

IN THE MATTER OF
MARTIN ADVERTISING, INC.

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

Docket C-3846. Complaint, Jan. 4, 1999--Decision, Jan. 4, 1999

This consent order, among other things, prohibits Martin Advertising, Inc., a regional advertising agency for General Motors' dealerships and associations, from disseminating deceptive lease and/or credit advertising and requires the disclosure of cost information in advertisements mandated by the Consumer Leasing Act and/or the Truth in Lending Act.

Participants

For the Commission: *Rolando Berrelez, Sally F. Pitofsky, David Medine, and Mark Hertzendorf.*

For the respondent: *Jonathan Waller, Campbell & Waller, Birmingham, AL.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Martin Advertising, Inc., a corporation ("respondent" or "Martin"), has 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 Martin Advertising, Inc. is a Delaware corporation with its principal office or place of business at 2801 University Boulevard, Suite 200, Birmingham, Alabama.

2. Respondent, at all times relevant to this complaint, has provided advertising services to automobile dealers and dealer marketing groups, including but not limited to dealer marketing groups that promote General Motors Corporation ("GM") vehicles. Respondent has 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.

3. Respondent has 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.

4. 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, 15 U.S.C. 44.

FEDERAL TRADE COMMISSION ACT VIOLATIONS
LEASE ADVERTISING

5. Respondent has prepared and disseminated or has caused to be prepared and disseminated consumer lease advertisements for motor vehicles, including but not necessarily limited to the attached Martin Exhibits A through D. Exhibits A and B are representative examples of respondent's radio advertisements and are attached hereto in storyboard format. Exhibits C and D are representative examples of respondent's television advertisements and are attached hereto in video and storyboard format.

A. [Audio:] "Lincolns, Mercurys, Jeeps, Eagles, or Hyundais just 96 cents over factory invoice! It's Capital Motor Company's 96-hour countdown. Now through Monday buy any new Lincoln, Mercury, Jeep, Eagle, or Hyundai in stock and pay just 96 cents over factory invoice. Capital is out to break all sales records. Cash in with up to \$2,000 cash back, discounts up to \$5,500 and financing as low as 1.9%. Plus, act now and drive away in a new '97 Jeep Grand Cherokee for just 3-29 a month. Now is the best time to save on every new car in stock at Capital Motor Company. Everything must go - nothing will be held back. Plus, Capital guarantees to have the best price on any new car or they'll pay you \$1,000 cash. Don't let time run out - take advantage of huge year-end savings during the 96 Hour Capital Countdown - only at Capital Motor Company - home of the \$1,000 price guarantee. See our ad in Saturday's Tallahassee Democrat for details." (Martin Exhibit A).

B. [Audio:] "Choose the way you want to save this holiday season at Mid South Nissan. See Mid South Nissan before the New Year and drive a loaded '97 Nissan pickup for only 99 dollars a month with zero down payment! You get air, stereo cassette, alloy wheels, chrome package, sliding rear window and more. Drive it for 99 dollars a month with zero down! Or buy the same loaded '97 Nissan pickup for only 10-8-88. That's a total savings of over 4500 dollars. Plus when you buy, Mid South Nissan writes you a check for 1000 dollars. One

thousand dollars holiday cash to use any way you choose. A fun new '97 pickup, thousands in savings, plus a thousand bucks. Choose the way you want to save this holiday at Mid South Nissan. Drive a new '97 Nissan pickup for 99 dollars a month with zero down. Or buy it for just 10-8-88 and get 1000 dollars holiday cash. Hurry to Mid South Nissan, 966 South Gloster, Tupelo."

[The following disclosure is rapidly stated at the end of the advertisement, over background sound: "Sale prices plus tax, tag, and fees. 24 month lease with approved credit. Acquisition fee, security deposit and first month's payment at inception. See dealer for details."] (Martin Exhibit B).

C. [Audio:] "Premier Pontiac Nissan's Final Four Year-end clearance! You'll score big on every car in stock, get financing as low as 3.9%, and no payments up to 6 months... Plus, drive away in a '97 Nissan pick-up for just \$99 a month or Altima for just 1-29 a month."

