

# **FEDERAL TRADE COMMISSION DECISIONS**

**FINDINGS, OPINIONS, AND ORDERS  
JANUARY 1, 2014, TO JUNE 30, 2014**

PUBLISHED BY THE COMMISSION

**VOLUME 157**



Compiled by  
The Office of the Secretary  
Robert F. Swenson, Editor

**MEMBERS OF THE FEDERAL TRADE COMMISSION  
DURING THE PERIOD  
JANUARY 1, 2014 TO JUNE 30, 2014**

EDITH RAMIREZ, *Chairwoman*  
Took oath of office April 5, 2010.

JULIE BRILL, *Commissioner*  
Took oath of office April 6, 2010.

MAUREEN K. OHLHAUSEN, *Commissioner*  
Took oath of office April 4, 2012.

JOSHUA D. WRIGHT, *Commissioner*  
Took oath of office January 3, 2013.

TERRELL McSWEENY, *Commissioner*  
Took oath of office April 28, 2014

DONALD S. CLARK, *Secretary*  
Appointed August 28, 1988.

## CONTENTS

---

Members of the Commission .....	ii
Table of Cases .....	iv
Findings, Opinions, and Orders .....	1
Interlocutory, Modifying, Vacating, and Miscellaneous Orders.....	1806
Responses to Petitions to Quash .....	1880
Table of Commodities.....	1926

# TABLE OF CASES

VOLUME 157

---

<u>File or Docket #</u>	<u>Name</u>	<u>Page(s)</u>
<u>A</u>		
C4442	<b>Aaron's, Inc.</b> .....	452
C4424	<b>AB Acquisition, LLC</b> .....	44
C4432	<b>Accretive Health, Inc.</b> .....	215
C4460	<b>ADT LLC</b> .....	1646
	ADT Security Services .....	<i>See ADT LLC</i>
	Advantage .....	<i>See Hertz Global Holdings, Inc.</i>
C4452	<b>Akorn, Inc.</b> .....	1445
	Albertson's LLC .....	<i>See AB Acquisition, LLC</i>
D09362	<b>American Achievement Corporation</b> .....	1213
C4459	<b>American Apparel, Inc.</b> .....	1537
C4453	<b>American Plastic Manufacturing, Inc.</b> .....	1028
D09355	<b>AmeriStar Casinos, Inc. (Divestiture)</b> .....	1806
	Anchor Glass .....	<i>See Ardagh Group S.A.</i>
	Angeleno Mortuaries, Inc. ....	<i>See Service Corporation International</i>
C4461	<b>Apperian, Inc.</b> .....	1668
C4444	<b>Apple Inc.</b> .....	621
C4439	<b>Arbitron Inc.</b> .....	348
C4439	<b>Arbitron Inc. (Divestiture)</b> .....	1840
D09356	<b>Ardagh Group S.A.</b> .....	1548
D09356	<b>Ardagh Group S.A. (Divestiture)</b> .....	1879
D09356	<b>Ardagh Group S.A. (Interlocutory Order) ...</b>	1839
C4462	<b>Atlanta Falcons Football Club, LLC</b> .....	1680
1310206	<b>Auto Dealers (PTQ)</b> .....	1880
	Avis Budget Group .....	<i>See Hertz Global Holdings, Inc.</i>

TABLE OF CASES  
continued

**B**

C4463	<b>Baker Tilly Virchow Krause, LLP</b> .....	1690
C4451	<b>Bill Robertson and Sons, Inc.</b> .....	996
C4464	<b>BitTorrent, Inc.</b> .....	1701
C4430	<b>Boca Life Science Holdings, LLC</b> .....	520
C4430	<b>Boca Pharmacal, LLC</b> .....	520

**C**

C4447	<b>California Association of Legal Support Professionals</b> .....	881
	Carriage Services, Inc. ....	
	..... <i>See</i> Service Corporation International	
	Casino Auto Sales .....	<i>See</i> Sierre, Luis Alfonso
C4465	<b>Charles River Laboratories International, Inc.</b> .....	1711
1323236	<b>College Network, Inc., The (PTQ)</b> .....	1894
C4427	<b>Community Health Systems, Inc.</b> .....	933
D09356	<b>Compagnie de Saint-Gobain (Divestiture)</b> ..	1879
D09356	<b>Compagnie de Saint-Gobain (Interlocutory Order)</b> .....	1839
	comScore, Inc. ....	<i>See</i> Nielsen Holdings, N.V.
C4458	<b>CoreLogic, Inc.</b> .....	1404
D09359	<b>Courtesy Auto Group, Inc.</b> .....	1183
D09359	<b>Courtesy Auto Group, Inc. (Interlocutory Order)</b> .....	1836

**D**

C4466	<b>DataMotion, Inc.</b> .....	1722
C4467	<b>DDC Laboratories, Inc.</b> .....	1734
	Denver Broncos Football Club .....	
	..... <i>See</i> PDB Sports, Ltd.	
	DNA Diagnostics Center .....	
	..... <i>See</i> DDC Laboratories, Inc.	
	Don White's Timonium Chrysler Jeep Dodge .....	
	..... <i>See</i> Timonium Chrysler, Inc.	
C4443	<b>Down to Earth Designs, Inc.</b> .....	476

## E

D09358	<b>ECM BioFilms, Inc. (<i>Interlocutory Order</i>) ..</b>	1842
C4430	<b>Endo Health Solutions Inc. ....</b>	520
	Enviroplastics International .....	
	..... <i>See</i> ECM BioFilms, Inc.	

