADVERTISING

6. Respondents have disseminated or have caused to be disseminated consumer lease advertisements ("lease advertisements") for automobiles in the print media, including but not necessarily limited to the attached Exhibits A through F. These advertisements contain the following statements:

A. "BRAND NEW 1995 SAFARI CONVERSION VANS. . . BOMMARITO'S PREFERRED LEASING PRICE \$399 MO. 36 MONTHS NO MONEY DOWN" [A fine print statement at the bottom of the ad states "Prices include all factory rebates." ] (Exhibit A)

B. "BOMMARITO INFINITI NO MONEY DOWN SALE. . . 1995 INFINITI J-30 NO DOWN PAYMENT! \$399 PER MONTH\* NO MONEY DOWN 36 MONTH LEASE 1995 INFINITI Q-45 NO DOWN PAYMENT! \$599 PER MONTH\* NO MONEY DOWN 24 MONTH LEASE" (Exhibit B)

C. "OLDSMOBILE '95 CUTLASS SUPREME FOR ONLY \$269\* 36 MOS. LEASE NO MONEY DOWN . . . '95 EIGHTY EIGHT FOR ONLY \$339\* 36 MOS. LEASE NO MONEY DOWN" . . . INFINITI NEW 1995 J30 NO MONEY DOWN \$449 PER MONTH 36 MONTH LEASE

[A fine print statement at the bottom of the ad states "\*12,000 miles per year, acq. fee and taxes extra." ] (Exhibit C)

D. "BOMMARITO MAZDA'S PRESIDENTS WEEK SALE 1995 PROTÉGÉ NO MONEY DOWN \$199 PER MONTH FOR ONLY 36 MONTHS"

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## Complaint

[A fine print statement at the bottom of the advertisement states "Protégé 36 month close end lease, includes gap insurance, excludes taxes. 1st payment and security deposit due. Activation fee required. Approved credit." (Exhibit D)

E. "1995 Q45 2 Year Lease \$599 per mo.\* . . . 1995 J30 3 Year Lease \$399 per mo.\*"

[A fine print statement at the bottom of the ad states "\*\*Q45, \$2500 cap reduction, 15,000 miles per year, J30, \$2000 cap reduction, 12,xxx miles per year, personal property and luxury tax included, sales tax and acquisition fee extra." (Exhibit E)

F. Full Size \$310<sup>00</sup>\* Mini \$18,995<sup>00</sup>\*\* 36 Month . . ST. LOUIS' EXCLUSIVE STARCRAFT DEALER Was \$34,678, \$399<sup>00</sup>\* 36 Month"

[A fine print statement at the bottom of the ad states "\*\*\*After rebate = \$599 Trim. Pkg. \*36 Month Lease, \$2,000 Down, Cash or Trade, Includes Rebate and Acquisition Fee, 15,000 Miles Per Year." (Exhibit F)

FEDERAL TRADE COMMISSION ACT VIOLATIONS  
COUNT I: MISREPRESENTATION OF INCEPTION FEES

7. In lease advertisements, including but not necessarily limited to Exhibits A through D, respondents have represented, expressly or by implication, that the amount stated as "down" is the total amount consumers must pay at lease inception to lease the advertised vehicles.

8. In truth and in fact, the amount stated as "down" in respondents' lease advertisements is not the total amount consumers must pay at lease inception to lease the advertised vehicles. Consumers are required to pay significant amounts at lease inception, including but not limited to one or more of the following: a downpayment, a first month's payment, security deposit, acquisition fee, and bank fee. Therefore, respondents' representation as alleged in paragraph seven was, and is, false or misleading.

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 ADEQUATELY INCEPTION FEES

10. In lease advertisements, including but not necessarily limited to Exhibits A through F, respondents have represented, expressly or by implication, that consumers can lease the advertised vehicles at the terms prominently stated in the advertisement, including but not limited to the monthly payment amount and/or amount stated as "down."

11. These lease advertisements do not adequately disclose additional terms pertaining to obligations at lease inception, including

but not necessarily limited to one or more of the following charges: a required downpayment, first month's payment, security deposit, acquisition fee, and bank fee. This information either does not appear at all, appears in very fine print, and/or is referenced by multiple and inconsistent asterisks making it unclear which statements are relevant to which offer.