[Video:] "FINANCING AS LOW AS 3.9%*
NO PAYMENT UP TO 6 MONTHS
97 VTP NISSAN PICK-UP
\$99 A MONTH**
97 NISSAN ALTIMA
\$129 A MONTH***"

[The advertisement contains the following disclosure at the bottom of the screen in light-colored fine print superimposed on moving background:

"*You must take retail delivery from dealer stock by 1/2/97. Dealer financial participation may affect consumer cost. Length of finance contract is limited. See dealer for details.

**36-month NMAC lease. Stock #8501; MSRP \$13,868. Sale price \$11,525. Residual \$9,085.12. 36 payments of \$99.43 with \$1675 cash or trade plus tax, title, tag and security deposit. See dealer for details.

***36-month NMAC lease. Stock #8328; MSRP \$20,597. Sale price \$18,095. Residual \$13,799.99. 36 payments of \$129.15 with \$1,999 cash or trade plus tax, title, tag and security deposit. See dealer for details."]

(Martin Exhibit C).

D. [Audio] "Right now drive a new '97 GMC Sierra extended cab 4 by 4 for only 2-89 a month. Or how about a new '97 Pontiac Sunfire for just 1-99 a month."

[Video:] "'97 GMC SIERRA EXTENDED CAB 4X4
\$289 MONTH/36 MONTH LEASE*
\$2200 CASH OR TRADE DOWN
4 SPEED AUTOMATIC
CAST ALUMINUM WHEELS"
"'97 PONTIAC SUNFIRE
\$199 MONTH/48 MONTH LEASE**
\$1500 CASH OR TRADE DOWN"

[The advertisement contains the following lease disclosure at the bottom of the screen in light-colored fine print superimposed on moving background:

"* 289 per month/36 month lease. \$2200 cash or trade down payment.
\$2789 due at lease signing (first's month payment of \$289, \$300

refundable security deposit plus downpayment). Customer has option to purchase vehicle at lease end. See dealer for details.

**\$199 per month/48 month lease. \$1500 cash or trade down payment. \$1899 due at lease signing (first month's payment of \$199, \$200 refundable security deposit plus down payment). Customer has option to purchase vehicle at lease end. See dealer for details."]

(Martin Exhibit D).

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

6. In lease advertisements, including but not necessarily limited to Martin Exhibits A through C, respondent has represented, expressly or by implication, that consumers can purchase the advertised vehicles by financing the vehicles through credit for the monthly payment amounts prominently stated in the advertisements.

7. In truth and in fact, consumers cannot purchase the advertised vehicles by financing the vehicles through credit at the monthly payment prominently amounts stated in the advertisements. Each monthly payment amount prominently stated in Martin Exhibits A through C is a component of a lease offer and not a credit offer. Therefore, respondent's representation as alleged in paragraph six was, and is, false or misleading.

8. Respondent knew or should have known that the representation set forth in paragraph six was, and is, false and misleading.

9. Respondent's 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 INCEPTION FEES

10. In lease advertisements, including but not necessarily limited to Martin Exhibits B and D, respondent has represented, expressly or by implication, that the amount stated as "down" or "cash or trade down" in respondent's lease advertisements is the total amount consumers must pay at lease inception to lease the advertised vehicles.

11. In truth and in fact, the amount stated as "down" or "cash or trade down" in respondent's lease advertisements is not the total amount consumers must pay at lease inception to lease the advertised vehicles. Consumers must also pay additional fees beyond the amount stated as "down" or "cash or trade down," such as the first month's

payment, security deposit, and acquisition fee at lease inception. Therefore, respondent's representation as alleged in paragraph ten was, and is, false or misleading.

12. Respondent knew or should have known that the representation set forth in paragraph ten was, and is, false and misleading.

13. Respondent's 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 ADEQUATELY THAT
TRANSACTION ADVERTISED IS A LEASE

14. In lease advertisements, including but not necessarily limited to Exhibits A through C, respondent has represented, expressly or by implication, that consumers can purchase the advertised vehicles for the monthly payment amounts prominently stated in the advertisements. These advertisements do not adequately disclose that each advertised monthly payment amount is a component of a lease offer.

15. The existence of this additional information would be material to consumers in deciding whether to visit the dealership named in the advertisement and/or whether to lease or purchase an automobile from the dealership. The failure to disclose adequately this additional information, in light of the representation made, was, and is, a deceptive practice.

16. Respondent knew or should have known that the failure to disclose adequately that the advertised monthly payment amount was a component of a lease offer as set forth in paragraph fourteen was, and is, deceptive.