## F

C4469	<b>Fantage.com, Inc. ....</b>	1754
C4425	<b>Fidelity National Financial, Inc. ....</b>	412
C4457	<b>foru™ International Corporation .....</b>	1321
C4433	<b>Fowlerville Ford, Inc. ....</b>	230
	Franchise Services of North America .....	
	..... <i>See</i> Hertz Global Holdings, Inc.	

## G

C4428	<b>Ganley Ford West, Inc. ....</b>	78
	gDiapers .....	<i>See</i> Down to Earth Designs, Inc.
C4446	<b>Geidl, Erik M. ....</b>	700
	GeneLink Biosciences, Inc. ....	<i>See</i> GeneLink, Inc.
C4456	<b>GeneLink, Inc. ....</b>	1238
	GeneWize Life Sciences, Inc. ....	
	..... <i>See</i> foru™ International Corporation	
	Glass Container Acquisition LLC .....	
	..... <i>See</i> Ardagh Group S.A.	
C4446	<b>Goldenshores Technologies, LLC .....</b>	700

## H

C4437	<b>Hampton Two Auto Corporation .....</b>	300
C4427	<b>Health Management Associates, Inc. ....</b>	933
C4376	<b>Hertz Global Holdings, Inc. (<i>Divestiture</i>) .....</b>	1837, 1878
	.....	
C4452	<b>Hi-Tech Pharmacal Co., Inc. ....</b>	1445
	Honda of Hollywood .....	
	..... <i>See</i> Bill Robertson and Sons, Inc.	

## I

C4438	<b>Infiniti of Clarendon Hills, Inc. ....</b>	330
-------	---	-----

TABLE OF CASES  
continued

**J**

D09362 **Jostens, Inc.** ..... 1213

**L**

D09357 **LabMD, Inc. (Interlocutory Order)** .... 1807, 1862  
Legacy Funeral Holdings, Inc. ....  
..... See Service Corporation International  
C4425 **Lender Processing Services, Inc.** ..... 412  
C4470 **Level 3 Communications, LLC** ..... 1764  
Life Technologies Corporation .....  
..... See Thermo Fisher Scientific Inc.  
C4445 **L’Occitane, Inc.** ..... 672

**M**

D09351 **McWane Inc.** ..... 107  
D09351 **McWane, Inc. (Interlocutory Order)** ..... 1845  
C4448 **Music Teachers National Association** ..... 854

**N**

C4449 **N.E.W. Plastics Corp.** ..... 900  
C4437 **New World Auto Imports of Rockwall, Inc.** .....  
..... 300  
C4437 **New World Auto Imports, Inc.** ..... 300  
C4439 **Nielsen Holdings N.V.** ..... 348  
C4439 **Nielsen Holdings, N.V. (Divestiture)** ..... 1840  
C4454 **Nissan North America, Inc.** ..... 1159  
C4441 **Nissan of South Atlanta, LLC** ..... 398  
Nissan South ... See Nissan of South Atlanta, LLC  
Norm Reeves Honda Superstore .....  
..... See Norm Reeves, Inc.  
C4436 **Norm Reeves, Inc.** ..... 280

**P**

C4450 **Paramount Kia of Hickory, LLC** ..... 1012  
C4468 **PDB Sports, Ltd.** ..... 1744  
D09355 **Pinnacle Entertainment, Inc. (Divestiture)** . 1806  
1323239 **Police Protective Fund, Inc. (PTQ)** ..... 1913

**R**

	Rainbow Auto Sales .....	<i>See</i> Sabha, Mohammad
C4472	<b>Receivable Management Services Corporation, The</b> .....	1785
	Renew Plastics .....	<i>See</i> N.E.W. Plastics Corp.
	Renwood RealtyTrac LLC .....	<i>See</i> CoreLogic, Inc.
C4471	<b>Reynolds Consumer Products Inc.</b> .....	1774

**S**

C4435	<b>Sabha, Mohammad</b> .....	267
D09356	<b>Saint-Gobain Containers, Inc.</b> .....	1548
D09356	<b>Saint-Gobain Containers, Inc. (Divestiture)</b> .....	1879
D09356	<b>Saint-Gobain Containers, Inc. (Interlocutory Order)</b> .....	1839
C4423	<b>Service Corporation International</b> .....	1055
C4423	<b>Service Corporation International (Divestiture)</b> . .....	1858, 1859, 1860, 1861, 1877
C4434	<b>Sierre, Luis Alfonso</b> .....	252
	Signature Funeral and Cemetery Investments LLC .....	<i>See</i> Service Corporation International
	Signature Group, The .....	<i>See</i> Service Corporation International
	Simply Wheelz ....	<i>See</i> Hertz Global Holdings, Inc.
	Sinclair Transportation Company .....	<i>See</i> Tesoro Corporation
	Southwest Kia .	<i>See</i> New World Auto Imports, Inc.
	Southwest Kia Mesquite .....	<i>See</i> New World Auto Imports, Inc.
	Southwest Kia of Rockwall .....	<i>See</i> New World Auto Imports, Inc.
	Southwest Kia-NW .....	<i>See</i> New World Auto Imports, Inc.
1310214	<b>Star Pipe Products Ltd. (PTQ)</b> .....	1923
D09351	<b>Star Pipe Products, Ltd.</b> .....	107
D09351	<b>Star Pipe Products, Ltd. (Interlocutory Order)</b> ... .....	1845
C4423	<b>Stewart Enterprises, Inc.</b> .....	1055
C4423	<b>Stewart Enterprises, Inc. (Divestiture)</b> .....	1858, 1859, 1860, 1861, 1877



