

Complaint

IN THE MATTER OF

TIMONIUM CHRYSLER, INC.

D/B/A

**DON WHITE'S TIMONIUM CHRYSLER JEEP
DODGE**CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF
SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket No. C-4429; File No. 132 3014**Complaint, January 28, 2014 – Decision, January 28, 2014*

This consent order addresses Timonium Chrysler, Inc. d/b/a Don White's Timonium Chrysler Jeep Dodge's failure to disclose material information to consumers wishing to purchase motor vehicles. The complaint alleges that respondent has advertised that specific dealer discounts and prices are generally available to consumers. The complaint further alleges that, in fact, once consumers reach the dealership, they find out that there are significant restrictions on obtaining the advertised discounts or that the advertised discounts are not available in full. The consent order prohibits respondent from misrepresenting: 1) the existence or amount of any discount, rebate, bonus, incentive or price; 2) the existence, price, value, coverage, or features of any product or service associated with the motor vehicle purchase; 3) the number of vehicles available at particular prices; or 4) any other material fact about the price, sale, financing, or leasing of motor vehicles.

Participants

For the *Commission*: *Teresa N. Kosmidis* and *Peter Lamberton*.

For the *Respondent*: *Steven Byerts, Bass Sox Mercer*.

COMPLAINT

The Federal Trade Commission, having reason to believe that Timonium Chrysler, Inc. d/b/a Don White's Timonium Chrysler Jeep Dodge, a corporation ("respondent"), has violated provisions of the Federal Trade Commission Act ("FTC Act"), and it appearing to the Commission that this proceeding is in the public interest, alleges:

Complaint

1. Respondent is a Maryland corporation with its principal office or place of business at 10300 York Road, Cockeysville, MD. Respondent offers motor vehicles for sale or lease.

2. The acts or practices of respondent alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

3. Since at least May 21, 2012, respondent has disseminated or has caused to be disseminated advertisements promoting the purchase, financing, and leasing of their motor vehicles.

4. Respondent’s advertisements include, but are not necessarily limited to, advertisements posted on the website www.donwhites.com, selected pages of which are attached as Exhibit A. These advertisements list specific “Dealer Discount[s]” and “Internet Price[s]” for particular motor vehicles. For example, one web page advertises a 2013 Chrysler 200 Limited Sedan as follows:

MSRP*	\$27,320
Dealer Discount	-\$7,499
Internet Price	\$19,821

Further down on the web page, the following information appears:

***All Prices must be confirmed by the Internet Department and are only valid through the Internet Department.** Please contact us via phone, chat, email, or website form to verify availability and price. *Adjusted price does not include applicable sales tax, documentation fee, title, freight or tag fees.* [Italicized text in red print] Some incentives may be included, but not all customers will qualify for all incentives. Please ask for additional incentives that are not listed in the price. Internet Price not valid in conjunction with any other advertised price, promotion, discount, coupon offer or prior sales. **Vehicle is subject to availability so please confirm before you visit.** (emphasis in original).

Exhibit A at 2.

Complaint

5. In fact, in numerous instances, the advertised discount and price are not generally available to consumers. In numerous instances, the advertised discount and price are subject to various qualifications or restrictions. Such qualifications or restrictions have included, for example, being a member of the military, being a recent college graduate, possessing a bank account at a particular bank, or owning a vehicle that has a lien on it. In numerous instances, even if consumers meet all of these qualifications or restrictions, they cannot obtain the advertised discount and price.

**VIOLATION OF THE FEDERAL TRADE COMMISSION
ACT**

6. Through the means described in Paragraph 4, including but not necessarily limited to Exhibit A, respondent has represented expressly or by implication that specific dealer discounts and prices are generally available to consumers.

7. In truth and in fact, the specific dealer discounts and prices are not generally available to consumers.

8. Therefore, the representation set forth in Paragraph 6 of this Complaint was, and is, false or misleading.

9. The acts and practices of respondent as alleged in this complaint constitute deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

THEREFORE, the Federal Trade Commission, this twenty-eighth day of January, 2014, has issued this complaint against respondent.

By the Commission.