12. These additional terms would be material to consumers in deciding whether to visit respondents' dealership and/or whether to lease an automobile from respondents. The failure to disclose adequately these additional terms, in light of the representation made, was, and is, a deceptive practice.

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).

CONSUMER LEASING ACT AND REGULATION M VIOLATIONS  
COUNT III: FAILURE TO DISCLOSE REQUIRED INFORMATION  
CLEARLY AND CONSPICUOUSLY

14. In lease advertisements, including but not necessarily limited to Exhibits A through F, respondents have stated a monthly payment amount, the number of required payments, and/or an amount "down."

15. These lease advertisements have failed to disclose clearly and conspicuously the following items of information required by Regulation M: the total amount of any payment such as a security deposit or capitalized cost reduction required at the consummation of the lease or that no such payments are required; the total of scheduled payments under the lease; a statement of whether or not the lessee has the option to purchase the leased property and at what price and time or, in lieu of disclosure of the price, the method of determining the purchase-option price; and a statement of the amount or method of determining the amount of any liabilities the lease imposes upon the lessee at the end of the term.

16. Respondents' practices have violated Section 184 of the Consumer Leasing Act, 15 U.S.C. 1667c, and Section 213.5(c) of Regulation M, 12 CFR 213.5(c).

CREDIT ADVERTISING

17. Respondents have disseminated or have caused to be disseminated credit sale advertisements ("credit advertisements") for automobiles in the print media, including but not necessarily limited

to the attached Exhibit F. These advertisements contain the following statements:

"BOMMARITO SMART BUY '95 Cutlass Supreme THIS IS NOT A LEASE 5.8% A.P.R. WITH APPROVED CREDIT FOR ONLY \$275\* 36 MOS. NO MONEY DOWN . . . BOMMARITO SMART BUY '95 EIGHTY EIGHT THIS IS NOT A LEASE 4.8% A.P.R. WITH APPROVED CREDIT FOR ONLY \$315\* 36 MOS. NO MONEY DOWN [A fine print statement at the bottom of the ad states "\*\*\*After rebate = \$599 Trim Pkg. \*36 Month Lease, \$2,000 Down, Cash or Trade, Includes Rebate and Acquisition Fee, 15,000 Miles Per Year." ] (Exhibit F)

FEDERAL TRADE COMMISSION ACT VIOLATIONS  
COUNT IV: MISREPRESENTATION OF BALLOON PAYMENTS

18. In credit advertisements, including but not necessarily limited to Exhibit F, respondents have represented, expressly or by implication, that consumers can buy the advertised vehicles at the terms prominently stated, including but not necessarily limited to the monthly payment amount, APR, and amount stated as "down."

19. In truth and in fact, consumers cannot buy the advertised vehicles at the terms prominently stated in the advertisements. Consumers must also satisfy a final balloon payment obligation of several thousand dollars to purchase the advertised vehicles. Therefore, respondents' representation as alleged in paragraph eighteen was, and is, false or misleading.

20. 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).

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

21. In credit advertisements, including but not necessarily limited to Exhibit F, respondents have stated a monthly payment amount and/or an amount "down" as terms for financing the purchase of the advertised vehicles.

22. These advertisements have failed to disclose, as required by Regulation Z, the terms of repayment, including but not limited to the existence and amount of the balloon payment.

23. 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 CFR 226.24(c).

Commissioner Thompson and Commissioner Swindle not participating.

**BRAND NEW  
1995 SAFARI CONVERSION VANS  
ALL NEW STYLING**



- XT LENGTH
- POWER WINDOWS & LOCKS
- TILT
- CRUISE
- DUTCH DOORS
- AIR CONDITIONING
- STEREO
- CUSTOM
- 2-TONE PAINT
- FIBERGLASS
- BOARDS
- SPECIAL-BUTTON
- TUFTED SEATS
- ALL NEW FRONT END STYLING
- OVERHEAD LIGHTING & MOOD LIGHTING
- AND MUCH, MUCH MORE!