17. Respondent's 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 IV: FAILURE TO DISCLOSE ADEQUATELY INCEPTION FEES

18. In its lease advertisements, including but not limited to Martin Exhibits A - D, respondent has 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 amount stated as "down." These lease advertisements do not adequately disclose additional terms pertaining to the lease offer, including but

not necessarily limited to one or more of the following charges: a required security deposit, first month's payment, and/or acquisition fee.

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

20. Respondent knew or should have known that the failure to disclose adequately material terms as set forth in paragraph eighteen was, and is, deceptive.

21. Respondent's 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 V: CONSUMER LEASING ACT AND REGULATION M VIOLATIONS

22. Respondent's lease advertisements, including but not necessarily limited to Martin Exhibits A through D, state a monthly payment amount, the number of required payments, and/or an amount "down." Respondent's advertisements omit or fail to clearly and conspicuously disclose certain additional terms required by the Consumer Leasing Act and Regulation M, including one or more of the following terms: that the transaction advertised is a lease; the total amount of any payments such as a capitalized cost reduction required at lease inception; that a security deposit is required; and the number, amount, and timing of scheduled payments.

23. Respondent's practices violate Section 184 of the Consumer Leasing Act, 15 U.S.C. 1667c, as amended, and Section 213.7 of Regulation M, 12 CFR 213.7, as amended.

CREDIT ADVERTISING

24. Respondent has prepared and disseminated or has caused to be prepared and disseminated credit sale advertisements ("credit advertisements") for motor vehicles, including but not necessarily limited to the attached Martin Exhibits A, C, and E. Martin Exhibit E, a television credit advertisement (attached in video and storyboard format), contains the following statements:

[Audio:][Announcer]: "Then we told them that Jimmy was only \$299 a month with a GMAC SmartBuy. [Consumer #6:] \$299 a month? [Consumer #7:] \$299 a month -- that's great. [Consumer #8:] A Jimmy like this for \$299 a month would be fantastic."

[Video:] "\$299 a month 36-month GMAC SmartBuy"

[The advertisement contains the following credit disclosure in white print superimposed on a light-colored background and accompanied by background sound and images: "Example based on Jimmy MSRP of \$20,498. 6.9% APR GMAC SMARTBUY FINANCING. For 36 months, 35 months at \$299.38 per month and final payment of \$9441.94. \$3350 down, actual down payment may vary. Tax, license, title fees and insurance extra. Purchaser may refinance the final payment, or with 30 days advance written notice sell the vehicle to GMAC at end of term and pay \$250 disposal fee plus any excess mileage and wear charges. Dealer financial participation may affect consumer cost. See your participating dealer for qualification details. You must take retail delivery out of dealer stock by 9/22/93."] (Martin Exhibit E).

FEDERAL TRADE COMMISSION ACT VIOLATIONS
COUNT VI: MISREPRESENTATION IN CREDIT ADVERTISING

25. In credit advertisements, including but not necessarily limited to Martin Exhibit E, respondent has represented, expressly or by implication, that consumers can buy the advertised vehicles at the terms prominently stated in the advertisements, including but not necessarily limited to the monthly payment amount.

26. In truth and in fact, consumers cannot buy the advertised vehicles at the terms prominently stated in the advertisements, including but not necessarily limited to the monthly payment amount. Consumers are also responsible for a final balloon payment of several thousand dollars to purchase the advertised vehicles. Therefore, respondent's representation as alleged in paragraph twenty-five was, and is, false or misleading.

27. Respondent knew or should have known that the representation set forth in paragraph twenty-five was, and is, false and misleading.

28. Respondent's 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 VII: FAILURE TO DISCLOSE ADEQUATELY
IN CREDIT ADVERTISING

29. In credit advertisements, including but not necessarily limited to Martin Exhibit E, respondent has represented, expressly or by

implication, that consumers can buy the advertised vehicles at the terms prominently stated in the advertisements, including but not necessarily limited to the monthly payment amount and/or number of required monthly payments. These advertisements do not adequately disclose additional terms pertaining to the credit offer, including but not necessarily limited to a final balloon payment of several thousand dollars, the amount of the downpayment, and the annual percentage rate. The existence of these additional terms would be material to consumers in deciding whether to buy the advertised vehicle. The failure to disclose adequately these additional terms, in light of the representation made, was, and is, a deceptive practice.