Complaint

Exhibit A

New 2013 Chrysler 200 Limited For Sale in Baltimore, Cockeysville MD 316001

The screenshot displays a car dealership website for Don White's Timonium Chrysler Jeep Dodge Ram. The page features a search bar at the top with options for New, Pre-Owned, and Certified vehicles. Below the search bar, the dealership's name and address (10300 York Road, Cockeysville, MD 21030) are listed, along with contact information for Sales, Service, and Parts. The main navigation menu includes links for Vehicles, Videos, Financing, Parts & Service, Specials, Vehicle Incentives, and Dealership. The featured vehicle is a 2013 Chrysler 200 Limited Sedan, with a call to action to 'Buy a New Chrysler Dodge Ram Jeep - Baltimore'. The listing includes a large image of the car, a 'GET PRE-APPROVED NOW' button, and a table of specifications and pricing. The MSRP is \$27,320, and the Internet Price is \$19,821. The vehicle is a 4-door Sedan with a 3.6L V6 engine, automatic transmission, and crystal blue exterior. The website also features a 'SPECIAL FINANCE RATES AVAILABLE' section with a link to review rates, and a 'Watch Video' section with a grid of photos. The footer includes social media links for Blog, Facebook, Twitter, YouTube, Dealer Rating, Directions, Contact, and Featured.

SEARCH INVENTORY

NEW • PRE-OWNED • CERTIFIED

Search by Make Search by Model

Search by Body Style Search by Price

NEED HELP? CHAT NOW

Don White's Timonium Chrysler Jeep Dodge Ram

10300 York Road Cockeysville, MD 21030

Sales: (888) 519-9532
Service: (888) 655-4042
Parts: (888) 765-2980

VEHICLES VIDEOS FINANCING PARTS & SERVICE SPECIALS VEHICLE INCENTIVES DEALERSHIP

Buy a New Chrysler Dodge Ram Jeep - Baltimore

2013 Chrysler 200 Limited Sedan - Baltimore

Call Now (888) 519-9532

Back To Inventory Tech Specs Features Options

MSRP \$27,320
Dealer Discount -\$7,499
Internet Price **\$19,821**

Body Style 4 door Sedan
Drivetrain FWD
Engine 3.6L V6
Fuel Type regular unleaded
Transmission Automatic 6-Speed
Ext. Color Crystal Blue
Int. Color Black
Stock Number 316001
VIN 1C3CCBCG1DN507480

City MPG 19 Hwy MPG 29

Special Finance Rates Available

Click to review rates

REQUEST MORE INFO
SCHEDULE A TEST DRIVE
VIEW WINDOW STICKER
PRINT THIS VEHICLE
EMAIL A FRIEND
CARFINDER
KELLEY BLUE BOOK
SHARE THIS VEHICLE

Watch Video

Photos

Blog Facebook Twitter YouTube Dealer Rating Directions Contact Featured

INFORMATION

<http://www.donwhites.com/new/Chrysler/2013-Chrysler-200-did86496ba00064000521d380f825d.htm>[12/3/2012 10:45:33 AM]

Complaint

New 2013 Chrysler 200 Limited For Sale in Baltimore, Cockeysville MD | 316901

Comments

Safety Features Include: ABS, Traction control...It has nice features like: Power locks, Power windows... To lock in your Internet Price, confirm availability and receive an itemized quote, please call the Internet Department at 888-519-9532 or click to request more information. Appointments are strongly recommended. You must ask for the Internet Department to receive special Internet pricing.

Special!

Price and availability can not be guaranteed unless verified with our Internet Team prior to visit. (Please give us a call, email or chat) Optional equipment listed below subject to error, contact Ryan, Kendra or Thomas with any questions, to confirm availability or to schedule your test drive and vehicle review, **888-519-9532**.

*All of our Vehicles are priced very competitively - some well below factory invoice. We include all factory rebates, bonus cash, loyalty cash, certificates, military rebate, and finance incentives that are offered. Not all Customers will qualify for all incentives. Additionally please add sales tax, MVA tag and title fees, destination charge, and processing fee.

Don White's Price
**DOES NOT INCLUDE MANY
OTHER AVAILABLE
INCENTIVES**

If you qualify for these additional incentives, we will deduct them from our Internet Price.

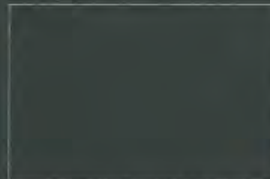
Call and ask for SHAWN RYAN with any questions regarding this vehicle

Click Request More Info button above for Internet price and additional rebates which may be available on this vehicle.

