

Complaint

IN THE MATTER OF

**ASBURY AUTOMOTIVE GROUP, INC.
D/B/A
COGGIN AUTOMOTIVE GROUP
AND
CROWN AUTOMOTIVE GROUP**CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF
SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT

*Docket No. C-4606; File No. 152 3103
Complaint, March 22, 2017 – Decision, March 22, 2017*

This consent order addresses Asbury Automotive Group, Inc.’s advertisements to sell used motor vehicles. The complaint alleges that respondent has represented that the certified used motor vehicles it sells have been subject to rigorous inspection, including for safety issues, but has failed to disclose adequately that some of these vehicles are subject to open recalls for safety issues. The consent order prohibits the respondent from representing that used motor vehicles it offers for sale are safe, have been repaired for safety issues, or have been subject to an inspection for issues related to safety unless the used motor vehicles are not subject to any open recalls for safety issues or the respondent discloses, clearly and conspicuously, in close proximity to such representation, any material qualifying information related to open recalls for safety issues.

Participants

For the *Commission*: Courtney Estep, Michael White, and Evan Zullow.

For the *Respondent*: Lucy Morris and Joel Winston, Hudson Cook, LLP; Alexander Okuliar, Orrick, Herrington & Sutcliffe LLP; Dean Calloway and George Villasana, in-house attorneys.

COMPLAINT

The Federal Trade Commission, having reason to believe that Asbury Automotive Group, Inc., also d/b/a Coggin Automotive Group and Crown Automotive Group, 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:

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1. Respondent is a Delaware corporation, with its principal office or place of business at 2905 Premiere Parkway, NW, Suite 300, Duluth, GA 30097. Respondent has marketed, advertised, offered for sale, and sold used motor vehicles.

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 November 2014, Respondent has disseminated or has caused to be disseminated advertisements promoting the sale of used motor vehicles.

4. Respondent’s advertisements include, but are not necessarily limited to, advertisements and marketing materials posted on the websites www.cogginauto.com and www.crownauto.com, excerpts of which are attached as Exhibits A through E. On its website, on a page prominently titled “Coggin Certified,” and on other pages similarly touting the “Crown Automotive Certified Program,” it makes claims which include the following representations regarding certified used vehicles:

“Inspected, Reconditioned & Certified

Every Coggin Certified used car or truck has undergone a 150 point bumper-to-bumper inspection by Certified mechanics. We find and fix problems - from bulbs to brakes - before offering a vehicle for sale.”

Exhibit A (excerpt from www.cogginauto.com)

“Our Crown Certified Used Vehicles Include: | 150 Point Bumper-to-bumper inspection . . .

Inspected, Reconditioned & Certified

Every Crown Certified used car or truck has undergone a 150 point bumper-to-bumper inspection by Certified mechanics. We find and fix problems from bulbs to brakes before

Complaint

offering a vehicle for sale.”

Exhibit B (excerpt from www.crownauto.com).

“...Are your used cars inspected?

Answer: Yes, Crown Automotive sends every Crown Certified used vehicle through a rigorous 150 point inspection to ensure that every vehicle is in top shape before you take it home. It is important to Crown that every feature of your vehicle work as it should so that you have peace of mind before you leave the dealership.

...What are certified used cars?

Answer: It's the reliability of new and the affordability of pre-owned car. A certified used car must go through a rigorous inspection. The certification comes from the manufacturers to ensure top quality of the pre-owned car being sold to you. Crown Automotive also offers Crown Certified used vehicles.”

Exhibit C (excerpt from www.crownauto.com).

5. Even though it makes the claims set forth in Paragraph 4, Respondent has advertised numerous certified used vehicles subject to open recalls for safety issues on its websites.

6. In some instances, these open recalls for safety issues have included recalls for defects that can cause serious injury. For example, Respondent has advertised a certified used vehicle that has a recall for defects, which, among other things, could cause fuel to leak out and the engine to misfire or stall, thereby increasing the risk of a crash. Respondent has also advertised a certified used vehicle that has an open safety recall for a defect that can cause the vehicle to move in an unexpected or unintended direction, thereby increasing the risk of a crash.

7. In numerous instances, when Respondent has advertised certified used vehicles that are subject to open recalls for safety issues making the claims set forth in Paragraph 4, it has provided no accompanying clear and conspicuous disclosure of this fact.

Complaint

8. When consumers search for particular categories of vehicles on Respondent's websites, there is no disclosure regarding open recalls for safety issues. An example of such search results includes the following:



2011 Honda Civic LX Sedan

Stock #: BE042973
 Exterior Color: Pewter
 Interior Color: Beige
 Body Style: Sedan
 Transmission: Manual 5 Speed
 Location: Coggin Honda Jacksonville
 Mileage: 26541
[more...](#)

Internet Price **\$12,994**

[Get Internet Price](#)

[Watch Video](#)
[Save This Car!](#)
[Get Price Alerts](#)

Certified Pre-Owned

HONDA

AutoCheck

Compare ☐
 Compare Selected



2011 Nissan Juke SUV

Stock #: BT020358
 Exterior Color: Sapphire Black
 Interior Color: Black
 Body Style: SUV
 Transmission: Manual 6 Speed
 Location: Courtesy Nissan of Tampa
 Mileage: 29360
[more...](#)

Internet Price **\$16,991**

[Get Internet Price](#)

[Watch Video](#)
[Save This Car!](#)
[Get Price Alerts](#)

CERTIFIED Pre-Owned

AutoCheck

Compare ☐
 Compare Selected



2011 Hyundai Sonata Sedan

Stock #: BH201934
 Exterior Color: Radiant Silver
 Interior Color: Gray
 Body Style: Sedan
 Transmission: Automatic
 Location: Courtesy Hyundai
 Mileage: 42062
[more...](#)

Internet Price **\$18,991**

[Get Internet Price](#)

[Watch Video](#)
[Save This Car!](#)
[Get Price Alerts](#)

HYUNDAI

Certified Pre-Owned

AutoCheck

Compare ☐
 Compare Selected



2011 Hyundai Sonata Sedan

Stock #: BH070073
 Exterior Color: Camel
 Interior Color: Beige
 Body Style: Sedan
 Transmission: Automatic
 Location: Courtesy Hyundai
 Mileage: 54497
[more...](#)

Internet Price **\$13,991**

[Get Internet Price](#)

[Watch Video](#)
[Save This Car!](#)
[Get Price Alerts](#)

HYUNDAI

Certified Pre-Owned

AutoCheck

Compare ☐
 Compare Selected

Exhibit D at 3.