30. Respondent knew or should have known that the failure to disclose adequately material terms as set forth in paragraph twenty-nine was, and is, deceptive.

31. Respondent's 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 VIII: FAILURE TO STATE RATE OF FINANCE CHARGE
AS ANNUAL PERCENTAGE RATE

32. In credit advertisements, including but not necessarily limited to Martin Exhibits A and C, respondent has stated a rate of finance charge without stating that rate as an "annual percentage rate," using that term or the abbreviation "APR."

33. Respondent's aforesaid 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 CFR 226.24(b) and 226.22, respectively.

COUNT IX: FAILURE TO DISCLOSE REQUIRED INFORMATION
CLEARLY AND CONSPICUOUSLY

34. In credit advertisements, including but not necessarily limited to Martin Exhibit E, respondent has stated a rate of finance charge, monthly payment amount, and/or an amount "down" as terms for financing the purchase of the advertised vehicles.

35. These credit advertisements have omitted or failed to disclose 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 annual percentage rate, using that term or the abbreviation "APR."

36. Respondent's aforesaid practice violates Section 144 of the Truth in Lending Act, 15 U.S.C. 1664, as amended, and Section 226.24(c) of Regulation Z, 12 CFR 226.24(c), as amended.

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Complaint

EXHIBIT A

RADIO

CAP-20

MARTIN ADVERTISING, INC.

Specialist in Automotive Advertising

2801 University Boulevard • Suite 200 • Birmingham, Alabama 35233 • Phone 205-930-9200 • Fax 205-933-6949



CLIENT : Capital Motor Company

TALENT: KO

TITLE : 96-Hour Countdown

MUSIC :

DATE : 12/16/96

TIME: 60

NOTES :

COPYWRITER: jb

DISCL. END:

1 Lincolns, Mercurys, Jeeps, Eagles, or Hyundais just 96 cents over factory invoice! It's Capital Motor
 2 Company's 96-hour countdown. Now through Monday buy any new Lincoln, Mercury, Jeep, Eagle, or
 3 Hyundai in stock and pay just 96 cents over factory invoice. Capital is out to break all sales records. Cash in
 4 with up to \$2,000 cash back, discounts up to \$5,500 and financing as low as 1.9%. Plus, act now and drive
 5 away in a new '97 Jeep Grand Cherokee for just 3-29 a month. Now is the best time to save on every new
 6 car in stock at Capital Motor Company. Everything must go - nothing will be held back. Plus, Capital
 7 guarantees to have the best price on any new car or they'll pay you \$1,000 cash. Don't let time run out - take
 8 advantage of huge year-end savings during the 96-Hour Capital Countdown - only at Capital Motor Company
 9 - home of the \$1,000 price guarantee. See our ad in Saturday's Tallahassee Democrat for details.

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MARTIN EXHIBIT A

Complaint

127 F.T.C.

EXHIBIT B

Martin Exhibit B

[Audio:] "Choose the way you want to save this holiday season at Mid South Nissan. See Mid South Nissan before the New Year and drive a loaded '97 Nissan pickup for only 99 dollars a month with zero down payment! You get air, stereo cassette, alloy wheels, chrome package, sliding rear window and more. Drive it for 99 dollars a month with zero down! Or buy the same loaded '97 Nissan pickup for only 10-8-88. That's a total savings of over 4500 dollars. Plus when you buy, Mid South Nissan writes you a check for 1000 dollars. One thousand dollars holiday cash to use any way you choose. A fun new '97 pickup, thousands in savings, plus a thousand bucks. Choose the way you want to save this holiday at Mid South Nissan. Drive a new '97 Nissan pickup for 99 dollars a month with zero down. Or buy it for just 10-8-88 and get 1000 dollars holiday cash. Hurry to Mid South Nissan, 966 South Gloster, Tupelo."

[The following disclosure is rapidly stated at the end of the advertisement, over background sound: "Sale prices plus tax, tag, and fees. 24 month lease with approved credit. Acquisition fee, security deposit and first month's payment at inception. See dealer for details."]

EXHIBIT C

TELEVISION

PRE-196

MARTIN ADVERTISING, INC.