TABLE OF CASES  
continued

StonMor Partners L.P. ....  
..... *See* Service Corporation International

**T**

C4455	<b>TBWA Worldwide, Inc.</b> .....	1171
C4473	<b>Tennessee Football, Inc.</b> .....	1796
	Tennessee Titans .... <i>See</i> Tennessee Football, Inc.	
C4405	<b>Tesoro Corporation (Divestiture)</b> .....	1838
C4405	<b>Tesoro Logistics Operations LLC (Divestiture)</b> ..	
	.....	1838
C4431	<b>Thermo Fisher Scientific Inc.</b> .....	750
C4429	<b>Timonium Chrysler, Inc.</b> .....	91
D09278	<b>Toys “R” Us Inc.</b> .....	1852
	TPG VI Ontario 1 AIV L.P. ... <i>See</i> CoreLogic, Inc.	
C4426	<b>TRENDnet, Inc.</b> .....	1
	Tropicana Entertainment, Inc. ....	
	..... <i>See</i> Pinnacle Entertainment, Inc.	
	TrueCar, Inc. .... <i>See</i> Auto Dealers	
	TrueCar.com .....	<i>See</i> Auto Dealers

**U**

United Supermarkets L.L.C. ....  
..... *See* AB Acquisition, LLC

**V**

D09362	<b>Visant Corporation</b> .....	1213
--------	---------------------------------	------

**Z**

Ziegler Supersystems, Inc. .... *See* Auto Dealers



# FEDERAL TRADE COMMISSION DECISIONS

---

FINDINGS, OPINIONS, AND ORDERS  
JANUARY 1, 2014, TO JUNE 30, 2014

---

IN THE MATTER OF

## **TRENDNET, INC.**

CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF  
SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT

*Docket No. C-4426; File No. 122 3090*  
*Complaint, January 16, 2014 – Decision, January 16, 2014*

This consent order addresses TRENDnet, Inc.'s claims regarding the security settings of their SecurView products. The complaint alleges that TRENDnet falsely represented that it had taken reasonable steps to ensure that its IP cameras and mobile apps are a secure means to monitor private areas of a consumer's home or workplace. The complaint also alleges that TRENDnet misrepresented that it had taken reasonable steps to ensure that a user's security settings on its devices would be honored. Finally, the Commission's complaint alleges that TRENDnet engaged in a number of practices that, taken together, failed to provide reasonable security to prevent unauthorized access to personal information, namely the live feeds from the IP cameras. The consent order prohibits TRENDnet from misrepresenting (1) the extent to which TRENDnet or its products or services maintain and protect the security of covered device functionality or the security, privacy, confidentiality, or integrity of any covered information; and (2) the extent to which a consumer can control the security of any covered information input into, stored on, captured with, accessed, or transmitted by a covered device. The order also requires TRENDnet to establish and implement, and thereafter maintain, a comprehensive security program to (1) address security risks that could result in unauthorized access to or use of the functions of covered devices, and (2) protect the security, confidentiality, and integrity of covered information, whether collected by respondent or input into, stored on, captured with, accessed or transmitted through a covered device.

### *Participants*

For the *Commission*: *Andrea V. Arias* and *Laura D. Berger*.

For the *Respondents*: *John L. Sun, Law Offices of John L. Sun*.

## Complaint

**COMPLAINT**

The Federal Trade Commission, having reason to believe that TRENDnet, Inc., a corporation, has violated the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent TRENDnet, Inc. (“TRENDnet” or “respondent”) is a California corporation with its principal office or place of business at 20675 Manhattan Place, Torrance, California 90501.

2. The acts and practices of respondent as alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.

**RESPONDENT’S BUSINESS PRACTICES**

3. Respondent is a retailer that among other things, sells networking devices, such as routers, modems, and Internet Protocol (“IP”) cameras, to home users and to small- and medium-sized businesses. In 2010, respondent had approximately \$64 million in total revenue, and obtained approximately \$6.3 million of this amount from the sale of IP cameras. In 2011, respondent had approximately \$66 million in total revenue and obtained approximately \$5.28 million of this amount from the sale of its IP cameras. Similarly, in 2012, the company had approximately \$62 million in total revenue and obtained approximately \$7.4 million of this amount from the sale of IP cameras. During this time, the company had approximately 80 employees.

4. Respondent offers its IP cameras for consumers to conduct security monitoring of their homes or businesses, by accessing live video and audio feeds (“live feeds”) from their cameras over the Internet. In many instances, these cameras are marketed under the trade name “SecurView.” According to respondent, the IP cameras may be used to monitor “babies at home, patients in the hospital, offices and banks, and more.”