**OVER 50  
TO CHOOSE FROM**

**BOMMARITO'S PREFERRED LEASING PRICE**

**\$399** **36 MONTHS** **MO.**

**NO MONEY DOWN**

**FRANK BOMMARITO**  
GMC TRUCKS & VANS

Manchester at Clarkson  
Seven Miles West of I-270  
**391-7200**

Complaint

EXHIBIT B

Bommarito Exhibit B

**BOMMARITO INFINITI**

**NO MONEY DOWN SALE**

**1994 INFINITI G-20**

ORIGINAL LIST PRICE \$21,500  
 AUTOMATIC LEATHER  
 AIR CONDITIONING  
 100,000 MILE WARRANTY  
**\$18,495**  
 10 TO CHOOSE FROM

**1995 INFINITI J-30**

NO DOWN PAYMENT  
 AUTOMATIC TRANSMISSION  
 AIR CONDITIONING, DUAL AIR  
 REMOTE ENTRY SECURITY  
 STEERING WHEEL MOUNTED  
 CRUISE CONTROL  
**\$399**  
 36 MONTH LEASE

**1995 INFINITI Q-45**

NO DOWN PAYMENT  
 DUAL AIR BAGS, AIR CONDIO-  
 TIONING, LEATHER SEATING,  
 REMOTE ENTRY SECURITY,  
 5 SPEED AUTOMATIC TRANSMISSION,  
 PLUS MUCH MORE!  
**\$599**  
 24 MONTH LEASE

**FREE LOANER CARS**

**Frank Bommarito Infiniti**  
 MANCHESTER AT CLARKSON (7 miles west of I-270) CLARKSON ROAD NOW OPEN

**391-9400**

**1-800-888-8888**

Complaint

125 F.T.C.

## EXHIBIT C

July is hot at St. Louis' largest automotive center. Over 500 cars and trucks in stock!

# SIZZLIN' SUMMER SAVINGS!

Senior Discounts Available

## OLDSMOBILE

### '95 CUTLASS SUPREME

FOR ONLY 36 MOS. LEASE **\$269\***

**NO MONEY DOWN**

WITH ALL THESE FEATURES:

- 3100 - V6
- AIR COND.
- PWR. WINDOWS
- PWR. LOCKS
- TYL WHEEL
- CRUISE CONTROL
- ABS BRAKES
- AIR BAG
- STEREO CASSETTE
- REAR DEFOGGER
- BUCKET SEATS
- CONSOLE

### '95 EIGHTY EIGHT

FOR ONLY 36 MOS. LEASE **\$339\***

**NO MONEY DOWN**

WITH ALL THESE FEATURES:

- PWR. LOCKS
- PWR. TRUNK
- PWR. WINDOWS
- PWR. ANTENNA
- 3800 - V6
- ALUMINUM WHEELS
- STEREO CASSETTE
- ABS BRAKES
- CRUISE CONTROL
- DUAL AIR BAGS
- PWR. DRIVER'S SEAT

## GMC TRUCK & VAN OUTLET

### MINI CONVERSION VANS

### FULL SIZE CONVERSION VANS

**YOUR CHOICE SALE**

**\$18,995\***

WE HAVE 16 1995 JIMMY'S IN STOCK. READY TO DELIVER!