Specialist in Automotive Advertising

2801 University Boulevard • Suite 200 • Birmingham, Alabama 35213 • Phone 205-930-9200 • Fax 205-933-6949



CLIENT : Premier Pontiac Nissan

TALENT: RF / JF

TITLE : Final Four

MUSIC :

DATE : 12/18/96

TIME: 30

NOTES :

COPYWRITER: jb

DISCL. END:

VIDEO

AUDIO

open with spot light effect as if before a show
super: THE FINAL FOUR

supers dissolve and words come on to screen one at
a time super: PREMIER'S FINAL FOUR
YEAR-END CLEARANCE!

Cut to montage of Pontiac (show GA and SF) super:
FINANCING AS LOW AS 3.9% *
NO PAYMENT UP TO 6 MONTHS

cut to running footage of '97 VTP Pick-up and 4-door
Altima super: '97 VTP NISSAN PICK-UP
\$99 A MONTH **
'97 NISSAN ALTIMA
\$129 A MONTH ***

Return to opening treatment super:
PREMIER'S FINAL FOUR
YEAR-END CLEARANCE!

Add Dealer logo and address:
PREMIER PONTIAC NISSAN
SHACKLEFORD ROAD
WEST LITTLE ROCK

* You must take retail delivery from dealer stock by 1/2/97.
Dealer financial participation may affect consumer cost. Length of
finance contract is limited. See dealer for details.

** 36-month NMAC lease. Stock #8501; MSRP \$13,868. Sale
price \$11,525. Residual \$9,085.12. 36 payments of \$99.43 with
\$1,675 cash or trade plus tax, title, tag and security deposit. See
dealer for details.

*** 36-month NMAC lease. Stock #8328; MSRP \$20,597. Sale
price \$18,095. Residual \$13,799.99. 36 payments of \$129.15
with \$1,999 cash or trade plus tax, title, tag and security deposit.
See dealer for details.

(Announcer voice with game sound effects in bg)
RF: Get ready Arkansas - it's that time of year again...
The Final Four is Here!

(JF:) Not that final four...

Premier Pontiac Nissan's Final Four Year-end
clearance!

You'll score big on every car in stock, get financing as
low as 3.9%, and no payments up to 6 months....

Plus, drive away in a '97 Nissan pick-up for just \$99 a
month or Altima for just 1-29 a month.

RF: Don't pass up the best savings of the year during
Premier Pontiac Nissan's Final Four Year-End
Clearance!

Complaint

127 F.T.C.

EXHIBIT D

TELEVISION

BIL-209 R8

MARTIN ADVERTISING, INC.

Specialist in Automotive Advertising

2801 University Boulevard • Suite 200 • Birmingham, Alabama 35233 • Phone 205-930-9200 • Fax 205-933-6949



CLIENT : Bill DeLord Auto Center

TALENT : KO

TITLE : Sierra/Sunfire

MUSIC :

DATE : 5/8/97

TIME : 11.5 bridge

NOTES : Uses BIL-209 donut.

COPYWRITER: cb

DISCL. END:

VIDEO

AUDIO

Sierra ext cab 4x4 (no 3rd door)
 '97 GMC SIERRA EXTENDED CAB 4X4
 \$289 MONTH / 36 MONTH LEASE *
 \$2200 CASH OR TRADE DOWN
 4 SPEED AUTOMATIC
 CAST ALUMINUM WHEELS

Right now drive a new '97 GMC Sierra extended cab
 4 by 4 for only 2-89 a month.

Cut to Sunfire coupe action
 '97 PONTIAC SUNFIRE
 \$199 MONTH / 48 MONTH LEASE **
 \$1500 CASH OR TRADE DOWN

Or how about a new '97 Pontiac Sunfire for just 1-99 a
 month.

* \$289 per month / 36 month lease. \$2200 cash or trade down
 payment. \$2789 due at lease signing (first month's payment of
 \$289, \$300 refundable security deposit plus down payment).
 Customer has option to purchase vehicle at lease end. See
 dealer for details.

** \$199 per month / 48 month lease. \$1500 cash or trade down
 payment. \$1899 due at lease signing (first month's payment of
 \$199, \$200 refundable security deposit plus down payment).
 Customer has option to purchase vehicle at lease end. See
 dealer for details.