## Complaint

5. By default, respondent has required users to enter a user name and password (“login credentials”), in order to access the live feeds from their cameras over the Internet. In addition, since at least February 2010, respondent has provided users with a Direct Video Stream Authentication setting (“DVSA setting”), the same as or similar to the one depicted below. The DVSA setting allows users to turn off the login credentials requirement for their cameras, so that they can make their live feeds public. To remove the login credentials requirement, a user would uncheck the box next to the word “Enable,” and then “Apply” this selection.

The screenshot shows the TrendNet web interface for a Wireless Internet Camera Server (TV-IP110W). The page is titled 'Basic » User' and displays the 'User Accounts' configuration. The interface includes a sidebar with navigation options like 'Live View', 'Setup', 'Smart Wizard', 'Basic', 'Network', 'Video', 'Event Server', 'Motion Detect', 'Event Config', 'Tools', and 'Information'. The main content area shows three user accounts: Administrator, General User, and Guest. Each account has fields for 'User Name', 'Password', and 'User List'. The 'Direct Video Stream Authentication' checkbox is checked and labeled 'Enable'. The 'Apply' button is visible at the bottom right of the configuration area.

User Accounts	
Administrator:	Password: <input type="text"/> Confirm Password: <input type="text"/> <input type="button" value="Modify"/>
General User:	User Name: <input type="text" value="user"/> Password: <input type="text"/> <input type="button" value="Add/Modify"/> User List: <input type="text" value="user"/> <input type="button" value="Delete"/>
Guest:	User Name: <input type="text" value="guest"/> Password: <input type="text"/> <input type="button" value="Add/Modify"/> User List: <input type="text" value="guest"/> <input type="button" value="Delete"/>
Direct Video Stream Authentication:	<input checked="" type="checkbox"/> Enable <input type="button" value="Apply"/>

6. Respondent also has provided software applications that enable users to access their live feeds from a mobile device (“mobile apps”), including its SecurView Mobile Android app, which respondent launched in January 2011, and its SecurView PRO Android app, which respondent launched in October 2012. Both apps require that a user enter login credentials the first time that the user employs the app on a particular mobile device. Both apps then store the user’s login credentials on that mobile device, so that the user will not be required to enter login credentials on that device in the future.

## Complaint

**RESPONDENT'S STATEMENTS TO CONSUMERS**

7. From at least January 1, 2010, until the present, in many instances, in marketing or offering for sale its IP cameras, respondent has:

- a. used the trade name SecurView:
  - i. in the product names and descriptions displayed on the cameras' packaging (*see, e.g.*, Exhs. A-J);
  - ii. in product descriptions on respondent's website and in other advertisements (*see, e.g.*, Exhs. K-L); and
  - iii. in the name of its SecurView Mobile and SecurView PRO Android apps, described in **Paragraph 6**.
- b. described the IP cameras as "secure" or suitable for maintaining security, including through:
  - i. a sticker affixed to the cameras' packaging, the same as or similar to the one depicted below, which displays a lock icon and the word "security" (*see, e.g.*, Exhs. B, D, F-H, J);



- ii. a statement on the cameras' packaging that it may be used to "secure," or "protect" a user's home, family, property, or business (*see, e.g.*, Exhs. A, B, I); and

## Complaint

- iii. product descriptions on respondent's website and in other advertisements (*see, e.g.*, Exhs. K-M);
- c. provided an authentication feature, which requires users to enter login credentials before accessing the live feeds from their IP cameras over the Internet; and
- d. provided the DVSA setting, described in **Paragraph 5**, which purports to allow users to choose whether login credentials will be required to access the live feeds from their IP cameras over the Internet.

**RESPONDENT'S FAILURE TO REASONABLY SECURE ITS IP CAMERAS AGAINST UNAUTHORIZED ACCESS**

8. Respondent has engaged in a number of practices that, taken together, failed to provide reasonable security to prevent unauthorized access to sensitive information, namely the live feeds from the IP cameras. Among other things:

- a. since at least April 2010, respondent has transmitted user login credentials in clear, readable text over the Internet, despite the existence of free software, publicly available since at least 2008, that would have enabled respondent to secure such transmissions;
- b. since January 2011, respondent has stored user login credentials in clear, readable text on a user's mobile device, despite the existence of free software, publicly available since at least 2008, that would have enabled respondent to secure such stored credentials;
- c. since at least April 2010, respondent has failed to implement a process to actively monitor security vulnerability reports from third-party researchers, academics, or other members of the public, despite the existence of free tools to conduct such monitoring, thereby delaying the opportunity to correct discovered vulnerabilities or respond to incidents;

## Complaint

- d. since at least April 2010, respondent has failed to employ reasonable and appropriate security in the design and testing of the software that it provided consumers for its IP cameras. Among other things, respondent, either directly or through its service providers, failed to:
  - i. perform security review and testing of the software at key points, such as upon the release of the IP camera or upon the release of software for the IP camera, through measures such as:
    - 1. a security architecture review to evaluate the effectiveness of the software's security;
    - 2. vulnerability and penetration testing of the software, such as by inputting invalid, unanticipated, or random data to the software;
    - 3. reasonable and appropriate code review and testing of the software to verify that access to data is restricted consistent with a user's privacy and security settings; and
  - ii. implement reasonable guidance or training for any employees responsible for testing, designing, and reviewing the security of its IP cameras and related software.

