

Complaint

IN THE MATTER OF

**TT OF LONGWOOD, INC.
D/B/A
CORY FAIRBANKS MAZDA**CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATION OF
SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT, THE
CONSUMER LEASING ACT, AND REGULATION M

*Docket No. C-4531; File No. 152 3047
Complaint, July 2, 2015 – Decision, July 2, 2015*

This consent order addresses respondent Cory Fairbanks Mazda's dissemination of advertisements to the public. Cory Fairbanks Mazda is a Florida corporation that offers automobiles for sale or lease to consumers. The respondent violated the Consumer Leasing Act ("CLA") and Regulation M for failing to disclose or to disclose clearly and conspicuously certain costs and terms when advertising vehicles for lease. Throughout their advertisements, the respondent leads the consumer to believe that they can purchase one of their many vehicles either with zero down payments or at a very low price. However, hidden within the fine print is information stating that their advertised prices and payment options all come after a \$3,000 cash payment or trade in equity. The order is designed to prevent the respondent from engaging in similar deceptive practices in the future. The order prohibits the respondent from misrepresenting any other material fact about the price, sale, financing, or leasing of any vehicle. The order prohibits the respondent from stating the amount of any payment or that any or no initial payment is required at lease inception without disclosing clearly and conspicuously: that the transaction advertised is a lease; the total amount due at lease signing or delivery; whether or not a security deposit is required; the number, amounts, and timing of scheduled payments; and that an extra charge may be imposed at the end of the lease term. The respondent must also make all advertisements for the five years after the last date of dissemination available to the Federal Trade Commission upon request.

Participants

For the *Commission*: Sana Chriss.

For the *Respondent*: Melanie Debis and Jami Farris, Parker Poe LLP.

Complaint

COMPLAINT

The Federal Trade Commission, having reason to believe that TT of Longwood, Inc., also doing business as Cory Fairbanks Mazda (“respondent”), has violated provisions of the Federal Trade Commission Act (“FTC Act”), the Consumer Leasing Act (“CLA”), and its implementing Regulation M, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent is a Florida corporation with its principal office or place of business at 400 N Hwy 17-92, Longwood, FL 32750. Respondent offers automobiles for sale or lease to consumers.

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 September 2014, respondent has disseminated or caused to be disseminated advertisements to the public promoting the purchase, finance, and leasing of automobiles.

4. Respondent has disseminated or caused to be disseminated advertisements promoting consumer leases for automobiles, as the terms “advertisement” and “consumer lease” are defined in Section 213.2 of Regulation M, 12 C.F.R. §213.2, as amended.

5. Respondent has placed numerous such advertisements for auto sales and leases in the *Orlando Sentinel* newspaper. A copy of one such full-page advertisement is attached as Exhibit A. This advertisement contains the statements and depictions described in Paragraphs 6 through 12 below. Respondent’s advertisements in other editions of the *Orlando Sentinel* contain substantially similar statements and depictions.

6. Respondent’s advertisements deceptively promote various offers for vehicles with certain features at specific sales prices.

- a. For example, the bottom of the attached advertisement in Exhibit A deceptively advertises various vehicles

Complaint

for purchase, including but not limited to the following advertisement for a Nissan Sentra, which is advertised as having a sunroof and spoiler, for a purchase price of \$5,991.



- b. Further down in the advertisement, away from the sales price and below prominent contact information and in much less prominent print, the following information states that all prices are after \$3,000 cash or trade equity plus all incentives and dealer add-ons. An illustration of the disclaimer appears as follows:

See dealer for details and restrictions. Must present this offer upon entering dealership. Not valid with other offers or discounts. Not valid on past sales. All lease payments are \$3,000 down, 42 months, 10,000 miles per year plus tax, tag, and fees. All prices after \$3,000 cash or trade equity plus all incentives and dealer add-ons. Ask for details and restrictions.

7. Thus, the actual price of each of respondent's advertised vehicles is \$3,000 more than the dollar amount that is prominently displayed immediately below the vehicle.

8. Additionally, in numerous instances, the advertised discount and price are subject to various qualifications or restrictions. Such qualifications or restrictions have included, for example, loyalty incentives, which in many instances amount to a \$500 credit only available to prior Mazda owners. As a result, the typical consumer will not be able to obtain the vehicles at the advertised prices.