Complaint

9. Until at least June 2015, when consumers have viewed specific vehicle listings on Respondent's websites, there has been no disclosure regarding open recalls for safety issues. An example of such a listing includes the following:

The screenshot shows a web page for a 2011 Hyundai Sonata Sedan. At the top is the Coggin logo with the tagline "YOU CAN TRUST COGGIN". A navigation bar includes links for Home, Inventory, Research, Finance, Service & Parts, Specials, Collision, Dealerships, Map & Locations, and Careers. A search bar is located in the top right. The main heading is "2011 Hyundai Sonata Sedan". Below this is a "Back To Inventory" link and a "Share" button. A disclaimer states: "**Price excludes tax, tag, dealer installed options, \$98 private tag agency fee and \$699.00 predelivery service fee." The main image is a silver sedan with a "CERTIFIED" badge. Below the image is the website "www.tampahyundai.com" and "COURTESY HYUNDAI TAMPA". To the right is a "Request More Info" form with fields for First Name, Last Name, Preferred Contact (Email), Email, Home Phone, and Comments, with a "Submit" button. Below the form, the "Internet Price" is listed as "\$13,991" with a "Get Internet Price" button. Further down, it shows "Your estimated monthly payments: \$221 per month" for 60 months at 6.9% A.P.R. with a \$2,796 down payment, and a "Calculate another payment" button. There are also buttons for "Save This Car!" and "Get Price Alerts". A "HYUNDAI Certified Pre-Owned" badge is present, along with a "SHOW ME THE FREE CARFAX VEHICLE HISTORY REPORTS" badge. At the bottom, a "Vehicle Location" section lists "Courtesy Hyundai, 3810 W. Hillsborough". A "Details" section on the left provides vehicle specifications: VIN: 5NPEB4AC4BH070073, Stock #: BH070073, Body Style: Sedan, Engine: 2.4L I-4 cyl, Transmission: Automatic, Drive Line: Front-wheel Drive, Exterior Color: Camel, Interior Color: Beige, Mileage: 54497, and Location: Courtesy Hyundai. A "Fuel Efficiency Rating" section shows City MPG of 22 and Hwy MPG of 35, with a note that actual ratings vary with options, driving conditions, habits, and vehicle condition.

Exhibit E.

10. To uncover any information about open recalls for safety issues through Respondent's website, a consumer would have to locate the "Carfax" link on the search results page or the vehicle listing page and click on it to access a vehicle history report, although the "Carfax" link provides no descriptive information or in any way conveys that it contains important safety information

Complaint

about recalls. Moreover, in numerous instances, even these reports omit information about open recalls for safety issues.

**VIOLATION OF THE FEDERAL TRADE COMMISSION
ACT**

Count I

11. In connection with the marketing, advertising, offering for sale, or sale of used motor vehicles, Respondent has represented, directly or indirectly, expressly or by implication, that used motor vehicles it sells have been subject to rigorous inspection, including for safety issues.

12. In numerous instances in connection with the representation set forth in Paragraph 11, Respondent has failed to disclose, or disclose adequately, that used motor vehicles it sells are subject to open recalls for safety issues.

13. Respondent's failure to disclose, or disclose adequately, the material information set forth in Paragraph 12 above, in light of the representation described in Paragraph 11, above, constitutes a deceptive act or practice 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-second day of March, 2017, has issued this complaint against Respondent.

By the Commission.

Complaint

Exhibit A

11/20/2014 Coggin Automotive Group | New BMW, Acura, Buick, Ford, Honda, GMC, Mercedes-Benz, Lincoln, Toyota, Solon, Nissan, Chevrolet dealership in, FL...

Coggin Automotive Group

FL 34982

Coggin Certified**Coggin Automotive Certified Used Cars**

The Coggin Automotive Certified Used Car program gives you confidence in buying a used car. Coggin Automotive Certified Used Cars give you many of the same assurances you get with a new car, without the high price. We've put the largest selection of used cars, along with a program that offers benefits that make buying a used car a sure thing. Take the time to review this valuable information because at Coggin, our only goal is to make sure you are satisfied with your purchase. All Coggin Certified used cars, trucks, SUVs, crossovers and hybrids come with:

Free CARFAX® Report

Coggin researches your vehicle's history so you can be confident in your purchase decision. Each Coggin Certified used car comes with a free CARFAX® report. Make sure to ask your salesperson to see the full report.

Exclusive 3-Day Exchange Program

Coggin Certified used vehicles offer an unparalleled level of quality and reliability. If you are not satisfied or any reason with your Coggin Certified used car, bring it back within 3 days (or 300 miles) and exchange your vehicle for another.

Inspected, Reconditioned & Certified

Every Coggin Certified used car or truck has undergone a 150 point bumper-to-bumper inspection by Certified mechanics. We find and fix problems - from bulbs to brakes - before offering a vehicle for sale.

Coggin Certified Used Cars

Take a look at all the Coggin Certified Used Cars offered by Coggin dealers

<http://www.cogginauto.com/coggin-certified.htm>

Price Protection Guarantee

Coggin will never knowingly be undersold. If you find a lower price on a comparable vehicle within 2 weeks even after the sale - bring it to our attention and we will pay 110% of the difference*. It is that simple.

30-Day / 1,000 Mile Limited Warranty

Coggin stands behind its Certified used vehicles with an industry-leading warranty. At Coggin, every Coggin Certified vehicle is backed by our 30-Day / 1,000 Mile Limited Warranty with \$0 deductible.*

Guaranteed Selection

With the largest selection of used cars and trucks in stock and ready for immediate delivery, you are sure to find what you are looking for at Coggin. If we do not have the vehicle you are looking for, we will do our best to find one for you.