**RESPONDENT'S BREACH**

9. As a result of the failures described in **Paragraph 8**, respondent has subjected its users to a significant risk that their sensitive information, namely the live feeds from its IP cameras, will be subject to unauthorized access. As a result of the failures described in **Paragraph 8(d)**, from approximately April 2010 until February 7, 2012, the DVSA setting, described in **Paragraph 5**, did not function properly for twenty models of respondent's IP cameras. (See Appendix A, listing the affected models.) In particular, the DVSA setting failed to honor a user's choice to require login credentials and allowed all users' live



## Complaint

feeds to be publicly accessible, regardless of the choice reflected by a user's DVSA setting and with no notice to the user.

10. Hackers could and did exploit the vulnerability described in **Paragraph 9**, to compromise hundreds of respondent's IP cameras. Specifically, on approximately January 10, 2012, a hacker visited respondent's website and reviewed the software that respondent makes available for its cameras. The hacker was able to identify a web address that appeared to support the public sharing of users' live feeds, for those users who had made their feeds public. Because of the flaw in respondent's DVSA setting, however, the hacker could access all live feeds at this web address, without entering login credentials, even for users who had not made their feeds public. Thereafter, by typing the term "netcam" into a popular search engine that enables users to search for computers based on certain criteria, such as location or software, the hacker identified and obtained IP addresses for hundreds of respondent's IP cameras that could be compromised. The hacker posted information about the breach online; thereafter, hackers posted links to the live feeds for nearly 700 of respondent's IP cameras. Among other things, these compromised live feeds displayed private areas of users' homes and allowed the unauthorized surveillance of infants sleeping in their cribs, young children playing, and adults engaging in typical daily activities. The breach was widely reported in news articles online, many of which featured photos taken from the compromised live feeds or hyperlinks to access such feeds. Based on the cameras' IP addresses, news stories also depicted the geographical location (*e.g.*, city and state) of many of the compromised cameras.

11. Respondent learned of the breach on January 13, 2012, when a customer who had read about the breach contacted respondent's technical support staff to report the issue. Shortly thereafter, respondent made available new software to eliminate the vulnerability, and encouraged users to install the new software by posting notices on its website and sending emails to registered users.

## Complaint

**THE IMPACT OF RESPONDENT'S FAILURES ON  
CONSUMERS**

12. As demonstrated by the breach, respondent's failures to provide reasonable and appropriate security led to a significant risk that users' live feeds would be compromised, thereby causing significant injury to consumers.

13. The exposure of sensitive information through respondent's IP cameras increases the likelihood that consumers or their property will be targeted for theft or other criminal activity, increases the likelihood that consumers' personal activities and conversations or those of their family members, including young children, will be observed and recorded by strangers over the Internet. This risk impairs consumers' peaceful enjoyment of their homes, increases consumers' susceptibility to physical tracking or stalking, and reduces consumers' ability to control the dissemination of personal or proprietary information (*e.g.*, intimate video and audio feeds or images and conversations from business properties). Consumers had little, if any, reason to know that their information was at risk, particularly those consumers who maintained login credentials for their cameras or who were merely unwitting third parties present in locations under surveillance by the cameras.

**COUNT 1**

14. As described in **Paragraph 7**, respondent has represented, expressly or by implication, that respondent has taken reasonable steps to ensure that its IP cameras and mobile apps are a secure means to monitor private areas of a consumer's home or workplace.

15. In truth and in fact, as described in **Paragraphs 8-11**, respondent has not taken reasonable steps to ensure that its IP cameras are a secure means to monitor private areas of a consumer's home or workplace. Therefore, the representation set forth in **Paragraph 14** constitutes a false or misleading representation.

## Complaint

**COUNT 2**

16. As described in **Paragraphs 5 and 7**, respondent has represented, expressly or by implication, that respondent has taken reasonable steps to ensure that a user's security settings will be honored.

17. In truth and in fact, as described in **Paragraphs 8-11**, respondent has not taken reasonable steps to ensure that a user's security settings will be honored. Therefore, the representation set forth in **Paragraph 16** constitutes a false or misleading representation.

**COUNT 3**

18. As set forth in **Paragraphs 8-11**, respondent has failed to provide reasonable security to prevent unauthorized access to the live feeds from its IP cameras, which respondent offered to consumers for the purpose of monitoring and securing private areas of their homes and businesses. Respondent's practices caused, or are likely to cause, substantial injury to consumers that is not offset by countervailing benefits to consumers or competition and is not reasonably avoidable by consumers. This practice was, and is, an unfair act or practice.

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

**THEREFORE**, the Federal Trade Commission this sixteenth day of January, 2014, has issued this complaint against respondent.

By the Commission.