## COBRA

**\$24,995**

DELIVERED - NO ADDED COSTS

2 LOCATIONS TO SERVE YOU

ELLISVILLE 391-7200 ST. PETERS 928-2300

## 1996 I30

**\$26,599** Delivered

## INFINITI

### 1995 J30

**\$449** 36 MONTH LEASE

### 1995 G20's

**\$17,795** Delivered

PRE-OWNED CENTER

ELLISVILLE 391-9400

|                               |                                    |                           |                             |                            |                     |                      |                      |                      |                      |                      |                      |                      |                      |                      |                      |                      |                      |                      |                      |                      |                      |                      |                      |                      |                      |                      |                      |                      |                      |                      |                      |                      |                      |                      |                      |                      |                      |                      |                      |                      |                 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| '95 MAZDA PROTEGE L4 \$11,995 | '95 JEEP CHRYSLER LIMITED \$12,995 | '95 HONDA ACCORD \$14,995 | '95 CHEVY CAVALIER \$15,995 | '95 OLDS 88 ELITE \$12,995 | '95 CAMARO \$14,995 | '95 OLDS 88 \$16,995 | '95 OLDS 88 \$18,995 | '95 OLDS 88 \$19,995 | '95 OLDS 88 \$20,995 | '95 OLDS 88 \$21,995 | '95 OLDS 88 \$22,995 | '95 OLDS 88 \$23,995 | '95 OLDS 88 \$24,995 | '95 OLDS 88 \$25,995 | '95 OLDS 88 \$26,995 | '95 OLDS 88 \$27,995 | '95 OLDS 88 \$28,995 | '95 OLDS 88 \$29,995 | '95 OLDS 88 \$30,995 | '95 OLDS 88 \$31,995 | '95 OLDS 88 \$32,995 | '95 OLDS 88 \$33,995 | '95 OLDS 88 \$34,995 | '95 OLDS 88 \$35,995 | '95 OLDS 88 \$36,995 | '95 OLDS 88 \$37,995 | '95 OLDS 88 \$38,995 | '95 OLDS 88 \$39,995 | '95 OLDS 88 \$40,995 | '95 OLDS 88 \$41,995 | '95 OLDS 88 \$42,995 | '95 OLDS 88 \$43,995 | '95 OLDS 88 \$44,995 | '95 OLDS 88 \$45,995 | '95 OLDS 88 \$46,995 | '95 OLDS 88 \$47,995 | '95 OLDS 88 \$48,995 | '95 OLDS 88 \$49,995 | '95 OLDS 88 \$50,995 | '95 OLDS 88 \$51,995 | '95 OLDS 88 \$52,995 | '95 OLDS 88 \$53,995 | '95 OLDS 88 \$54,995 | '95 OLDS 88 \$55,995 | '95 OLDS 88 \$56,995 | '95 OLDS 88 \$57,995 | '95 OLDS 88 \$58,995 | '95 OLDS 88 \$59,995 | '95 OLDS 88 \$60,995 | '95 OLDS 88 \$61,995 | '95 OLDS 88 \$62,995 | '95 OLDS 88 \$63,995 | '95 OLDS 88 \$64,995 | '95 OLDS 88 \$65,995 | '95 OLDS 88 \$66,995 | '95 OLDS 88 \$67,995 | '95 OLDS 88 \$68,995 | '95 OLDS 88 \$69,995 | '95 OLDS 88 \$70,995 | '95 OLDS 88 \$71,995 | '95 OLDS 88 \$72,995 | '95 OLDS 88 \$73,995 | '95 OLDS 88 \$74,995 | '95 OLDS 88 \$75,995 | '95 OLDS 88 \$76,995 | '95 OLDS 88 \$77,995 | '95 OLDS 88 \$78,995 | '95 OLDS 88 \$79,995 | '95 OLDS 88 \$80,995 | '95 OLDS 88 \$81,995 | '95 OLDS 88 \$82,995 | '95 OLDS 88 \$83,995 | '95 OLDS 88 \$84,995 | '95 OLDS 88 \$85,995 | '95 OLDS 88 \$86,995 | '95 OLDS 88 \$87,995 | '95 OLDS 88 \$88,995 | '95 OLDS 88 \$89,995 | '95 OLDS 88 \$90,995 | '95 OLDS 88 \$91,995 | '95 OLDS 88 \$92,995 | '95 OLDS 88 \$93,995 | '95 OLDS 88 \$94,995 | '95 OLDS 88 \$95,995 | '95 OLDS 88 \$96,995 | '95 OLDS 88 \$97,995 | '95 OLDS 88 \$98,995 | '95 OLDS 88 \$99,995 | '95 OLDS 88 \$100,995 | '95 OLDS 88 \$101,995 | '95 OLDS 88 \$102,995 | '95 OLDS 88 \$103,995 | '95 OLDS 88 \$104,995 | '95 OLDS 88 \$105,995 | '95 OLDS 88 \$106,995 | '95 OLDS 88 \$107,995 | '95 OLDS 88 \$108,995 | '95 OLDS 88 \$109,995 | '95 OLDS 88 \$110,995 | '95 OLDS 88 \$111,995 | '95 OLDS 88 \$112,995 | '95 OLDS 88 \$113,995 | '95 OLDS 88 \$114,995 | '95 OLDS 88 \$115,995 | '95 OLDS 88 \$116,995 | '95 OLDS 88 \$117,995 | '95 