Premiere Financing & Extended Service

Coggin and its affiliates help loan over \$2 billion every year. We use our size to make the most competitive financing available - regardless of your credit history. For even greater

Exhibit A, Page 1

1/2

Complaint

11/20/2014 Coggin Automotive Group | New BMW, Acura, Buick, Ford, Honda, GMC, Mercedes-Benz, Lincoln, Toyota, Scion, Nissan, Chevrolet dealership in FL...
available - regardless of your credit history. For even greater
offered by Coggin dealers. peace of mind, we also offer extended service contracts
providing protection up to 125,000 miles.

Coggin Used. It's Like Buying New.

*All repairs completed by selling dealer. Benefits available for breakdowns beyond 50 miles. See dealer for details. ? Present buyer's order for
comparable vehicle within 48 hours of purchase for a refund of 110% of the difference.

Complaint

Exhibit B

11/19/2014

Crown Auto Group | New Honda, Ford, Chrysler, Dodge, Jeep, Nissan, BMW, Volvo, Acura dealership in Greensboro, NC 27407

Crown Auto Group

Greensboro, NC 27407

Crown Automotive Certified Program

Crown Certified used cars gives you many of the same assurances you get with a new car—except for the higher price. We have put our name behind the largest selection of used cars with a package of benefits that makes buying used a sure thing. Please take time to review this valuable information. Because at Crown, our only goal is to make sure you are satisfied with your purchase.

Our Crown Certified Used Vehicles Include: | 150 Point Bumper-to-bumper Inspection | 30-day/ 1,000 mile limited warranty
| 3-day exchange program | Price protection guarantee | Complete vehicle history report from CARFAX

**Free CARFAX® Report**

Crown researches your vehicle's history so you can be confident in your purchase decision. Each Crown Certified used car comes with a free CARFAX® report. Make sure to ask your salesperson to see the full report.

**Price Protection Guarantee**

Crown will never knowingly be undersold. If you find a lower price on a comparable vehicle within 2 weeks even after the sale bring it to our attention and we will pay 110% of the difference. It is that simple.

**Exclusive 3-Day Exchange Program**

Crown Certified used vehicles offer an unparalleled level of quality and reliability. If you are not satisfied for any reason with your Crown Certified used car, bring it back within 3 days (or 300 miles) and exchange your vehicle for another.

**30-Day / 1,000 Mile Limited Warranty**

Crown stands behind its Certified used vehicles with an industry-leading warranty. At Crown, every Crown Certified vehicle is backed by our 30-Day / 1,000 Mile Limited Warranty with \$0 deductible.*

**Inspected, Reconditioned & Certified**

Every Crown Certified used car or truck has undergone a 150 point bumper-to-bumper

**Guaranteed Selection**

With the largest selection of used cars and trucks in stock and ready for immediate delivery, you are sure to find what you are looking for at Crown. If we do not have the

<http://www.crownauto.com/crown-automotive-certified-program2.htm>

Exhibit B, Page 1

Complaint

11/19/2014

Crown Auto Group | New Honda, Ford, Chrysler, Dodge, Jeep, Nissan, BMW, Volvo, Acura dealership in Greensboro, NC 27407

Inspection by Certified mechanics. We find and fix problems from bulbs to brakes before offering a vehicle for sale.

vehicle you are looking for, we will do our best to find one for you.

**Crown Certified Used Cars**

Take a look at all the Crown Certified Used Cars offered by Crown dealers.

**Premiere Financing & Extended Service**

Crown and its affiliates help loan over \$2 billion every year. We use our size to make the most competitive financing available - regardless of your credit history. For even greater peace of mind, we also offer extended service contracts providing protection up to 125,000 miles.

Crown Certified Used Vehicles. Buy With Confidence

*All repairs completed by selling dealer. Benefits available for breakdowns beyond 50 miles. See dealer for details.
+Present buyer's order for comparable vehicle within 48 hours of purchase for a refund of 110% of the difference.

Complaint

Exhibit C

CROWN AUTOMOTIVE

Search Inventory **Search**

Home New Vehicles Pre-Owned Service Service Videos Tires Dealerships About Us Videos Employment

About Us

Crown Auto Group - New and Used Car Dealers Serving North Carolina, South Carolina, Virginia, and New Jersey
We are our #1 source for quality new and used cars! Here at Crown Auto we have a large selection of new and used cars by **Acura, BMW, Chrysler, Dodge, Ford, Honda, Jeep, Mini, Nissan, and Volvo** for you to choose from. We have 18 locations in four states.

You may visit any of our dealership locations that are convenient to you in North Carolina, South Carolina, Virginia, or New Jersey for all of your automotive needs. You may also browse our complete selection of **new car inventory**, **certified used cars**, and **used car inventory** online. View our latest new and used car deals, schedule a test drive, and expect hassle-free price quotes!

Here at Crown Automotive we want to make your next new or used car experience one to remember. We strive to provide excellent customer service when contacting us to handle your car repair services. Learn about our service departments, view service specials, schedule service online or email us with questions regarding your car care needs. You will also find a wide selection of parts for your new or used vehicle.

You won't find better prices or service in the NC, SC, VA, or NJ areas! Or if you would rather discuss your options with our friendly sales staff, click on [Directions](#) for interactive driving directions and other contact information. We look forward to serving you!

1. Will you buy my car even if I do not purchase one from Crown?
Answer: Yes, just bring your vehicle to any Crown location and we will give you Cash* for your car or truck. At Crown, we will always offer the fairest deal. Once your vehicle has been appraised we will give you an offer. With the offer you are under no obligation to purchase one from Crown Automotive. Because offers are car specific we will need to inspect and test drive your vehicle, this being the case no offers can be made over the phone.

2. Are your used cars inspected?
Answer: Yes, Crown Automotive sends every Crown Certified used vehicle through a rigorous 150-point inspection to ensure that every vehicle is in top shape before you take it home. It is important to Crown that every feature of your vehicle work as it should so that you have peace of mind before you leave the dealership.

A CarFax is available with every pre-owned vehicle so that you know your vehicle is in great condition.

3. Do you transfer cars between dealerships?
Answer: Yes, but there are circumstances about what kind of transfers we do based on the desired car. If the car being purchased is a new car and we have another franchise we will transfer. Crown is also happy to search other dealer's inventory for that particular car. Transferring used cars is our specialty no one can offer you such a large section of pre-owned cars. With so many dealerships we have access to over 1000 used cars and it would be our pleasure to transfer that desirable pre-owned car to another Crown dealership that is convenient for you.