## Complaint

**COMPLAINT APPENDIX A**

1. TV-IP110 (Version A1.xR)
2. TV-IP110W (Version A1.xR)
3. TV-IP110WN (Versions A1.xR & V2.0R)
4. TV-IP121W (Version A1.xR)
5. TV-IP121WN (Versions V1.0R & V2.0R)
6. TV-IP212 (Version A1.xR)
7. TV-IP212W (Version A1.xR)
8. TV-IP252P (Version B1.xR)
9. TV-IP312 (Version A1.xR)
10. TV-IP312W (Version A1.xr)
11. TV-IP312WN (Version A1.xR)
12. TV-IP322P (Version V1.0R)
13. TV-IP410 (Version A1.XR)
14. TV-IP410W (Version A1.xR)
15. TV-IP410WN (Version V1.0R)
16. TV-IP422 (Versions A1.xR & A2.xR)
17. TV-IP422W (Versions A1.xR & A2.xR)
18. TV-IP422WN (Version V1.0R)
19. TV-VS1 (Version V1.0R)
20. TV-VS1P (Version V1.0R)

Complaint

Exhibit A

**TRENDNET**

**SecurView™ Management Software Included**

- Motion detection
- Email alerts
- Program recordings
- Manage 16 cameras

**Wireless Internet Camera Server**

- Secure your home or office with wireless streaming video
- Mount this compact stylish Internet camera on most surface areas
- Advanced complimentary software supports up to 16 Internet cameras
- Optimal wireless encryption for secure wireless transmissions

ENERGY STAR

**INTERNET CAMERAS**  
TV-IP110W

Exh. A, p. 1 of 2

**Protect Your**

- Home
- Family
- Property
- Business

**IP Camera Networking Solution**

**Home Monitoring (TV-IP110W)**

**Family Monitoring (TV-IP110W)**

**Wireless N Gigabit Router (TEW-432GR)**

**Proximity Monitoring (TV-IP110)**

**Business Monitoring (TV-IP110)**

**Internet**

**Cable/DSL Modem**

**Wireless Internet Camera Server**

The Wireless Internet Camera Server transmits real-time high quality video over the Internet wirelessly. View your camera from any Internet connection. Complimentary SecurView camera management software provides advanced monitoring of up to 16 cameras to protect what you value most.

Ce service pour caméra Internet sans fil transmet de la vidéo haute qualité en temps réel sur Internet et sans fil. Visualisez les images de votre caméra à partir de n'importe quelle connexion Internet. Le logiciel de gestion de la caméra SecurView fournit gratuitement vous offre des fonctions avancées permettant de contrôler jusque 16 caméras pour mieux protéger ce que vous chérissez le plus.

El servidor de cámara de Internet transmite vídeos en tiempo real de alta calidad por Internet de manera inalámbrica. Visualice su cámara desde cualquier conexión a Internet. El software complementario para la gestión de la cámara SecurView ofrece monitorización avanzada de hasta 16 cámaras para proteger sus bienes más preciados.

Der drahtlose Internet-Kameraserver überträgt hochauflösende Videosignale drahtlos in Echtzeit über das Internet. Sie können die Kamerabilder über eine beliebige Internetverbindung anzeigen lassen. Die kostenlose Kameramanagement-Software SecurView bietet Ihnen außerdem die Möglichkeit, über bis zu 16 Kameras all das zu überwachen, was Ihnen besonders wichtig ist.

Il Video Server Internet Wireless trasmette in tempo reale video di alta qualità su Internet senza fili. Visualizza la tua telecamera da qualsiasi collegamento a Internet. Un software in omaggio per la gestione della telecamera SecurView fornisce un monitoraggio avanzato fino a 16 telecamere per proteggere quello che voi ritenete più importante.

O Servidor de Câmera Internet Wireless transmite vídeos de alta qualidade em tempo real pela Internet de modo wireless. Visualize sua câmera a partir de qualquer conexão de Internet. O software complementar de gerenciamento de câmeras, SecurView, proporciona monitoramento avançado de até 16 câmeras para proteger o que você valoriza mais.

Беспроводной Интернет камера-сервер передает беспроводным путем через Интернет высококачественное видео в реальном времени. То, что показывает камера, можно увидеть из любой точки, где есть подключение к Интернету. Дополнительная программа SecurView для управления камерой предлагает дополнительные возможности управления максимум 16 камерами для защиты того, что вам так дорого.

**TV-IP110W**

3-Year Warranty

24/7 Technical Support  
www.trendnet.com/support

Exh. A, p. 2 of 2

Complaint

Exhibit B

**TRENDNET**  
TV-IP121W

**SecurView™ Management Software Included**

- Motion detection
- Email alerts
- Program recordings
- Manage 16 cameras

1-Way Audio Day / Night SECURITY

**SecurView Wireless Day/Night Internet Camera**

- Night vision of up to 5m (16 ft.)
- No need for an Ethernet connection, video is transmitted over a secure encrypted wireless signal
- Program motion detection recording and email alerts with complimentary software
- Mount this compact Internet camera on most surfaces

Powered by an ENERGY STAR® qualified adapter for a better environment

internet cameras  
TV-IP121W

Exh. B, p. 1 of 2

**Protect Your**

- Home
- Family
- Property
- Business

**Wireless IP Camera Networking Solution**

**SecurView Wireless Day/Night Internet Camera (TV-IP121W)**

Wireless N USB Adapter (TEW-844-UB) Wireless N Home Router (TEW-822RFP) Internet

**Related Products**

- Outdoor Camera Enclosure with Fan and Heater TSM-11E
- SecurView Wireless Day/Night IPeT10 Internet Camera TV-IP420W
- SecurView Wireless Day/Night Internet Camera TV-IP120W

**SecurView Wireless Day/Night Internet Camera**

The SecurView Wireless Day/Night Internet Camera transmits real-time high quality video over the internet. See and hear things in your camera's viewing field in complete darkness for distances up to 5 meters (16 feet). No need for any Ethernet connection, images are up to 16 cameras with complimentary SecurView camera management software. This stylish internet camera provides crystal clear MPEG-4 video transmission & secure encrypted wireless transmission.