*All Prices must be confirmed by the Internet Department and are only valid through the Internet Department. Please contact us via phone, chat, email, or website form to verify availability and price. **Internet Price does not include destination sales tax, documentation fee, title, freight or tag fees.** Some incentives may be included, but not all customers will qualify for all incentives. Please ask for additional incentives that are not listed in the price. Internet Price not valid in conjunction with any other advertised price, promotion, discount, coupon, offer or prior sale. **Vehicle is subject to availability so please confirm before you visit.**

Rate (%)	Cash/Trade (\$)	Term	Estimated Monthly Payment
4.99	5000	72 Months	\$239

Financing rates may be 8.99% or higher. All Supplies Sales Taxes, license, title, and destination and processing fees. Monthly, bi-monthly and tri-monthly payment plans are available. Some restrictions may apply. All prices are subject to change without notice.



This vehicle is located at
Don White's Timonium
Chrysler Jeep Dodge Ram
10300 York Road
Cockeysville, MD 21030

Please Call
(888) 519-9532

[GET DIRECTIONS](#)

Please ASK FOR the INTERNET DEPARTMENT who are trained to assist you with every aspect of your online experience with Don White's.

Our Baltimore Chrysler dealership

Search our Baltimore Chrysler car dealership's inventory for a similar 2013 Chrysler 200 Limited for sale in Baltimore.

Similar New cars in Cockeysville



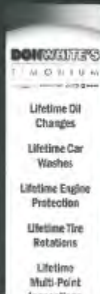
2012 Dodge Charger SE
Internet Price: \$20,570

[View Details](#)



2013 Dodge Dart SXT/Rallye
Internet Price: \$18,833

[View Details](#)



Complaint

New 2013 Chrysler 200 Limited For Sale in Baltimore, Cockeysville MD | 316601





2013 Chrysler 200 Limited
Internet Price: \$19,821



2013 Chrysler 200 Limited
Internet Price: \$19,821



2013 Chrysler 200 Limited
Internet Price: \$19,821

Information on this website is subject to error. Inventory subject to availability so please contact our Internet Department for verification. All prices must be confirmed by Fatima McArthur and are subject to change and/or error. Please ask for Fatima, Ryan, or Thomas when you call or visit.

Proudly Serving Baltimore, Cockeysville, Towson & Timonium, Maryland

Visit our Timonium new car dealership in Cockeysville. We offer new 2012 Chrysler, Jeep, Ram, Dodge, used cars and auto parts. Our expert finance team will custom fit an auto loan or lease to suit your specific needs, and our auto repair shop and auto body repair shop will keep your car running and looking like new. Stop by Don White's Chrysler Dodge Jeep for all your automotive needs. We are your destination dealership for new and used cars in Baltimore. We look forward to serving you.

User Reviews

No comments have been posted.

[POST A COMMENT](#)

2013 Chrysler 200 Limited Sedan - Baltimore

Options • 50 State Emissions • Engine: 3.6L V6 24V VVT • Leather Trimmed Bucket Seats • Quick Order Package 27V • Radio: UConnect 730N CD/DVD/MP3/HDD/NAV • Sun/Sound Group • Power Express Open/Close Sunroof • Transmission: 6-Speed Automatic + To Top	Features CONVENIENCE FEATURES • 1-touch down • Driver vanity mirror • Tilt steering wheel • Auto-dimming rearview mirror • Air conditioning • Garage door transmitter • Front beverage holders • Speed control • Illuminated entry • Rear door bins • Telescoping steering wheel • Rear beverage holders • Automatic temperature control • Power windows • Passenger door bin • Remote keyless entry • Passenger vanity mirror • Driver door bin • Voice recorder	Tech Specs POWERTRAIN • Fuel economy city: 19mpg • Fuel economy highway: 29mpg • Variable valve control • Transmission: multi-speed automatic • Recommended fuel: regular unleaded • Engine location: front • Sequential multi-point fuel injection • Manual-shift auto: AUTOSTICK • Drive type: front-wheel SPECS AND DIMENSIONS • Rear legroom: 919mm (36.2") • Front headroom: 963mm (37.9") • Turning radius: 5.7m (18.8') • Passenger volume: 2,840L (100.3 cu.ft.) • Exterior height: 1,483mm (58.4")
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<http://www.donwhite.com/home/Chrysler/2013/2013-Chrysler-200-Limited-316601>