9. Further, the advertised prices do not reflect additional costs required to obtain the depicted dealer-added features such as

Complaint

sunroofs and spoilers. As a result, consumers, in numerous instances, cannot purchase vehicles with specific add-ons at the advertised prices.

10. Respondent's advertisements deceptively advertise that cars may be obtained with zero down, zero payments, and zero interest as illustrated below and in Exhibit A.



- a. In truth, however, these terms are not available because consumers are not able to obtain cars without making any payments. As illustrated in the disclaimer set forth in Paragraph 6(b) and Exhibit A, to purchase a vehicle, consumers must make a \$3,000 down payment or provide the equivalent value in trade. To lease a vehicle, consumers also must provide a \$3,000 down payment.

11. Respondent's advertisements deceptively promote "sign and drive" lease offers indicating that no down payment is required at lease signing. However, language appearing in fine print at the bottom of the advertisements states that a \$3,000 down payment is required for all leases.

- a. For example, the following vehicles are prominently advertised as "sign and drive" offers with monthly payments of \$139 and \$169, as depicted in Exhibit A and illustrated below.



Complaint

- b. Further down the page, the same disclaimer referenced in Paragraph 6(b) states that “All lease payments are \$3,000 down, 42 months, 10,000 miles per year plus tax, tag, and fees.” Thus, despite the prominent claim that consumers could “sign and drive” for no money down, all lease arrangements in fact require a significant down payment amount of \$3,000.
- c. Additionally, these advertisements list certain terms, such as monthly payment amounts for various lease offers, but do not provide required information, such as the total amount due prior to or at consummation of the lease.

12. Respondent’s advertisements deceptively advertise “used cars for as low as \$99,” as depicted in Exhibit A and illustrated below.



- a. In truth, however, the used cars are not available from as low as \$99 because this amount is a minimum bid amount for used cars offered at a liquidation sale. In addition to this minimum bid, the liquidated cars require the payment of additional fees, including, in numerous instances, \$299 in dealer fees. As a result, consumers are not able to obtain used cars for as low as \$99.

Complaint

FEDERAL TRADE COMMISSION ACT VIOLATIONS**COUNT I****Misrepresentation of Vehicle Purchase Prices**

13. Through the means described in Paragraphs 6 through 7, respondent has represented, expressly or by implication, that vehicles are available for purchase at the prices prominently advertised.

14. In truth and in fact, vehicles are not available for purchase at the prices prominently advertised. Consumers must pay an additional \$3,000 to purchase the advertised vehicles. Therefore, respondent's representations as alleged in Paragraph 13 were, and are, false and misleading.

15. Respondent's practices 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).

COUNT II**Misrepresentation of Prices and Rebates**

16. Through the means described in Paragraphs 6 through 8, respondent has represented, expressly or by implication, that specific discounts, rebates, bonuses, incentives or prices are generally available to consumers.

17. In truth and in fact, the specific dealer discounts, rebates, bonuses, incentives or prices are not generally available to consumers. Therefore, respondent's representations as alleged in Paragraph 16 of this Complaint were, and are, are false or misleading.

18. Respondent's practices 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).

Complaint

COUNT III**Misrepresentation of Prices for Added Features**

19. Through the means described in Paragraphs 6 through 9, respondent has represented, expressly or by implication, that vehicles with certain features such as spoilers and sunroofs are available at specific, prominently advertised prices.

20. In truth and in fact, vehicles depicted with additional features are not available at the prominently advertised purchase prices because the extra costs of the additional features are not included in the advertised price. Therefore, respondent's representations as alleged in paragraph 19 of this Complaint were, and are, false and misleading.

21. Respondent's practices 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).

COUNT IV**Misrepresentation that Vehicles are Available for \$0 Down, \$0 Payments, and \$0 Interest**

22. Through the means described in Paragraph 10, respondent has represented, expressly or by implication, that vehicles are available for sale or lease for zero down, zero payments, and zero interest.

23. In truth and in fact, vehicles sold and leased by respondent require a substantial down payment or the equivalent in trade equity. Additionally, vehicles sold or leased by respondent routinely require monthly payments and fees. Therefore, respondent's representations as alleged in Paragraph 22 of this Complaint were, and are, false and misleading.

24. Respondent's practices 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).

Complaint

COUNT V**Misrepresentation of Amount Due at Lease Inception**

25. Through the means described in Paragraph 11, respondent represented, expressly or by implication, that consumers can “sign and drive” and pay \$0 at lease inception to lease the advertised vehicle for the advertised monthly payment amount.