4. Does Crown provide warranty work?
Answer: Yes, on the majority of cars and trucks. With so many dealerships we can provide warranty work for almost every car manufacturer.

5. What are certified used cars?
Answer: It's the reliability of new and the affordability of pre-owned car. A certified used car must go through a rigorous inspection. The certification comes from the manufacturers to ensure top quality of the pre-owned car being sold to you. Crown Automotive also offers Crown Certified used vehicles. [Click here to learn more](#)

Be an informed certified pre-owned vehicle shopper. Here are some points to remember when shopping for a certified pre-owned vehicle:

1. All manufacturer certified vehicles must pass a certification inspection. Ask the dealer to give you the inspection list for the vehicle you are interested in. The inspection list will indicate exactly what has been inspected on the vehicle and should list any repair or maintenance work that was required to bring the vehicle up to certified standards.
2. Note the mileage on the vehicle and find out how much warranty you will get from purchasing a particular certified vehicle. Depending on the program, you might not receive additional benefits beyond the new car warranty, or you might receive up to 36 months/50,000 miles of additional certified warranty. Read the certified warranty information carefully to know what additional certified warranty you will receive.
3. Most certified programs offer roadside assistance.
4. Some programs offer return/exchange provisions. Find out if you will get the sales tax and licensing/registration fees back if you return or exchange the vehicle. Ideally, if the vehicle is certified properly and you did your homework right, you shouldn't have to utilize the return/exchange provision.

Home | Inventory | Dealerships | About Us | Employment | Privacy

Website by
O.K.A.A. WEB.COM

Complaint

Complaint

Exhibit D

Login ▾ 16 Recently Viewed Cars ▾ 0 Saved Cars ▾ 0 Price Alerts ▾ Info Hide


 Search

[Home](#) [Inventory](#) [Research](#) [Finance](#) [Service & Parts](#) [Specials](#) [Collision](#) [Dealerships](#) [Map & Locations](#) [Careers](#)

Certified Pre-Owned

298 Items Matching: [All Listings](#)

Select View   

Sort by Year  Color Mileage Price [Previous](#) Page 2 of 19 [Next](#)

Search

All Years ▾

All Makes ▾

All Mileage ▾

All Locations ▾

All Body Styles ▾

All Exterior Colors ▾

Zip Code

Mileage Range Any Range ▾

Reset Search

Exterior Color

Black (62)
 Blue (21)
 Brown (10)
 Gold (3)
 Gray (33)
 Green (1)
 Orange (1)
 Other (36)
 Red (23)
 Silver (49)

[View More...](#)

Year

2015 (6)
 2014 (61)
 2013 (99)
 2012 (77)
 2011 (39)
 2010 (11)
 2009 (3)
 2008 (2)

Make

Acura (5)

2011 Honda Pilot EX-L

Stock #: BB107010
 Exterior Color: Alabaster
 Interior Color: Gray
 Transmission: Automatic
 Location: Coggin Honda of Ft. Pierce
 Mileage: 23651

Internet Price **\$24,494**

Get Internet Price

Certified Pre-Owned

HONDA

[Watch Video](#)
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[Get Price Alerts](#)

Compare ☐
Compare Selected

2011 Honda Civic LX Sedan

Stock #: BB015874
 Exterior Color: Alabaster Silver
 Interior Color: Gray
 Body Style: Sedan
 Transmission: Automatic
 Location: Coggin Deland Honda
 Mileage: 35290

Internet Price **\$13,991**

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Certified Pre-Owned

HONDA

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[Save This Car](#)
[Get Price Alerts](#)

Compare ☐
Compare Selected

2011 Honda Fit Sport Hatchback

Stock #: BC001503
 Exterior Color: Alabaster Silver
 Interior Color: Black
 Body Style: Hatchback
 Transmission: Automatic
 Location: Coggin Honda Jacksonville
 Mileage: 46601

Internet Price **\$12,994**

Get Internet Price

Certified Pre-Owned

HONDA

[Watch Video](#)
[Save This Car](#)
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Compare ☐
Compare Selected

2011 BMW 328i Sedan 3 Sedan

Stock #: BWM56920
 Exterior Color: Titanium Silver
 Interior Color: Black

Internet Price **\$24,993**

Get Internet Price

Certified Pre-Owned

BMW

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Compare ☐
Compare Selected

Complaint

BMW (26)
Buick (4)
Chevrolet (6)
Chrysler (2)
Dodge (3)
GMC (12)
Honda (41)
Hyundai (37)
Infiniti (12)

View More...

Body Style

Convertible (8)
Coupe (17)
Hatchback (11)
Other (5)
Sedan (135)
SUV (76)
Truck (22)
Van/Minivan (12)
Wagon (3)

Mileage

30,000 or less (191)
40,000 or less (246)
50,000 or less (276)
60,000 or less (293)
70,000 or less (295)
80,000 or less (296)
90,000 or less (296)
100,000 or less (296)

Location

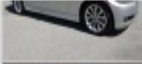
Coggin Acura (5)
Coggin BMW Treasure Coast (26)
Coggin Buick GMC of Orange Park (19)
Coggin Chevrolet at the Avenues (3)
Coggin Deland Honda (10)
Coggin Deland Hyundai (7)
Coggin Honda Jacksonville (5)
Coggin Honda of Ft. Pierce (6)
Coggin Nissan at the Avenues (4)
Coggin Nissan on Atlantic (13)

View More...

Features

3rd Row Seat (40)
Adjustable Pedals (8)
Automatic Climate Control (54)
Automatic Cruise Control (1)
Auxiliary Audio Input (58)
Bed Liner (2)
DVD / Entertainment (54)
Fog Lights (157)
Heated Seats (99)
Heated Side Mirrors (10)

View More...