SecurView Wireless Day/Night Internet Camera is powered by an Energy Star qualified adapter for a better environment.

**Browser Compatibility**

Internet Explorer 6.0 or above; Safari 2.0 or above; Firefox 2.0 or above; Opera, and Netscape

24/7 Technical Support  
www.trendnet.com/support  
3-Year Limited Warranty

TV-IP121W

7 1093150360 7

Exh. B, p. 2 of 2

Complaint

Exhibit C

**IP Camera Networking Solution**

**SecurView Wireless N Day/Night Internet Camera**

The SecurView Wireless N Day/Night Internet Camera transmits real-time high quality video over the Internet. Manage your camera. For any feature, connect. Wireless N technology provides ultra-fast wireless coverage and improved streaming video quality. And the camera is a secure wireless network with security features like WPA Protected Setup (WPS).

La camera Internet wireless N di SecurView trasmette dati video di alta qualità in tempo reale via Internet. Gestisci via camera Internet. Segui il tuo video dalla tua casa. Internet. La tecnologia wireless N ti offre una copertura senza fili senza eguali e una qualità di diffusione video eccellente. Alzala sulla camera a voce: il nuovo WPS (WPA Protected Setup) ti dà un setup sicuro.

La cámara de Internet inalámbrica N SecurView de día y noche transmite en tiempo real videos de alta calidad por Internet. Maneja su cámara de internet desde cualquier conexión a Internet. La tecnología inalámbrica N le ofrece cobertura inalámbrica sin igual así como una mejor calidad de video en tiempo real. Reservar información para más información con los servicios de soporte con configuración WPA protegida (WPS).

Das SecurView Wireless N Internetkamera für Tag- und Nacht-Ansichten überdrückt hochwertige Videosignale in Echtzeit über das Internet. Verwalten Sie Ihre Kamera von jedem Internetanschluss. Die Wireless-N-Technologie bietet eine beispiellose drahtlose Reichweite und eine deutlich verbesserte Videoqualität. Dank der WPA geschützten Installation (WPS) kann sich die Kamera per Tastendruck in Ihre gesicherte Netzwerk einloggen.

La videocamera IP wireless N SecurView trasmette video di alta qualità in tempo reale mediante internet. Gestisci la tua videocamera IP da qualsiasi connessione internet. La tecnologia wireless N offre copertura wireless senza eguali e ottime qualità video streaming in video. Aggiungila alla camera alla rete wireless il semplice tocco di un pulsante con la funzione WPS (WPA Protected Setup).

Эта камера Интернет Wireless N передает видео высокого качества в реальном времени через Интернет. Технологии Wireless N обеспечивают покрытие wireless без равных и отличное качество трансляции видео. Подключите камеру к беспроводной сети с помощью технологии WPA Protected Setup.

Информация всегда доступна SecurView Wireless N с помощью любого Интернет-адреса: независимо от скорости соединения. Интернет N обеспечивает лучшее качество видео и отличное качество трансляции видео. Подключите камеру к беспроводной сети с помощью технологии WPA Protected Setup.

**Browser Compatibility**  
Internet Explorer 8.0 or above

**Software Compatibility**  
Windows 7 (32/64-bit), Vista (32/64-bit), XP (32/64-bit)

**Related Products**

SecurView Wireless N Internet Camera TV-IP1101N	SecurView Wireless N Day/Night Internet Camera TV-IP121WN	SecurView Wireless N Pan/Tilt/Zoom Internet Camera TV-04101N	SecurView Wireless N Day/Night Pan/Tilt/Zoom Internet Camera TV-IP122WN
--	--	---	--

24/7 Technical Support  
www.trendnet.com/support  
3-Year Limited Warranty

TV-IP121WN

Exh. C, p. 1 of 1



Complaint

**Exhibit D**



Exh. D, p. 1 of 1





## Complaint



**TRENDNET™**

**2-Way Audio  
Internet Camera Server  
TV-IP212**

**Features**

- **Hardware**
  - Built-in USB port allows you to store still images directly onto a USB flash or hard drive.\*
  - Supports TCP/IP networking, SMTP Email, HTTP, Samba and other Internet related protocols.
- **Monitoring**
  - High quality MPEG-4 and MJPEG video recording with up to 30 frames per second.
  - Hear and talk to people in your camera's viewing area through your computer.
  - Record streaming video to your computer or Network Storage.
  - Supports still image snapshot to FTP, Email and Flash drive.
  - Motion detection with Email notification.
  - Supports two adjustable motion detection windows with just-in-time snapshot.
  - Supports time stamp overlay.
- **Ease of Use**
  - Quick Universal Plug and Play installation.
  - Free SecurView™ software: view and record up to 16 cameras simultaneously (Windows only)\*\*.

\* USB port supports up to a 500mA powered device with FAT16/32 format.  
\*\* Monitoring multiple cameras may require a high performance CPU.