26. In truth and in fact, consumers cannot “sign and drive” and pay \$0 at lease inception to lease the advertised vehicle for the advertised monthly payment amount. Consumers also must pay a \$3,000 down payment amount. Therefore, respondent’s representations as alleged in paragraph 25 of this Complaint were, and are, false and misleading.

27. Respondent’s practices 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).

COUNT VI**Misrepresentation that Vehicles are Available for \$99**

28. Through the means described in Paragraph 12, respondent has represented, expressly or by implication, that consumers may purchase or lease used vehicles for very low dollar amounts, such as \$99.

29. In truth and in fact, consumers cannot purchase or lease vehicles for \$99 because this dollar amount is a minimum bid for vehicles offered at a liquidation event. Additionally, vehicles sold at these liquidation events often include significant fees, including dealer fees. Therefore, respondent’s representations as alleged in paragraph 28 of this Complaint were, and are, false and misleading.

30. Respondent’s practices 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).

Complaint

**VIOLATIONS OF THE CONSUMER LEASING ACT AND
REGULATION M**

31. Under Section 184 of the CLA and Section 213.7 of Regulation M, advertisements promoting consumer leases are required to make certain disclosures (“CLA additional terms”) if they state any of several terms, such as the amount of any payment (“CLA triggering terms”). 15 U.S.C. § 1667c; 12 C.F.R. § 213.7.

32. Respondent’s advertisements promoting consumer leases, including but not necessarily limited to those described in Paragraph 11, are subject to the requirements of the CLA and Regulation M.

COUNT VII**Failure to Disclose or to Disclose Clearly and Conspicuously
Required Lease Information**

33. Respondent’s advertisements promoting consumer leases, including but not necessarily limited to those described in Paragraph 11, have included CLA triggering terms, but have failed to disclose or to disclose clearly and conspicuously additional terms required by CLA and Regulation M, including one or more of the following:

- a. That the transaction advertised is a lease.
- b. The total amount due prior to or at consummation or by delivery, if delivery occurs after consummation.
- c. Whether or not a security deposit is required.
- d. The number, amount, and timing of scheduled payments.
- e. With respect to 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 property, that an extra charge may be imposed at the end of the lease term.

Complaint

34. Therefore, the practices set forth in Paragraph 33 of this Complaint have violated Section 184 of the CLA, 15 U.S.C. § 1667c, and Section 213.7 of Regulation M, 12 C.F.R. § 213.7.

THEREFORE, the Federal Trade Commission, this second day of July, 2015, has issued this complaint against respondent.

By the Commission.

Complaint

EXHIBIT A

Friday, October 10, 2008 Orlando Sentinel | Sports Daily | C5

Mazda

Cory Fairbanks Mazda www.BigMazda.com MAZDA'S BEST DEAL EVER Guaranteed

While Supplies Last! NATIONWIDE On Every New Cory Fairbanks Mazda!

LIFETIME WARRANTY

LOW DOWN PAYMENTS! INTEREST!



Everyone was kindly, quick and professional. When I was wronged, I knew everyone was looking through administration, causing through, even the customers were afraid. What a pleasure! Thank You!

Michelle Rene, Longwood

LIFETIME WARRANTY

FREE Gift Card With Every Test Drive!

GIFT CARD

MAZDA'S FULLY SKYACTIV® LINEUP

2014 Mazda2



- Air Conditioning
- ABS Brakes
- Power Windows
- Power Locks
- CD Player

\$8,990 ~~\$139~~ **PER MONTH**

2015 Mazda6



- Power Locks
- Air Conditioning
- ABS Brakes
- Navigation
- CD Player
- Chrome Grilles
- Power Windows
- Auxiliary

\$14,995 ~~\$199~~ **PER MONTH**

2014 Mazda CX-9



- Navigation
- Power Windows
- Power Locks
- Navigation
- Bluetooth
- On up to

\$20,995 ~~\$10,000~~ **OFF!**

2014 Mazda3



- Air Conditioning
- ABS Brakes
- Push Button Start
- 150 HP
- Auxiliary

\$12,995 ~~\$169~~ **PER MONTH**

2015 Mazda CX-5



- Navigation
- Power Windows
- Air Conditioning
- ABS Brakes
- Navigation
- CD Player
- Chrome Grilles
- Power Windows
- Auxiliary

\$15,995 ~~\$199~~ **PER MONTH**

GUARANTEED APPROVAL

Guaranteed Credit Approval!