Complaint

New 2013 Chrysler 200 Limited For Sale in Baltimore, Cockeysville MD | 316003

1-touch up - Power moonroof	- Front shoulder room: 1,430mm (56.3") - Wheelbase: 2,766mm (108.9") - Exterior body width: 1,842mm (72.6") - Towing capacity: 454kg (1,000lbs) - Rear hiproom: 1,341mm (52.8") - Air Pollution Score (AP): 6 - Rear headroom: 975mm (38.4") - Front legroom: 1,077mm (42.4") - Greenhouse Gas Score (GG): 5 - Interior maximum cargo volume: 385 L (14 cu.ft.) - Exterior length: 4,869mm (191.7") - Rear shoulder room: 1,422mm (56.0") - Interior cargo volume: 385 L (14 cu.ft.) - Front hiproom: 1,336mm (52.6")
ENTERTAINMENT FEATURES - Radio data system - DVD-Audio - MP3 decoder - AM/FM radio - Speakers: 6 - Steering wheel mounted audio controls - CD player	
SEATS AND TRIM - Heated front seats - Max seating capacity: 5 - Rear seats: bench - Front seats: bucket - Front center armrest: w/storage - Power driver seat - Leather upholstery - Rear seat center armrest - Split folding rear seat	
WARRANTY - Basic warranty: 36 months/36,000miles - Roadside assistance coverage: 60 months/100,000miles - Powertrain warranty: 60 months/100,000miles - Corrosion perforation warranty: 60 months/100,000miles	
BODY EXTERIOR - Rear cargo: trunk - Power door mirrors - Bumpers: body-color - Heated door mirrors	
SAFETY AND SECURITY - Traction control - Brake assist - Electronic stability - Dual front impact airbags - ABS brakes - Perimeter/approach lights - Security system - Dual front side impact airbags - Anti-whiplash front head restraints 4 wheel disc brakes - Panic alarm - Overhead airbag - Ignition disable	
LIGHTING, VISIBILITY AND INSTRUMENTATION - Fully automatic headlights - Tachometer - Delay-off headlights - Trip computer	
	SUSPENSION/HANDLING - Four wheel independent suspension - Rear anti-roll bar - Power steering - Front anti-roll bar - Alloy wheels

[1 To Top](#)

Complaint

New 2013 Chrysler 200 Limited For Sale in Baltimore, Cockeysville MD | 316001

Variably intermittent wipers

- Rear window defroster
- Low tire pressure warning
- Speed sensitive wipers
- Outside temperature display
- Front fog lights
- Front reading lights
- Compass
- Rear reading lights

[Top](#)

* While every reasonable effort is made to ensure the accuracy of this data, we are not responsible for any errors or omissions contained on these pages. Please verify any information in question with a dealership sales representative.

* MSRP is the Manufacturer's Suggested Retail Price (MSRP) of the vehicle. It does not include any taxes, fees or other charges. Pricing and availability may vary based on a variety of factors, including options, dealer, specials, fees, and financing qualifications. Consult your dealer for actual price and complete details. Vehicles shown may have optional equipment at additional cost.

* The estimated selling price that appears after calculating dealer offers is for informational purposes only. You may not qualify for the offers, incentives, discounts, or financing. Offers, incentives, discounts, or financing are subject to expiration and other restrictions. See dealer for qualifications and complete details.

* Images, pricing and options shown are examples only, and may not reflect exact vehicle color, trim, options, pricing or other specifications.

* In transit means that vehicles have been built, but have not yet arrived at your dealer. Images shown may not necessarily represent identical vehicles in transit to your dealership. See your dealer for actual price, payments and complete details.

Website by
DEALER.COM

ABOUT US | DIRECTIONS | CONTACT US | PRIVACY | LEGAL NOTIFICATIONS AND DISCLAIMERS | SITEMAP

Decision and Order

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of Respondent named in the caption hereof, and Respondent having been furnished thereafter with a copy of a draft 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 Respondent with violation of the Federal Trade Commission Act ("FTC Act"); and

Respondent, Respondent's attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order ("consent agreement"), an admission by Respondent of all the jurisdictional facts set forth in the aforesaid draft complaint, a statement that the signing of the agreement is for settlement purposes only and does not constitute an admission by 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 Respondent has violated the FTC Act and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such consent agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, and having duly considered the comment received from an interested person pursuant to section 2.34 of its Rules, now in further conformity with the procedure prescribed in § 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent is a Maryland corporation with its principal office or place of business at 10300 York Road, Cockeysville, MD.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the

Decision and Order

Respondent, and the proceeding is in the public interest.