MARTIN EXHIBIT D

EXHIBIT E

McCANN/SAS

TV/Radio

Client: GMC TRUCK SUPPORT/AIKEN-AUGUSTA

Product: JNR

Title: "JIMMY TESTIMONIAL \$299"

Job no: 299

TVX Radio

Length: 30

Code: GMCTS

Date: 8/09/93

VIDEO

Super: GMC JIMMY

Super: 3 year 36,000 mile no deductible
limited warranty disc #1\$299 mo. 36 month GMAC smartbuy disc
#2AUDIO

ANNCR: WE ASKED FOLKS WHY
THEY LIKED THE 1993 GMC JIMMY.
THIS IS A QUALITY TRUCK. JIMMY'S
VERY COMFORTABLE THE JIMMY
HAS A REAL SPORTY LOOK.

ANNCR: WE TOLD THEM ABOUT THE
JIMMY'S 3 YEAR NO DEDUCTIBLE
LIMITED WARRANTY. A THREE
YEAR NO DEDUCTIBLE WARRANTY?
NO DEDUCTIBLE WARRANTY. YOU
CAN'T BEAT THAT.

ANNCR: THEN WE TOLD THEM THE
JIMMY WAS ONLY 2-99 A MONTH
WITH A GMAC SMARTBUY.
299 A MONTH?
299 A MONTH. THAT'S GREAT.
A JIMMY LIKE THIS AT 299 A MONTH
WOULD BE FANTASTIC.

ANNCR: SEE (DEALER TAGS)

DISCLAIMERS:

(1) SEE YOUR GMC TRUCK DEALER
FOR TERMS OF THIS LIMITED
WARRANTY.

(2) EXAMPLE BASED ON JIMMY MSRP
20,498. 6.9% APR GMAC SMARTBUY
FINANCING FOR 36 MONTHS. 35
MONTHS AT 299.38 PER MONTH AND
FINAL PAYMENT OF \$9441.94. \$3350
DOWN. ACTUAL DOWN PAYMENT
MAY VARY. TAX, LICENSE, TITLE
FEES AND INSURANCE EXTRA.
PURCHASER MAY REFINANCE THE
FINAL PAYMENT. OR WITH 30 DAYS

Complaint

127 F.T.C.

EXHIBIT E

08/09/93 14:53 FAX 313 680 1873

MCCANN 343

2003.103

ADVANCE WRITTEN NOTICE SELL
THE VEHICLE TO GMAC AT END OF
TERM AND PAY \$250 DISPOSAL FEE
PLUS ANY EXCESS MILEAGE AND
WEAR CHARGES. DEALER
FINANCIAL PARTICIPATION MAY
AFFECT CONSUMER COST. SEE YOUR
PARTICIPATING DEALER FOR
QUALIFICATION DETAILS. YOU
MUST TAKE RETAIL DELIVERY OUT
OF DEALER STOCK BY SEPTEMBER
22, 1993.

Add: —

Decision and Order

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent 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 respondent with violation of the Federal Trade Commission Act; and

The respondent, its attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, in admission by the respondent 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 respondent 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 respondent has 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:

1. Respondent Martin Advertising, Inc. is a Delaware corporation with its principal office or place of business at 2801 University Boulevard, Suite 200, Birmingham, Alabama.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

DEFINITIONS

1. "*Clearly and conspicuously*" as used herein shall mean: 1) video or written disclosures must be made in a manner that is readable and understandable to a reasonable consumer and 2) audio

or oral disclosures must be made in a manner that is audible and understandable to a reasonable consumer.

2. "*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 CFR 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. (Sections 213.2 and 213.7 of Regulation M, 12 CFR 213.2 and 213.7, as amended.)

3. "*Balloon payment*" as used herein shall mean any scheduled payment with respect to a consumer credit transaction that is at least twice as large as the average of earlier scheduled payments.

4. Unless otherwise specified, "*respondent*" as used herein shall mean Martin Advertising, Inc., its successors and assigns, and its officers, agents, representatives, and employees.

5. "*Commerce*" as used herein shall mean as defined in Section 4 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. 44.

I.