Body Style: Automatic
Location: Coggin BMW Treasure Coast
Mileage: 39562

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Premium Package, Convenience Package, Value Package

Certified Pre-Owned

[Get Internet Price](#)

Compare ☐
Compare Selected



2011 BMW 328i Sedan 3 Sedan

Stock #: BE51911
Exterior Color: Jet Black
Interior Color: Saddle Brown
Body Style: Sedan
Transmission: Automatic
Location: Coggin BMW Treasure Coast
Mileage: 18609

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Value Package (Wheels: 17" Light Alloy V-Spoke, iPod & USB Adapter, Dakota Leather Upholstery)

Certified Pre-Owned

Internet Price **\$24,993**

[Get Internet Price](#)

Compare ☐
Compare Selected



2011 Honda Insight LX Hatchback

Stock #: BS007924
Exterior Color: Polished Metal
Interior Color: Gray
Body Style: Hatchback
Transmission: CVT Transmission
Location: Coggin Honda Jacksonville
Mileage: 41940

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Certified Pre-Owned

Internet Price **\$12,994**

[Get Internet Price](#)

Compare ☐
Compare Selected



2011 Toyota Sienna Van Passenger Van

Stock #: BS114979
Exterior Color: Gold
Interior Color: Beige
Body Style: Van Passenger Van
Transmission: Automatic
Location: Courtesy Toyota of Brandon
Mileage: 59420

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Certified Pre-Owned

Internet Price **\$17,633**

[Get Internet Price](#)

Compare ☐
Compare Selected



2011 BMW 135i Coupe A Coupe

Stock #: BMH01251
Exterior Color: Black Sapphire
Interior Color: Tarracotta
Body Style: Coupe
Transmission: Manual
Location: Coggin BMW Treasure Coast
Mileage: 20391

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Navigation System, Premium Package, M Sport Package, Convenience Package, (more packages...)

Certified Pre-Owned

Internet Price **\$28,993**

[Get Internet Price](#)

Compare ☐
Compare Selected



2011 Chevrolet Traverse LTZ SUV

Stock #: B0338079
Exterior Color: Silver Ice
Interior Color: Ivory
Body Style: SUV
Transmission: Automatic
Location: Coggin Buick GMC of Orange Park
Mileage: 32567

[Watch Video](#)

Internet Price **\$22,994**

[Get Internet Price](#)

Complaint

Search by stock number

Search

2011 Honda Civic LX Sedan

Stock #: BE042973
 Exterior Color: Pewter
 Interior Color: Beige
 Body Style: Sedan
 Transmission: Manual 5 Speed
 Location: Coplin Honda Jacksonville
 Mileage: 20541

Internet Price \$12,994

Get Internet Price

Certified Pre-Owned

HONDA

Compare ☐
Compare Selected

2011 Nissan Juke SUV

Stock #: BT020358
 Exterior Color: Sapphire Black
 Interior Color: Black
 Body Style: SUV
 Transmission: Manual 6 Speed
 Location: Courtney Nissan of Tampa
 Mileage: 29360

Internet Price \$16,991

Get Internet Price

CERTIFIED Pre-Owned

NISSAN

Compare ☐
Compare Selected

2011 Hyundai Sonata Sedan

Stock #: BH01934
 Exterior Color: Radiant Silver
 Interior Color: Gray
 Body Style: Sedan
 Transmission: Automatic
 Location: Courtney Hyundai
 Mileage: 42062

Internet Price \$18,991

Get Internet Price

CERTIFIED

HYUNDAI

Compare ☐
Compare Selected

2011 Hyundai Sonata Sedan

Stock #: BH070073
 Exterior Color: Camel
 Interior Color: Beige
 Body Style: Sedan
 Transmission: Automatic
 Location: Courtney Hyundai
 Mileage: 54497

Internet Price \$13,991

Get Internet Price

CERTIFIED

HYUNDAI

Compare ☐
Compare Selected

2011 Toyota Prius Hatchback

Stock #: B0302062
 Exterior Color: White
 Interior Color: Dark Gray
 Body Style: Hatchback
 Transmission: CVT
 Location: Courtney Toyota of Brandon
 Mileage: 44105

Internet Price \$18,991

Get Internet Price

CERTIFIED

TOYOTA

Compare ☐
Compare Selected

2011 BMW 528i Sedan 5 Sedan

Complaint



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Stock #: BD097617
Exterior Color: Alpine White
Interior Color: Cinnamon Brown
Body Style: Sedan
Transmission: Automatic
Location: Coplin BMW Treasure Coast
Mileage: 18081
[more...](#)
 Premium Package 2, Sport Package, Premium Package, BMW Apps





Internet Price

\$36,992

[Get Internet Price](#)

[Compare](#)
Compare Selected



[Watch Video](#)
[Save This Car!](#)
[Get Price Alerts](#)

2011 Toyota Highlander SUV
Stock #: B5038673
Exterior Color: Sandy
Interior Color: Sand Beige
Body Style: SUV
Transmission: Automatic
Location: Courtesy Toyota of Brandon
Mileage: 20360
[more...](#)




Internet Price

\$28,993

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Website by
EXCALIBUR.COM

Complaint

Exhibit E

Login

20 Recently Viewed Cars

0 Saved Cars

0 Price Alerts

Info

Hide

YOU CAN TRUST
COGGIN

Search Inventory

Search

in

Home

Inventory

Research

Finance

Service & Parts

Specials

Collision

Dealerships

Map & Locations

Careers

2011 Hyundai Sonata Sedan

Print

Back To Inventory

Share

**Price excludes tax, tag, dealer installed options, \$98 private tag agency fee and \$699.00 predelivery service fee.

Photos

Video

CERTIFIED



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COURTESY
HYUNDAI TAMPA



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First Name*

Last Name*

Preferred Contact*

Email

Email*

Home Phone

Comments

Submit

Internet Price

\$13,991

Get Internet Price

Your estimated monthly payment:

\$221 per month

68 Month @ 6.9% A.P.R. (estimated financing rate)
(\$2,760 Down Payment)

Calculate another payment

Save This Car

Get Price Alerts

HYUNDAI

Certified Pre-Owned

SHOW ME THE FREE
CARFAX
VEHICLE HISTORY REPORTS

Vehicle Location

Courtesy Hyundai
3810 W. Hillsborough
Tampa, FL 33614

Overview

Options & Packages

Tech Specs

Details

VIN: 5NPEB4AC4BH070073

Stock #: BH070073

Body Style: Sedan

Engine: 2.4L I-4 cyl

Transmission: Automatic

Drive Lines: Front-wheel Drive

Exterior Color: Camel

Interior Color: Beige

Mileage: 54497

Location: Courtesy Hyundai

Fuel Efficiency Rating

City MPG: 22

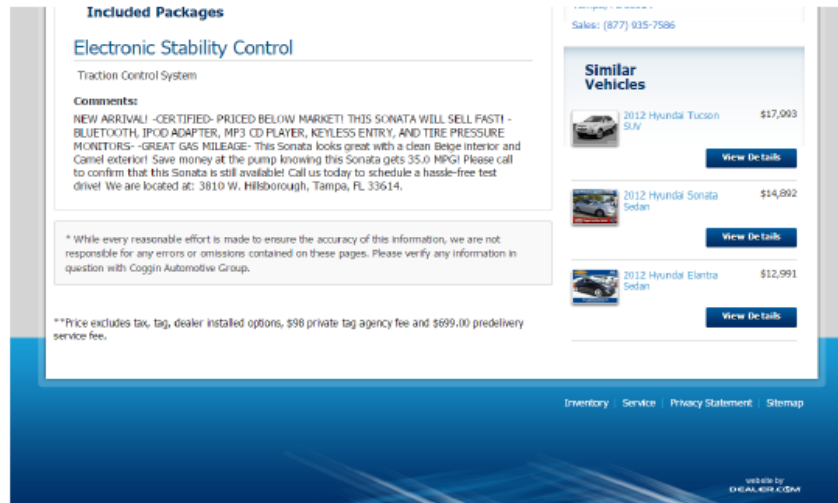


Hwy MPG: 35

Actual rating will vary with options, driving conditions, habits and vehicle condition.

Exhibit E, Page 1

Decision and Order



DECISION

The Federal Trade Commission (“Commission”) initiated an investigation of certain acts and practices of the Respondent named in the caption. The Commission’s Bureau of Consumer Protection (“BCP”) prepared and furnished to Respondent a draft Complaint. BCP proposed to present the draft Complaint to the Commission for its consideration. If issued by the Commission, the draft Complaint would charge the Respondent with violation of the Federal Trade Commission Act.

Respondent and BCP thereafter executed an Agreement Containing Consent Order (“Consent Agreement”). The Consent Agreement includes: 1) statements by Respondent that it admits the facts necessary to establish jurisdiction; and 2) waivers and other provisions as required by the Commission’s Rules.

The Commission considered the matter and determined that it had reason to believe that Respondent has violated the Federal Trade Commission Act, and that a Complaint should issue stating its charges in that respect. The Commission accepted the executed Consent Agreement and placed it on the public record

Decision and Order

for a period of 30 days for the receipt and consideration of public comments. The Commission duly considered any comments received from interested persons pursuant to Section 2.34 of its Rules, 16 C.F.R. § 2.34. Now, in further conformity with the procedure prescribed in Rule 2.34, the Commission issues its Complaint, makes the following Findings, and issues the following Order:

Findings

1. Respondent Asbury Automotive Group, Inc., also d/b/a Coggin Automotive Group and Crown Automotive Group, is a Delaware corporation, with its principal office or place of business at 2905 Premiere Parkway, NW, Suite 300, Duluth, GA 30097.
2. The Commission has jurisdiction over the subject matter of this proceeding and over the 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 Asbury Automotive Group, Inc., also d/b/a Coggin Automotive Group and Crown Automotive Group, 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 that a required disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:

Decision and Order

1. In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be made through the same means through which the representation requiring the disclosure is presented.
 2. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.
 3. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.
 4. In any communication using an interactive electronic medium, such as the Internet or software, the disclosure must be unavoidable.
 5. The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the representation that requires the disclosure appears.
 6. The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face communications.
 7. The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.
- D. “Material” shall mean likely to affect a person’s choice of, or conduct regarding, goods or services.

Decision and Order

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 marketing, advertising, offering for sale, or sale of used motor vehicles to consumers shall not, in any manner, expressly or by implication:

- A. Represent that used motor vehicles that Respondent offers for sale are safe, have been repaired for safety issues, or have been subject to an inspection for issues related to safety unless:
1. The used motor vehicles are not subject to any open recalls for safety issues, and the representation is otherwise not misleading, or
 2. Respondent discloses, clearly and conspicuously, and in close proximity to such representation, any material qualifying information related to open recalls for safety issues, including but not limited to:
 - a. the fact that its used motor vehicles may be subject to unrepaired recalls for safety issues, and

Decision and Order

- b. how consumers can determine whether an individual motor vehicle is subject to an open recall for a safety issue that has not been repaired,

and the representation is otherwise not misleading. *Provided further that* if Respondent receives any written notification from a manufacturer that an individual used motor vehicle is subject to an open recall for a safety issue, Respondent must clearly and conspicuously provide to the consumer, prior to the consummation of the sale of that used motor vehicle, either (a) any written notification from a manufacturer that Respondent has received that the motor vehicle is subject to an open recall for a safety issue, or a document that conveys the same information using a substantially similar format, or (b) a written notification that clearly and conspicuously conveys that the vehicle is subject to an open recall that is unrepaired, and the safety risks associated with the recall, that is made available by the U.S. Department of Transportation's National Highway Traffic Safety Administration ("NHTSA") or a commercial provider of recall information.

B. Misrepresent the following:

1. Whether there is or is not an open recall for safety issues for any used motor vehicle;
2. Whether Respondent repairs used motor vehicles for open recalls for safety issues; and
3. Any other material fact about the safety of the used motor vehicles it advertises for sale.

II.

IT IS FURTHER ORDERED that Respondent, within sixty (60) days of entry of this Order, must provide, by first class mail to the last known address of every consumer who purchased a certified used motor vehicle from Respondent between July 1,

Decision and Order

2013 and September 2, 2015, a notice on Respondent's letterhead that clearly and conspicuously discloses the following:

"We want to alert you that some of the used vehicles we recently sold had been recalled for safety issues, but weren't repaired as of the date they were sold. You can check whether the vehicle you bought from us is subject to an unrepaired recall at the National Highway Traffic Safety Administration's recall website, <https://vinrcl.safercar.gov/vin/>. That site also provides information on how to get your vehicle fixed if it's been recalled."

Respondent shall not include any advertising, marketing, or other promotional information in the notice. Moreover, the mailing shall not include any other documents. The envelope enclosing the notice shall have printed thereon in a clear and conspicuous fashion the disclosure "Important Safety Recall Information."