CALL TODAY!

877-700-9790

PAY DRIVE A MAZDA TODAY AND GET A FREE GIFT CARD!

CENTRAL FLORIDA'S USED CAR SUPERCENTER

2002 FORD F-150 XLT 150,000 Miles, 150,000 Miles \$13,991	2000 NISSAN SENTRA SPECIAL EDITION 150,000 Miles, 150,000 Miles \$9,991	2004 MAZDA TRIBUTE 150,000 Miles, 150,000 Miles \$9,991	2004 NISSAN XTERRA 2.5 150,000 Miles, 150,000 Miles \$12,991	2004 NISSAN SENTRA 2.5 150,000 Miles, 150,000 Miles \$14,991
2004 MAZDA MAZDA3 150,000 Miles, 150,000 Miles \$11,995	2004 KIA FORTE LX 150,000 Miles, 150,000 Miles \$11,795	2004 CHRYSLER TOWN & COUNTRY 150,000 Miles, 150,000 Miles \$11,992	2011 NISSAN ALTIMA 2.5 150,000 Miles, 150,000 Miles \$12,995	2011 NISSAN ALTIMA 2.5 150,000 Miles, 150,000 Miles \$12,995
2008 CAMARCO CTS 150,000 Miles, 150,000 Miles \$13,991	2012 FORD ALTIMA LX 150,000 Miles, 150,000 Miles \$13,991	2011 NISSAN ALTIMA 2.5 150,000 Miles, 150,000 Miles \$12,995	2011 NISSAN ALTIMA 2.5 150,000 Miles, 150,000 Miles \$12,995	2011 NISSAN ALTIMA 2.5 150,000 Miles, 150,000 Miles \$12,995
2012 MAZDA MAZDA3 150,000 Miles, 150,000 Miles \$13,991	2011 NISSAN ALTIMA 2.5 150,000 Miles, 150,000 Miles \$12,995	2011 NISSAN ALTIMA 2.5 150,000 Miles, 150,000 Miles \$12,995	2011 NISSAN ALTIMA 2.5 150,000 Miles, 150,000 Miles \$12,995	2011 NISSAN ALTIMA 2.5 150,000 Miles, 150,000 Miles \$12,995
2012 NISSAN ALTIMA 2.5 150,000 Miles, 150,000 Miles \$12,995	2011 NISSAN ALTIMA 2.5 150,000 Miles, 150,000 Miles \$12,995	2011 NISSAN ALTIMA 2.5 150,000 Miles, 150,000 Miles \$12,995	2011 NISSAN ALTIMA 2.5 150,000 Miles, 150,000 Miles \$12,995	2011 NISSAN ALTIMA 2.5 150,000 Miles, 150,000 Miles \$12,995
2012 NISSAN ALTIMA 2.5 150,000 Miles, 150,000 Miles \$12,995	2011 NISSAN ALTIMA 2.5 150,000 Miles, 150,000 Miles \$12,995	2011 NISSAN ALTIMA 2.5 150,000 Miles, 150,000 Miles \$12,995	2011 NISSAN ALTIMA 2.5 150,000 Miles, 150,000 Miles \$12,995	2011 NISSAN ALTIMA 2.5 150,000 Miles, 150,000 Miles \$12,995

Nobody Ever Beats a CORY FAIRBANKS MAZDA DEAL. NOBODY!

TEST DRIVE A MAZDA TODAY.



Cory Fairbanks Mazda

Call 1-877-700-9790

Shop On Line! BigMazda.com

400 North US Hwy. 17-92, Longwood, Florida

MAZDA'S BEST DEAL EVER

MAZDA'S BEST DEAL EVER

MAZDA'S BEST DEAL EVER

MAZDA'S BEST DEAL EVER

MAZDA'S BEST DEAL EVER

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 the Consumer Leasing Act ("CLA"); and

Respondent, Respondent's counsel, and counsel for the Commission having thereafter executed an agreement containing consent order ("consent agreement"), which includes: a statement by Respondent that it neither admits nor denies any of the allegations in the draft complaint, except as specifically stated in the consent agreement, and, only for purposes of this action, admits the facts necessary to establish jurisdiction; 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 has reason to believe that Respondent has violated the FTC Act and the CLA, 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 comments received from interested persons pursuant to Commission Rule 2.34, 16 C.F.R. § 2.34, now in further conformity with the procedure prescribed in Commission Rule 2.34, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent, TT of Longwood, Inc., also doing business as Cory Fairbanks Mazda, is a Florida corporation with its principal office or place of business at 400 N Hwy 17-92, Longwood, FL 32750. Respondent offers automobiles for sale or lease to consumers.

