

FTC Bags and Tags Auto Dealership Group Again

February 21, 2018 | [Eric L. Johnson](#)

If you live in the Southern part of the United States, as I do, you will often hear people talking about "huntin' season." Some people are avid hunters and know exactly when huntin' season is set to begin for their choice of prey. I'm not a hunter, so I don't quite understand the fascination. However, what I do understand, and what I try to get dealers to understand, is that when it comes to federal regulators: It's huntin' season year-round. Plus, if you're a dealer allegedly not complying with the law, you make easy prey for the regulators. Here's a good example.

A southern California-based auto dealership group recently agreed to pay \$1.4 million to settle Federal Trade Commission charges that it violated 2014 administrative orders prohibiting it from misrepresenting how much consumers could pay to finance or lease a vehicle. The proposed court order - resolving the FTC's complaint against 12 entities operating as the Norm Reeves dealerships - bans similar advertising misrepresentations and imposes strict compliance and reporting terms to prevent future violations.

In 2014, the FTC originally charged these 12 dealerships with a variety of misrepresentations in advertisements that allegedly violated the FTC Act, falsely leading consumers to believe they could buy vehicles for specific low prices, finance vehicles for specific low monthly payments, and/or make no upfront payment when leasing. Specifically, the FTC charged the dealerships with deceptively advertising that consumers could pay \$0 up front to lease a vehicle when, in fact, the advertised price excluded substantial fees and other costs. The ads also allegedly violated the Consumer Leasing Act by failing to disclose certain lease-related terms. One of the dealership's ads also allegedly violated the Truth in Lending Act and Regulation Z by failing to disclose certain credit-related terms.

The orders settling the previous complaint, which the FTC approved as final in May 2014, prohibited the dealerships from misrepresenting the cost of buying a vehicle with financing or any other material fact about the price, sale, financing, or leasing of a vehicle in its ads. The orders also addressed the defendants' alleged TILA and CLA violations by requiring the dealerships to clearly and conspicuously disclose the terms required by these laws.

The recent proposed court order settles the FTC's civil penalty complaint that the defendants violated the 2014 orders by misrepresenting the total cost of vehicle financing or leases to prospective buyers or lessees or misrepresenting an offer's

availability to all consumers. The order also settles FTC charges that the defendants failed to disclose, or did not clearly and conspicuously disclose, credit and lease information required by TILA and the CLA and failed to maintain proper records, in violation of the 2014 orders.

In addition to prohibiting future misrepresentations about the material costs and terms of vehicle financings or leases, the order requires the defendants to comply with TILA, Reg. Z, and the CLA. It also contains strong compliance and reporting requirements.

What lessons can you learn from this dealership group being bagged and tagged by the FTC yet again, and how can you avoid making your dealership easy prey for regulators and plaintiffs' attorneys? Have your advertising reviewed regularly for compliance with federal and state law by knowledgeable counsel; if you're under a consent order, make sure you follow its terms, as the regulator is watching; and keep in mind that the FTC (and other federal and state regulators) are actively hunting those who don't comply with the law.

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