OLDS 88 \$118,995 | '95 OLDS 88 \$119,995 | '95 OLDS 88 \$120,995 | '95 OLDS 88 \$121,995 | '95 OLDS 88 \$122,995 | '95 OLDS 88 \$123,995 | '95 OLDS 88 \$124,995 | '95 OLDS 88 \$125,995 | '95 OLDS 88 \$126,995 | '95 OLDS 88 \$127,995 | '95 OLDS 88 \$128,995 | '95 OLDS 88 \$129,995 | '95 OLDS 88 \$130,995 | '95 OLDS 88 \$131,995 | '95 OLDS 88 \$132,995 | '95 OLDS 88 \$133,995 | '95 OLDS 88 \$134,995 | '95 OLDS 88 \$135,995 | '95 OLDS 88 \$136,995 | '95 OLDS 88 \$137,995 | '95 OLDS 88 \$138,995 | '95 OLDS 88 \$139,995 | '95 OLDS 88 \$140,995 | '95 OLDS 88 \$141,995 | '95 OLDS 88 \$142,995 | '95 OLDS 88 \$143,995 | '95 OLDS 88 \$144,995 | '95 OLDS 88 \$145,995 | '95 OLDS 88 \$146,995 | '95 OLDS 88 \$147,995 | '95 OLDS 88 \$148,995 | '95 OLDS 88 \$149,995 | '95 OLDS 88 \$150,995 | '95 OLDS 88 \$151,995 | '95 OLDS 88 \$152,995 | '95 OLDS 88 \$153,995 | '95 OLDS 88 \$154,995 | '95 OLDS 88 \$155,995 | '95 OLDS 88 \$156,995 | '95 OLDS 88 \$157,995 | '95 OLDS 88 \$158,995 | '95 OLDS 88 \$159,995 | '95 OLDS 88 \$160,995 | '95 OLDS 88 \$161,995 | '95 OLDS 88 \$162,995 | '95 OLDS 88 \$163,995 | '95 OLDS 88 \$164,995 | '95 OLDS 88 \$165,995 | '95 OLDS 88 \$166,995 | '95 OLDS 88 \$167,995 | '95 OLDS 88 \$168,995 | '95 OLDS 88 \$169,995 | '95 OLDS 88 \$170,995 | '95 OLDS 88 \$171,995 | '95 OLDS 88 \$172,995 | '95 OLDS 88 \$173,995 | '95 OLDS 88 \$174,995 | '95 OLDS 88 \$175,995 | '95 OLDS 88 \$176,995 | '95 OLDS 88 \$177,995 | '95 OLDS 88 \$178,995 | '95 OLDS 88 \$179,995 | '95 OLDS 88 \$180,995 | '95 OLDS 88 \$181,995 | '95 OLDS 88 \$182,995 | '95 OLDS 88 \$183,995 | '95 OLDS 88 \$184,995 | '95 OLDS 88 \$185,995 | '95 OLDS 88 \$186,995 | '95 OLDS 88 \$187,995 | '95 OLDS 88 \$188,995 | '95 OLDS 88 \$189,995 | '95 OLDS 88 \$190,995 | '95 OLDS 88 \$191,995 | '95 OLDS 88 \$192,995 | '95 OLDS 88 \$193,995 | '95 OLDS 88 \$194,995 | '95 OLDS 88 \$195,995 | '95 OLDS 88 \$196,995 | '95 OLDS 88 \$197,995 | '95 OLDS 88 \$198,995 | '95 OLDS 88 \$199,995 | '95 OLDS 88 \$200,995 | '95 OLDS 88 \$201,995 | '95 OLDS 88 \$202,995 | '95 OLDS 88 \$203,995 | '95 OLDS 88 \$204,995 | '95 OLDS 88 \$205,995 | '95 OLDS 88 \$206,995 | '95 OLDS 88 \$207,995 | '95 OLDS 88 \$208,995 | '95 OLDS 88 \$209,995 | '95 OLDS 88 \$210,995 | '95 OLDS 88 \$211,995 | '95 OLDS 88 \$212,995 | '95 OLDS 88 \$213,995 | '95 OLDS 88 \$214,995 | '95 OLDS 88 \$215,995 | '95 OLDS 88 \$216,995 | '95 OLDS 88 \$217,995 | '95 OLDS 88 \$218,995 | '95 OLDS 88 \$219,995 | '95 OLDS 88 \$220,995 | '95 OLDS 88 \$221,995 | '95 OLDS 88 \$222,995 | '95 OLDS 88 \$223,995 | '95 OLDS 88 \$224,995 | '95 OLDS 88 \$225,995 | '95 OLDS 88 \$226,995 | '95 OLDS 88 \$227,995 | '95 OLDS 88 \$228,995 | '95 OLDS 88 \$229,995 | '95 OLDS 88 \$230,995 | '95 OLDS 88 \$231,995 | '95 OLDS 88 \$232,995 | '95 OLDS 88 \$233,995 | '95 OLDS 88 \$234,995 | '95 OLDS 88 \$235,995 | '95 OLDS 88 \$236,995 | '95 OLDS 88 \$237,995 | '95 OLDS 88 \$238,995 | '95 OLDS 88 \$239,995 | '95 OLDS 88 \$240,995 | '95 OLDS 88 \$241,995 | '95 OLDS 88 \$242,995 | '95 OLDS 88 \$243,995 | '95 OLDS 88 \$244,995 | '95 OLDS 88 \$245,995 | '95 OLDS 88 \$246,995 | '95 OLDS 88 \$247,995 | '95 OLDS 88 \$248,995 | '95 OLDS 88 \$249,995 | '95 OLDS 88 \$250,995 | '95 OLDS 88 \$251,995 | '95 OLDS 88 \$252,995 | '95 OLDS 88 \$253,995 | '95 OLDS 88 \$254,995 | '95 OLDS 88 \$255,995 | '95 OLDS 88 \$256,995 | '95 OLDS 88 \$257,995 | '95 OLDS 88 \$258,995 | '95 OLDS 88 \$259,995 | '95 OLDS 88 \$260,995 | '95 OLDS 88 \$261,995 | '95 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## 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 violation of the Federal Trade Commission Act, the Consumer Leasing Act and its implementing Regulation M, and the Truth in Lending Act and its implementing Regulation Z; 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 Acts and Regulations, 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:

1. Respondent Frank Bommarito Oldsmobile, Inc. is a Delaware corporation with its principal office or place of business at 15736 Manchester Road, Ballwin, Missouri.

2. Respondent Frank J. Bommarito is an officer of the corporate respondent. His principal office or place of business is the same as that of Frank Bommarito Oldsmobile, Inc.

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

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

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

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 or video advertisement, the video disclosure shall be presented in the same or similar format, including but not necessarily limited to type size, shade, contrast, duration, and placement. The 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, the disclosure shall be presented in the same or similar format, including but not necessarily limited to type size, shade, contrast, and placement.

c. In a radio advertisement, the disclosure shall be delivered in the same or similar manner, including but not necessarily limited to volume, cadence, pace, 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 inception"* 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.

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 Frank Bommarito Oldsmobile, Inc., a corporation, its successors and assigns and its officers; Frank J. Bommarito, 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 CFR 213.2, as amended, shall not, in any manner, expressly or by implication:

A. Misrepresent the costs of leasing a vehicle, including but not necessarily limited to the total amount due at lease inception.

B. State any amount due at lease inception (or that no such amount is required), except for the statement of a periodic payment, unless the advertisement also states with equal prominence the total amount due at lease inception.

C. State the amount of any payment, the number of required payments, or that any or no downpayment or other payment is required at consummation of the lease unless all of the following items are disclosed, clearly and conspicuously, as required by Regulation M, as amended:

- (1) That the transaction advertised is a lease;
- (2) The total amount of any payment such as a security deposit or capitalized cost reduction required at the consummation of the lease, or that no such payments are required;
- (3) The number, amounts, due dates or periods of scheduled payments, and the total of such payments under the lease;
- (4) A statement of whether or not the lessee has the option to purchase the leased property and at what price and time (the method

of determining the price may be substituted for disclosure of the price); and

(5) A statement of the amount or method of determining the amount of any liabilities the lease imposes upon the lessee at the end of the term and a statement that the lessee shall be liable for the difference, if any, between the estimated value of the leased property and its realized value at the end of the lease term, if the lessee has such liability.