ORDER**DEFINITIONS**

For purposes of this order, the following definitions shall apply:

- A. Unless otherwise specified, “respondent” shall mean Timonium Chrysler, Inc., and its successors and assigns.
- B. “Advertisement” shall mean a commercial message in any medium that directly or indirectly promotes a consumer transaction.
- C. “Clearly and conspicuously” shall mean as follows:
 - 1. 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.
 - 2. In an electronic medium, an audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. A video disclosure shall be of a size and shade and appear on the screen for a duration, and in a location, sufficient for an ordinary consumer to read and comprehend it.
 - 3. In a television or video advertisement, an audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. A video disclosure shall be of a size and shade, and appear on the screen for a duration, and in a location, sufficient for an ordinary consumer to read and comprehend it.

Decision and Order

4. In a radio advertisement, the disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it.
 5. In all advertisements, 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 or promotion.
- D. “Material” shall mean likely to affect a person’s choice of, or conduct regarding, goods or services.
- E. “Motor vehicle” shall mean:
1. Any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;
 2. Recreational boats and marine equipment;
 3. Motorcycles;
 4. Motor homes, recreational vehicle trailers, and slide-in campers; and
 5. Other vehicles that are titled and sold through dealers.

I.

IT IS HEREBY ORDERED that respondent and its officers, agents, representatives, and employees, directly or indirectly, in connection with the advertising, marketing, or offering for sale, financing, or leasing of motor vehicles shall not, in any manner, expressly or by implication:

- A. Represent that a discount, rebate, bonus, incentive or price is available unless the representation clearly and conspicuously discloses any material qualifications or restrictions, including but not limited to qualifications or restrictions on: (a) a consumer’s ability to obtain the

Decision and Order

discount, rebate, bonus, incentive, or price and (b) the vehicles available at the discount, rebate, bonus, incentive, or price.

B. Misrepresent the following:

1. The existence or amount of any discount, rebate, bonus, incentive, or price;
2. The existence, price, value, coverage, or features of any product or service associated with the motor vehicle purchase;
3. The number of vehicles available at particular prices; or
4. Any other material fact about the price, sale, financing, or leasing of motor vehicles.

II.

IT IS FURTHER ORDERED that respondent 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 Commission for inspection and copying:

- A. All advertisements and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation;
- C. All evidence in its possession or control that contradicts, qualifies, or calls into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations; and
- D. Any documents reasonably necessary to demonstrate full compliance with each provision of this order, including but not limited to all documents obtained,

Decision and Order

created, generated, or that in any way relate to the requirements, provisions, or terms of this order, and all reports submitted to the Commission pursuant to this order.

III.

IT IS FURTHER ORDERED that respondent 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, with any electronic signatures complying with the requirements of the E-Sign Act, 15 U.S.C. § 7001 *et seq.* Respondent shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

IV.

IT IS FURTHER ORDERED that respondent shall notify the Commission at least thirty (30) days prior to any change in the corporation(s) that may affect compliance obligations arising under this order, including but not 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. Unless otherwise directed by a representative of the Commission in writing, all notices required by this Part shall be emailed to Debrief@ftc.gov or sent by overnight courier (not U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580. The subject

Decision and Order

line must begin: *In re Timonium Chrysler, Inc.*, FTC File No. 132 3014, Docket No. C-4429.

V.

IT IS FURTHER ORDERED that respondent, within sixty (60) days after the date of service of this order, shall file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form of its own compliance with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, it shall submit additional true and accurate written reports.

VI.

This order will terminate on January 28, 2034, 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 a 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.

By the Commission.

Analysis to Aid Public Comment

ANALYSIS OF CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission (“FTC”) has accepted, subject to final approval, an agreement containing a consent order from Timonium Chrysler, Inc. d/b/a Don White’s Timonium Chrysler Jeep Dodge. The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the FTC will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement’s proposed order.