Decision and Order

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**

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

- A. Unless otherwise specified, “respondent” shall mean TT of Longwood, Inc., also doing business as Cory Fairbanks Mazda, 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 textual communications (*e.g.*, printed publications or words displayed on the screen of a computer or a mobile device), the required disclosures are of a type, size, and location sufficiently noticeable for an ordinary consumer to read and comprehend them, in print that contrasts highly with the background on which they appear;
 2. In communications disseminated orally or through audible means (*e.g.*, radio or streaming audio), the required disclosures are delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend them;
 3. In communications disseminated through video means (*e.g.*, television or streaming video), the required disclosures are in writing in a form consistent with subparagraph (a) of this definition and shall appear on the screen for a duration sufficient for an ordinary consumer to read and

Decision and Order

comprehend them, and in the same language as the predominant language that is used in the communication;

4. In communications made through interactive media, such as the Internet, online services, and software, the required disclosures are unavoidable and presented in a form consistent with subparagraph (a) of this definition, in addition to any audio or video presentation of them; and
 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” or “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 any advertisement for the purchase, financing, or leasing of motor vehicles, shall not, in any manner, expressly or by implication:

Decision and Order

- A. Misrepresent the cost of:
1. Purchasing a vehicle with financing, including but not necessarily limited to, the amount or percentage of the down payment, the number of payments or period of repayment, the amount of any payment, and the repayment obligation over the full term of the loan, including any balloon payment; or
 2. Leasing a vehicle, including but not necessarily limited to, the total amount due at lease inception, the down payment, amount down, acquisition fee, capitalized cost reduction, any other amount required to be paid at lease inception, and the amounts of all monthly or other periodic payments; or
- B. Misrepresent any other material fact about the price, sale, financing, or leasing of any vehicle.

II.

IT IS FURTHER ORDERED that respondent and its officers, agents, representatives, and employees, directly or indirectly, in connection with any advertisement for the purchase, 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:
1. It is available to all consumers, and for all vehicles advertised; or
 2. The representation clearly and conspicuously discloses all 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.

Decision and Order

- B. Misrepresent any of 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.

III.

IT IS FURTHER ORDERED that respondent and its officers, agents, representatives, and employees, directly or indirectly, in connection with any advertisement for any consumer lease, shall not, in any manner, expressly or by implication:

- A. State the amount of any payment or that any or no initial payment is required at lease inception without disclosing clearly and conspicuously the following terms:
1. That the transaction advertised is a lease;
 2. The total amount due at lease signing or delivery;
 3. Whether or not a security deposit is required;
 4. The number, amounts, and timing of scheduled payments; and
 5. That an extra charge may be imposed at the end of the lease term in a lease in which the liability of the consumer at the end of the lease term is based on the anticipated residual value of the vehicle; or

Decision and Order

- B. Fail to comply in any respect with Regulation M, 12 C.F.R. Part 213, as amended, and the Consumer Leasing Act, 15 U.S.C. §§ 1667-1667f, as amended.

IV.

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 Federal Trade 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, 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.

V.

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. Respondent shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and

Decision and Order

to future personnel within thirty (30) days after the person assumes such position or responsibilities.

VI.

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 line must begin: TT OF LONGWOOD, INC., also d/b/a CORY FAIRBANKS MAZDA.

VII.

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.

VIII.

This order will terminate on July 2, 2035, 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

Analysis to Aid Public Comment

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 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 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 TT of Longwood, Inc., also doing business as Cory Fairbanks Mazda. 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

Analysis to Aid Public Comment

take appropriate action or make final the agreement's proposed order.