Provided, however, that Respondent is not required to provide this notice for (A) any motor vehicle that Respondent can demonstrate was not subject to an open recall for a safety issue at the time of purchase and delivery, or (B) any motor vehicle that was the subject of one or more open recalls for safety issues at the time of purchase and delivery that Respondent can demonstrate have subsequently been fixed.

For purposes of Subpart (A) of this proviso, records showing that the vehicle was not listed as subject to an open recall for a safety issue, as of the date of the purchase, on the Original Equipment Manufacturer's recall database, on the National Highway Traffic Safety Administration's www.safercar.gov database, or on a database with information on vehicle recalls that is generally accepted based on the expertise of professionals in the relevant area to yield accurate and reliable results, shall be deemed to be sufficient to demonstrate that the vehicle was not subject to an open recall for a safety issue at the time of purchase and delivery.

For purposes of Subpart (B) of this proviso, (i) repair records generated by the dealer in the ordinary course of business that demonstrate that a vehicle with an open recall for a safety issue has been repaired; or (ii) records showing that the vehicle is no

Decision and Order

longer listed as subject to an open recall for a safety issue on the Original Equipment Manufacturer's recall database, on the National Highway Traffic Safety Administration's www.safercar.gov database, or on a database with information on vehicle recalls that is generally accepted based on the expertise of professionals in the relevant area to yield accurate and reliable results, shall be deemed sufficient to demonstrate that an open recall for a safety issue has been fixed.

III.

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. Each advertisement or other marketing material that makes any representation covered by the order unless, in comparison to an advertisement or other marketing material already maintained by Respondent pursuant to this Section, the advertisement or marketing material: (i) is a duplicate, or (ii) differs only in the description of the vehicle in ways not related to any representations covered by this order;
- 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.

Decision and Order

IV.

IT IS FURTHER ORDERED that Respondent shall deliver a copy of this order to all current and future principals, officers, and directors, and to all current and future managers, 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.

V.

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: *In re Asbury Automotive Group, Inc.*

Decision and Order

VI.

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.

VII.

This order will terminate on March 22, 2037, 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 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.

Statement of the Commission

**Statement of the Federal Trade Commission
Concerning Auto Recall Advertising Cases¹
December 15, 2016**

Unrepaired auto recalls pose a serious threat to public safety. Car manufacturers and the National Highway Traffic Safety Administration have recalled tens of millions of vehicles in each of the last several years for defects that pose significant safety risks to consumers. In 2015, for example, recalls affected 51 million vehicles nationwide.² And defects that have been the subject of recalls have led to severe injuries and even death for many consumers. Federal law requires that all new cars sold in the United States be free from recalls, but it does not prohibit auto dealers from selling used cars with open recalls. As a result, absent a change in law, neither NHTSA nor any other federal agency has the authority to ban the sale of used cars that have open recalls across the industry.

Section 5 of the Federal Trade Commission Act, however, enables the Commission to stop car sellers from engaging in false or misleading advertising practices that mask the existence of open recalls, and we are committed to doing just that. As part of this effort, the Commission is issuing final orders against General Motors Company, Jim Koons Management Company, and Lithia Motors, Inc. and announcing proposed orders against CarMax, Inc., West-Herr Automotive Group, Inc., and Asbury Automotive Group, Inc. In these enforcement actions, the Commission is challenging what we allege are deceptive advertising claims by these companies that highlight the rigorous inspections they perform on their used cars, but fail to clearly disclose the existence of unrepaired safety recalls.

1 In the Matters of General Motors Company, File No. 1523101; Jim Koons Management Company, File No. 1523104; Lithia Motors, Inc., File No. 1523102; CarMax, Inc., File No. 1423202; West-Herr Automotive Group, Inc., File No. 1523105; and Asbury Automotive Group, Inc., File No 1523103.

2 Gordon Trowbridge, National Highway Traffic Safety Administration, *U.S. Department of Transportation launches new public awareness campaign*, Jan. 21, 2016, https://www.nhtsa.gov/About-NHTSA/Press-Releases/nhtsa_launches_safe_cars_save_lives_campaign_01212015.

Statement of the Commission

More specifically, we allege that the companies named in these actions touted the rigorousness of their car inspections by claiming, for example, to engage in a “172-point inspection and reconditioning,” an “exhaustive 160-checkpoint Quality Assurance Inspection,” or a “rigorous and extensive inspection.” Some of these inspected cars were subject to open recalls. We charge that the companies’ representations about their inspections, absent clear and conspicuous information about open recalls, were likely to mislead reasonable consumers into believing that the inspections included repairing open recalls. Therefore, the companies’ failure to disclose this information was deceptive.³

Our orders stop this deceptive conduct and provide important additional protections for consumers. First, the orders prohibit each company from making any safety-related claim about its vehicles unless (1) the vehicles are recall-free, or, alternatively, the company discloses clearly and conspicuously and in close proximity to the representation both that the vehicles may be subject to open recalls and how consumers can determine the recall status of a particular car, and (2) the claims are not otherwise misleading.⁴

This means that, if any car on the companies’ lots is subject to an open recall, every time the companies make these types of inspection claims, they must prominently disclose that their cars may be subject to open recalls and tell consumers how to determine the recall status of specific cars. And they must provide this information wherever the inspection claims are made – in the

3 Under Section 5 of the FTC Act, “it can be deceptive to tell only half the truth, and to omit the rest. This may occur where a seller fails to disclose qualifying information necessary to prevent one of his affirmative statements from creating a misleading impression.” See *In re International Harvester Co.*, 104 F.T.C. 949, 1057 (1984).

4 For instance, a claim could still be misleading, even with the required disclosure, if a dealer represents that it inspected specific cars when it failed to do so, makes false oral statements to consumers that specific cars are free of recalls, or states a car *may* be subject to a recall (or otherwise implies it does not know the recall status) but in fact knows the car is actually subject to an open recall.

Statement of the Commission

showroom, on the lot, and in any TV, radio, or website ad that consumers may view before they even visit a car dealer.