The respondent is a motor vehicle dealer. According to the FTC complaint, respondent has advertised that specific dealer discounts and prices are generally available to consumers. The complaint alleges that, in fact, once consumers reach the dealership, they find out that there are significant restrictions on obtaining the advertised discounts or that the advertised discounts are not available in full. The complaint alleges therefore that the respondent’s representations are false or misleading in violation of Section 5 of the FTC Act.

The proposed order is designed to prevent the respondent from engaging in similar deceptive practices in the future. Section I.A of the proposed consent order prohibits respondent from representing that a discount, rebate, bonus, incentive or price is available to consumers unless the representation clearly and conspicuously discloses all material qualifications or restrictions, if any, including but not limited to qualifications or restrictions on: (a) a consumer’s ability to obtain the discount, rebate, bonus, incentive or price and (b) the vehicles available at the discount, rebate, bonus, incentive or price.

Section I.B. prohibits respondent from misrepresenting: 1) the existence or amount of any discount, rebate, bonus, incentive or price; 2) the existence, price, value, coverage, or features of any product or service associated with the motor vehicle purchase; 3) the number of vehicles available at particular prices; or 4) any

Analysis to Aid Public Comment

other material fact about the price, sale, financing, or leasing of motor vehicles.

Part II of the proposed order requires respondent to keep copies of relevant advertisements and materials substantiating claims made in the advertisements. Part III requires that respondent provide copies of the order to certain of its personnel. Part IV requires notification to the Commission regarding changes in corporate structure that might affect compliance obligations under the order. Part V requires the respondent to file compliance reports with the Commission. Finally, Part VI is a provision Asunsetting@ the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order's terms.

Opinion of the Commission

IN THE MATTER OF

MCWANE, INC.

AND

STAR PIPE PRODUCTS, LTD.

OPINION OF THE COMMISSION AFFIRMING THE INITIAL DECISION
AND FINAL ORDER IN REGARD TO ALLEGED VIOLATIONS OF SEC.
5 OF THE FEDERAL TRADE COMMISSION ACT

Docket No. 9351; File No. 101 0080

Complaint, January 4, 2012 – Initial Decision, May 1, 2013

Opinion and Final Order, January 30, 2014

In January 2012, the Commission issued an administrative complaint against respondents McWane, Inc. (“McWane”) and Star Pipe Products, Ltd. (“Star Pipe”), 155 F.T.C. 1482 (2013), alleging that McWane and Star Pipe, along with their competitor Sigma Corporation, conspired in 2008 to raise and stabilize prices for imported ductile iron pipe fittings (“DIPF”) and to maintain a monopoly in the market for domestic DIPF. Ductile iron pipe fittings are used in water distribution systems for the installation of valves, water meters, and hydrants, and to change the flow of water. The complaint alleged seven counts of violating Section 5 of the FTC Act, including restraint of trade, unfair methods of competition, conspiracy to monopolize, monopolization, and attempted monopolization. Prior to issuing its complaint, the Commission entered a separate consent agreement settling charges against Sigma Corporation. After the complaint issued, respondent Star Pipe also entered into a consent agreement with the Commission, resolving the Commission’s competitive concerns.

Following an administrative trial, Administrative Law Judge D. Michael Chappell issued an Initial Decision, 155 F.T.C. 903 (2013), dismissing the first three counts of the complaint and upholding the remaining four counts. In dismissing the first three counts of the complaint, the court found the Commission failed to establish (1) that McWane illegally conspired with Sigma Corporation and Star Pipe to raise and stabilize prices for imported DIPF; (2) that McWane conspired with its competitors to exchange competitively sensitive sales information; and (3) that McWane invited competitors to collude on prices in the imported DIPF market. However, the court held that the preponderance of the evidence showed that McWane engaged in monopolistic practices, attempted to monopolize, engaged in a conspiracy to monopolize and engaged in an unreasonable restraint of trade with Sigma Corporation in the market for domestic DIPF. The court further found that the evidence supported the existence of a separate product market for domestic DIPF. The court further issued an order requiring McWane to cease and desist from certain conduct within the DIPF market, including allocating or dividing DIPF markets; agreeing with competitors not to compete in the DIPF market; entering into certain types of exclusivity agreements; entering into certain