The respondent is a motor vehicle dealer. According to the FTC's complaint, the respondent has misrepresented: (1) vehicle purchase prices; (2) that advertised prices, discounts, rebates, bonuses, and incentives are available to all consumers; (3) the prices for added features such as spoilers and sunroofs; (4) that vehicles are available for sale or lease for zero down, zero payments, or zero interest; (5) that vehicles are available for \$99; and (6) that consumers can pay \$0 at the inception of a lease to lease the advertised vehicle for the advertised monthly payment amount. The complaint alleges therefore that the representations are false and misleading in violation of Section 5 of the FTC Act.

In addition, the complaint alleges the respondent violated the Consumer Leasing Act ("CLA") and Regulation M for failing to disclose or to disclose clearly and conspicuously certain costs and terms when advertising vehicles for lease.

The proposed order is designed to prevent the respondent from engaging in similar deceptive practices in the future. Part I.A of the proposed order prohibits the respondent from misrepresenting the cost of: (1) purchasing a vehicle with financing, including but not necessarily limited to the amount or percentage of the down payment, the number of payments or period of repayment, the amount of any payment, and the repayment obligation over the full term of the loan, including any balloon payment; or (2) leasing a vehicle, including but not limited to the total amount due at lease inception, the down payment, amount down, acquisition fee, capitalized cost reduction, any other amount required to be paid at lease inception, and the amounts of all monthly or other periodic payments. Part I.B prohibits the respondent from misrepresenting any other material fact about the price, sale, financing, or leasing of any vehicle.

Part II.A of the proposed order prohibits respondent from representing that a discount, rebate, bonus, incentive or price is available unless: (1) it is available to all consumers, and for all vehicles advertised; or (2) the representation clearly and conspicuously discloses all qualifications or restrictions on: (a) a

Analysis to Aid Public Comment

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. Part II.B prohibits respondent from misrepresenting any of 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.

Part III of the proposed order addresses the CLA allegations. Part III.A prohibits the respondent from stating the amount of any payment or that any or no initial payment is required at lease inception without disclosing clearly and conspicuously: (1) that the transaction advertised is a lease; (2) the total amount due at lease signing or delivery; (3) whether or not a security deposit is required; (4) the number, amounts, and timing of scheduled payments; and (5) that an extra charge may be imposed at the end of the lease term. Part III.B prohibits the respondent from violating any provision of the CLA or Regulation M.

Part IV of the proposed order requires the respondent to keep copies of relevant advertisements and materials substantiating claims made in the advertisements. Part V requires the respondent to provide copies of the order to certain of its personnel. Part VI requires notification to the Commission regarding changes in corporate structure that might affect compliance obligations under the order. Part VII requires the respondent to file compliance reports with the Commission. Finally, Part VIII is a provision "sunsetting" 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 term.

Complaint

IN THE MATTER OF

REYNOLDS AMERICAN INC.**AND****LORILLARD, INC.**CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATION OF
SECTION 7 OF THE CLAYTON ACT AND SECTION 5 OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-4533; File No. 141 0168**Complaint, July 13, 2015 – Decision, July 30, 2015*

The consent order addresses the \$27.4 billion acquisition by Reynold of certain assets of Lorillard. The proposed Reynolds American is the second largest cigarette producer in the United States with Lorillard being the third. The complaint alleges that the acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, and Section 5 of the Federal Trade Commission Act, by substantially lessening competition in the market for traditional combustible cigarettes. The Consent Agreement allows Reynolds to complete its acquisition of Lorillard, but requires Reynolds to divest several of its post-acquisition assets to Imperial. Among other terms, the Consent Agreement requires Reynolds to sell Imperial four of its post-acquisition cigarette brands: Winton, Kool, Salem, and Maverick. The Commission's order requires not only that the brands be divested, but also that Reynolds divest to Imperial the Lorillard manufacturing facilities in Greensboro, North Carolina, and provide Imperial with the opportunity to hire most of the existing Lorillard management, staff, and salesforce. Details about the divestiture are included in the analysis to aid public comment for this matter.

Participants

For the *Commission: James Abell, Joonsuk Lee, Meredith Levert, Victoria Lippincott. Michael Lovinger, Sean Sullivan, and Robert Tovsky,*

For the *Respondents: Joe Sims and Craig Waldman, Jones Day; Sara Razi and Matthew Reilly, Simpson Thacher.*

COMPLAINT

As authorized by the Clayton Act and the Federal Trade Commission Act, the Federal Trade Commission ("Commission"), having reason to believe that Reynolds American Inc. ("Reynolds"), a corporation subject to the