For all lease advertisements, respondents may comply with the requirements of this subparagraph by utilizing Section 184(a) of the Consumer Leasing Act ("CLA"), 15 U.S.C. 1667c(a), as amended by Title II, Section 2605 of the Omnibus Consolidated Appropriations Act for Fiscal Year 1997, Pub. L. No. 104-208, 110 Stat. 3009, 3009-473 (Sept. 30, 1996) (to be codified at 15 U.S.C. 1667c(a)) ("Section 184(a) of the revised CLA"), as amended, or by utilizing Section 213.7(d) of revised Regulation M, 61 Fed. Reg. 52246, 52261 (October 7, 1996) and 62 Fed. Reg. 15364, 15368 (Apr. 1, 1997) (to be codified at 12 CFR 213.7(d)) ("revised Regulation M"), as amended. For radio lease advertisements, respondents may also comply with the requirements of this subparagraph by utilizing Section 184(b) of the CLA, 15 U.S.C. 1667c(b), as amended by Title II, Section 2605 of the Omnibus Consolidated Appropriations Act for Fiscal Year 1997, Pub. L. No. 104-208, 110 Stat. 3009, 3009-473 (Sept. 30, 1996) (to be codified at 15 U.S.C. 1667c(c)) ("Section 184(c) of the revised CLA"), as amended, or by utilizing Section 213.7(f) of revised Regulation M (to be codified at 12 CFR 213.7(f)), as amended. For television lease advertisements, respondents may also comply with the requirements of this subparagraph by utilizing Section 213.7(f) of revised Regulation M, as amended.

D. Fail to comply in any other respect with Regulation M, 12 CFR 213, as amended, and the CLA, 15 U.S.C. 1667-1667e, as amended. Respondents may comply with the requirements of this subparagraph regarding Regulation M by utilizing revised Regulation M, 61 Fed. Reg. 52246 (Oct. 7, 1996) and 62 Fed. Reg. 15364 (Apr. 1, 1997) (to be codified at 12 CFR 213), 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 CFR 226.2, as amended, shall not, in any manner, expressly or by implication:

A. Misrepresent the terms of financing a vehicle, including but not necessarily limited to the amount of any balloon payment.

B. State the amount of any payment or the amount or percentage of any downpayment or amount "down" in any advertisement unless respondents state the amount of any final balloon payment prominently and in close proximity to the most prominent of the above statements.

C. 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 Section 144 of the Truth in Lending Act ("TILA"), 15 U.S.C. 1664, as amended, and Section 226.24(c) of Regulation Z, 12 CFR 226.24(c), as amended, as more fully set out in Section 226.24(c) of the Federal Reserve Board's Official Staff Commentary to Regulation Z, 12 CFR 226.24(c), as amended, as follows:

1. The amount or percentage of the downpayment;
2. The terms of repayment, including but not necessarily limited to the amount of any balloon payment; and
3. The 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.

D. Fail to comply in any other respect with Regulation Z, 12 CFR 226, as amended, and the TILA, 15 U.S.C. 1601-1667, as amended.

## III.

*It is further ordered,* That respondent Bommarito Oldsmobile, Inc., and its successors and assigns, and respondent Frank J. Bommarito 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 Bommarito Oldsmobile, Inc., and its successors and assigns, and respondent Frank J. Bommarito 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 Frank Bommarito Oldsmobile, 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 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.

#### VI.

*It is further ordered,* That respondent Frank J. Bommarito, 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.

#### VII.

*It is further ordered,* That respondent Bommarito Oldsmobile, Inc., and its successors and assigns, and respondent Frank J. Bommarito 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 January 5, 2018, 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:

1

## Decision and Order

- 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 respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

Commissioner Thompson and Commissioner Swindle not participating.

Complaint

125 F.T.C.

IN THE MATTER OF

ASHLAND, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF  
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

*Docket C-3775. Complaint, Jan. 5, 1998--Decision, Jan. 5, 1998*

This consent order prohibits, among other things, the Kentucky-based manufacturer and advertiser of the Valvoline Engine Treatment product from making unsubstantiated claims about the performance or attributes of any engine treatment in the future and from misrepresenting tests or studies used to support its claims.

*Appearances*

For the Commission: *Jonathan Cowen, Robert Frisby, Mary Engle and Elaine Kolish.*

For the respondent: *Alan J. Hruska, Cravath, Swaine & Moore, New York, N.Y.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Ashland, Inc., a corporation, has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondent Ashland, Inc., is a Kentucky corporation, with its office and principal place of business located at 1000 Ashland Drive, Russell, KY.

PAR. 2. Respondent has manufactured, advertised, promoted, offered for sale, sold and distributed Valvoline TM8 Engine Treatment ("TM8"), an aftermarket motor oil additive or engine treatment containing various chemicals, including Teflon brand polytetrafluoroethylene ("Teflon"), blended in a fully formulated motor oil.

PAR. 3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

PAR. 4. Respondent has disseminated or has caused to be disseminated advertisements for TM8, including, but not necessarily