Further, the orders require each company to warn consumers who recently purchased one of its used cars that the vehicle may have an open recall. The Commission can seek civil penalties for violations of these orders, and we will not hesitate to do so if we discover a violation.⁵

These enforcement actions will help empower consumers to make more informed and safer purchasing decisions in a market that, absent a change in federal law, continues to include cars subject to open recalls. Dealers that repair all of their cars can continue to make truthful claims that they are recall-free, and can benefit from the competitive advantages of doing so. Dealers that cannot, or do not, repair all of their cars must instead prominently disclose that the cars may have open recalls when they make certain safety-related claims, such as claims about comprehensive inspections. Dealers are therefore incentivized to repair open recalls in the cars they advertise. At the same time, dealers can continue conducting their inspection programs and truthfully advertising them, provided they prominently disclose that cars may be subject to open recalls and do not misrepresent the recall status or safety of their cars.⁶

Finally, we note that other laws, including state product safety, tort, and other consumer protection laws, provide important safeguards to consumers affected by defective cars. Of course, the Commission's orders do not affect the protections afforded by those laws. Rather, the Commission's orders provide independent protection for consumers, requiring that they be given information about open recalls before they purchase a used car.

⁵ See *U.S. v. New World Auto*, No. 16-cv-2401 (N.D. Tex. Aug. 22, 2016) (requiring auto dealers to pay civil penalties for violations of FTC order).

⁶ Dealer inspection programs often involve checking that vital components of a car, like the brakes and drivetrain, are working properly and thus can provide important consumer benefits.

Analysis to Aid Public Comment

Congress has been considering legislative proposals that would prohibit the sale of used cars with unrepaired recalls altogether, and we support efforts seeking to address this serious public safety issue. Although the Commission's enforcement actions against individual companies cannot substitute for legislative solutions, they provide important protections for consumers to help ensure that they can make informed and safer purchasing decisions in the used car marketplace.

ANALYSIS OF CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission ("FTC" or "Commission") has accepted, subject to final approval, an agreement containing a consent order from Asbury Automotive Group, Inc. 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 car dealership that sells used motor vehicles. According to the FTC complaint, discussed further below, respondent has represented that the certified used motor vehicles it sells have been subject to rigorous inspection, including for safety issues, but has failed to disclose adequately that some of these vehicles are subject to open recalls for safety issues. Federal law currently does not prohibit car dealers from selling used vehicles subject to open safety recalls; Congress and some states are considering legislation that would do so. The Commission, however, can take action under the FTC Act to prohibit companies from making claims that mislead consumers about safety-related and other material issues. Further, the FTC can take such action in addition to (and entirely independent of) any private rights of action consumers themselves can bring under

Analysis to Aid Public Comment

state law. This proposed action thus does not replace or alter any state laws or legislative proposals; rather, it offers additional protections beyond those afforded under other such laws, as they exist now or may be amended.

More specifically, the complaint in this matter alleges that the respondent has posted advertisements on one of its websites that included the following representations:

Our Crown Certified Used Vehicles Include: | 150
Point Bumper-to-bumper inspection . . .

Inspected, Reconditioned & Certified

Every Crown Certified used car or truck has undergone a 150 point bumper-to-bumper inspection by Certified mechanics. We find and fix problems from bulbs to brakes before offering a vehicle for sale.

Even though it makes such claims, the respondent has allegedly advertised on its websites numerous certified used vehicles that were subject to open recalls for safety issues. In numerous instances, when the respondent allegedly advertised certified used vehicles that are subject to open recalls for safety issues, it provided no accompanying clear and conspicuous disclosure of this fact. The proposed complaint alleges that this failure to disclose constitutes a deceptive act or practice under Section 5 of the FTC Act.

The proposed order is designed to prevent the respondent from engaging in similar deceptive practices in the future. Part I prohibits the respondent from representing that used motor vehicles it offers for sale are safe, have been repaired for safety issues, or have been subject to an inspection for issues related to safety unless the used motor vehicles are not subject to any open recalls for safety issues or the respondent discloses, clearly and conspicuously, in close proximity to such representation, any material qualifying information related to open recalls for safety issues. Part II is a provision that orders the respondent to notify consumers who purchased from it a certified used motor vehicle between July 1, 2013 and September 2, 2015 that some of the

Analysis to Aid Public Comment

used vehicles it sold during this time had been recalled for safety issues which weren't repaired as of the date they were sold. The notice also must specify how consumers can check whether the vehicle is subject to an unrepaired recall at the National Highway Traffic Safety Administration's website, <https://vinrcl.safercar.gov/vin/>. This website also provides information on how to get a vehicle fixed if it is subject to an open recall.

Parts III through VII of the proposed order are reporting and compliance provisions. Part III requires the respondent to maintain for five years, and produce to the Commission upon demand, any relevant ads and associated documentary material. Part IV is an order distribution provision. Part V requires the respondent to notify the Commission of corporate changes that may affect compliance obligations. Part VI requires the respondent to submit a compliance report to the Commission 60 days after entry of the order, and also additional compliance reports within 10 business days of a written request by the Commission. Part VII "sunsets" the order after twenty 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.

Complaint

IN THE MATTER OF

WEST-HERR AUTOMOTIVE GROUP, INC.CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF
SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket No. C-4607; File No. 152 3105
Complaint, March 22, 2017 – Decision, March 22, 2017

This consent order addresses West-Herr Automotive Group, Inc.'s advertisements to sell used motor vehicles. The complaint alleges that respondent has represented that used motor vehicles it sells have been subject to rigorous inspection, including for safety issues, but has failed to disclose adequately that some of these vehicles are subject to open recalls for safety issues. The consent order prohibits the respondent from representing that used motor vehicles it offers for sale are safe, have been repaired for safety issues, or have been subject to an inspection for issues related to safety unless the used motor vehicles are not subject to any open recalls for safety issues or the respondent discloses, clearly and conspicuously, in close proximity to such representation, any material qualifying information related to open recalls for safety issues.

Participants

For the *Commission*: Courtney Estep, Michael White, and Evan Zullow.

For the *Respondent*: Lucy Morris and Joel Winston, Hudson Cook, LLP.

COMPLAINT

The Federal Trade Commission, having reason to believe that West-Herr Automotive Group, Inc., 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:

1. Respondent is a New York corporation, with its principal office or place of business at 3552 Southwestern Blvd, Orchard Park, New York 14127. Respondent has marketed, advertised, offered for sale, and sold used motor vehicles.