It is ordered, That respondent, directly or through any corporation, subsidiary, division, or any other device, in connection with any advertisement to aid, promote, or assist, directly or indirectly, any consumer lease involving motor vehicles 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 that any advertised lease terms, including but not limited to a monthly payment amount or downpayment, pertain to a cash or credit offer;

B. Misrepresent the total amount due at lease signing or delivery, the amount down, and/or the downpayment, capitalized cost reduction, or other amount that reduces the capitalized cost of the vehicle (or that no such amount is required);

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, more prominently than the disclosure of the total amount due at lease signing or delivery;

D. State the amount of any payment or any capitalized cost reduction or other payment required prior to or at consummation 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, amount, 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 CFR 213.7, as amended.)

For radio advertisements, respondent 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 CFR 213.7(f), as amended. For television advertisements, respondent may also comply with the requirements of this subparagraph by utilizing Section 213.7(f) of Regulation M, as amended; and

E. Fail to comply in any other respect with Section 184 of the CLA and Section 213.7 of Regulation M.

(CLA, 15 U.S.C. 1667-1667e, as amended, and Regulation M, 12 CFR 213, as amended).

II.

It is further ordered, That respondent, directly or through any corporation, subsidiary, division, or any other device, in connection with any advertisement to aid, promote, or assist, directly or indirectly, any extension of closed-end credit involving motor vehicles in or affecting commerce, as "advertisement" and "closed-end 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 existence and amount of any balloon payment or the annual percentage rate;

B. State the amount of any payment, including but not limited to any monthly payment, in any advertisement unless the amount of any balloon payment is disclosed prominently and in close proximity to the most prominent of the above statements;

C. State a rate of finance charge without stating the rate as an "annual percentage rate" or the abbreviation "APR," using that term;

D. 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, including but not limited to the amount of any balloon payment; 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 CFR 226.22 and 226.24(c), as amended.); and

E. Fail to comply in any other respect with Section 144 of the TILA and Section 226.24 of Regulation Z.

(TILA, 15 U.S.C. 1601-1667, as amended, and Regulation Z, 12 CFR 226, as amended).

III.

It is further ordered, That respondent Martin Advertising, Inc., and its successors and assigns, shall, for five (5) years after the date of service of this order, maintain and upon request make available to the Commission for inspection and copying all records that will demonstrate compliance with the requirements of this order.

IV.

It is further ordered, That respondent Martin Advertising, Inc., and its successors and assigns, shall:

A. Within thirty (30) days after the date of service of this order, distribute a copy of this order to all current principals, officers, directors, managers, employees, agents, and representatives having responsibilities involving motor vehicle lease and/or motor vehicle closed-end credit advertising; and

B. For a period of ten (10) years from the date of service of this order, distribute a copy of this order to all future principals, officers, directors, managers, employees, agents, and representatives having responsibilities involving motor vehicle lease and/or motor vehicle closed-end credit advertising, within thirty (30) days after the person or entity assumes such position or responsibilities.

V.

It is further ordered, That respondent Martin Advertising, 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 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 Martin Advertising, Inc., and its successors and assigns, shall within one hundred and twenty (120) 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.

VII.

This order will terminate on January 4, 2019, 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 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 deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

IN THE MATTER OF
CHRYSLER CORPORATION

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

Docket C-3847. Complaint, Jan. 4, 1999--Decision, Jan. 4, 1999

This consent order, among other things, prohibits Chrysler Corporation from disseminating deceptive lease advertising and requires the disclosure of cost information in advertisements mandated by the Consumer Leasing Act.

Participants

For the Commission: *Rolando Berrelez, Sally F. Pitofsky, David Medine, and Mark Hertzendorf.*

For the respondent: *Judith Shumaker-Holland*, in-house counsel, Auburn Hills, MI.

COMPLAINT

The Federal Trade Commission, having reason to believe that Chrysler Corporation, a corporation ("respondent" or "Chrysler"), has violated the provisions of the Federal Trade Commission Act, 15 U.S.C. 45-58, as amended, and the Consumer Leasing Act, 15 U.S.C. 1667-1667e, as amended, and its implementing Regulation M, 12 CFR 213, as amended, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Chrysler Corporation is a Delaware corporation with its principal office or place of business at 1000 Chrysler Drive, Auburn Hills, Michigan. Respondent offers Chrysler, Jeep, Plymouth, Dodge, and Eagle brand vehicles (hereinafter collectively referred to as "Chrysler vehicles") for sale or lease to consumers.

2. Respondent has 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.

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, 15 U.S.C. 44.

4. Respondent has disseminated or has caused to be disseminated consumer lease advertisements ("lease advertisements") for