**Package Contents**

- TV-IP212
- Multilingual quick installation guide
- Usby CD-ROM
- Camera stand
- 1.8M (5.9ft) Cat. 5 Fast Ethernet cable
- Power adapter (5VDC, 2.5A)



Exh. E, p. 2 of 2

Complaint

**Exhibit F**

**TRENDNET**  
TVIP252P

**TRENDNET**

**SecurView™ Management Software Included**

- Motion detection
- Email alerts
- Program recordings
- Manage 16 cameras

**2-Way Audio**

**SECURITY**

**SecurView PoE Dome Internet Camera**

- Tamper resistant interior wall and ceiling mount applications
- Pan and tilt adjustable fixed position camera
- No need to install this camera near a power source, as power and data are received through a single Ethernet cable
- Program motion detection recording, email alerts and more with complimentary software

**internet cameras**  
TVIP252P

Exh. F, p. 1 of 1

Complaint

**Exhibit G**



The advertisement features a white wireless internet camera on the left with the Trendnet logo and model number TV-IP312W. On the right, the Trendnet logo is displayed above a software management interface. This interface includes a 'SecurView™ Management Software Included' section with features like Motion Detection, Email Alerts, Program Recordings, and Manage 18 cameras. Below this are icons for i-Vision Audio, Day/Night, and SECURITY. A large 'G' logo is also present.

**SecurView™ Management Software Included**

- Motion Detection
- Email Alerts
- Program Recordings
- Manage 18 cameras

i-Vision Audio   Day / Night   SECURITY

**SecurView Wireless Day/Night Internet Camera**

- Excellent night infrared recording and 2-way audio for voice communication through the camera
- No need for an Ethernet connection, video is transmitted over a secure encrypted wireless signal
- Superb image quality with MPEG-4 compression
- View streaming video, hear sounds, verbally respond, and record from any Internet connection

**internet cameras**  
TV-IP312W

Exh. G, p. 1 of 1

Complaint

**Exhibit H**



Exh. H, p. 1 of 1

Complaint


**Exhibit I**



Exh. I, p. 1 of 2



Complaint




**Protect Your**


- Home
- Family
- Property
- Business

**IP Camera Networking Solution**


**Home Monitoring (TV-IP410)**




**Family Monitoring (TV-IP410)**



**Property Monitoring (TV-IP410W)**





**Business Monitoring (TV-IP410W)**





Wireless N Gigabit Router (TEW-633GR)  
Cable/DSL Modem


**Pan/Tilt Internet Camera Server**


 The Pan/Tilt Internet Camera Server provides real time security surveillance over a large viewing area. Monitor people in your camera's viewing field and manage the camera from any Internet connection. . . . See people with one Internet camera—remotely pan the camera side-to-side a remarkable 330 degrees and tilt up-and-down 100 degrees.


 Le serveur de caméra Internet Pan/Tilt permet une surveillance en temps réel sur une surface étendue. Contrôlez les personnes dans le champ de vision de votre caméra et gérez celle dernière depuis n'importe quelle connexion Internet. Cliquez un champ de vision plus étendu avec une seule caméra, en la faisant pivoter de 330° et en la faisant basculer de 100°.

 El servidor de cámara del Internet "Pan/Tilt" ofrece vigilancia de seguridad en tiempo real en áreas de visión muy amplias. Controle a la gente en el campo de visión de su cámara y maneje la cámara desde cualquier conexión de Internet. Más alcance con una cámara a la Internet—controle la cámara de forma remota de izquierda a derecha hasta 330 grados y muévela de arriba a abajo hasta 100 grados.


 Die Internetkamera mit Schwenk-/Neigekopf erlaubt die Überwachung einer großen Bereiche in Echtzeit. Die Kontrolle der im Sichtfeld der Kamera anwesenden Personen und die Steuerung des Geräts können über eine beliebige Internetverbindung erfolgen. Lassen Sie sich nicht entgehen, auch wenn Sie nur eine einzige Internetkamera verwenden. Das Gerät lässt sich seitlich um beeindruckende 330 Grad schwenken und in der Höhe um 100 Grad neigen.

 Il servizio per videocamera IP con funzione pan/tilt (TV-IP410) offre la sicurezza di una sorveglianza in tempo reale su una vasta area. Controlla chi entra nel campo di visualizzazione della tua videocamera e gestisci la videocamera da qualsiasi connessione Internet. Controlla un'area più ampia con una sola videocamera IP—spendine il campo di visualizzazione orizzontale fino a ben 330° e verticale fino a 100°.




 O Servidor de Câmera Internet com Pan/Tilt proporciona segurança em tempo real sobre uma vasta área. Monitora pessoas no campo de visão de sua câmera e gerencia a câmera a partir de qualquer conexão com a Internet. . . . Veja mais com uma câmera Internet—movimente remotamente a câmera em 330 graus de 330° para cima e 100° de cima para baixo.

 Беспроводной Интернет камера-сервер с панорамой и поворотной вертикальной плоскостью позволяет наблюдать за значительной площадью в реальном времени. Наблюдать за происходящим в зоне обзора и управлять камерой можно из любой точки подключения Интернет. Камера может поворачиваться на 330 градусов в горизонтальной и на 100 градусов в вертикальной плоскости. Это значительно увеличивает зону охвата камерой.

TV-IP410



7 1 0 9 1 1 3 0 3 4 4 1 5

**3-Year Warranty**

24/7 Technical Support  
[www.trendnet.com/support](http://www.trendnet.com/support)

Exh. I, p. 2 of 2

Complaint

**Exhibit J**



Exh. J, p. 1 of 1



Complaint

**Exhibit K**



# Security Video On The Go

**SecurView Wireless N Day/Night  
Pan/Tilt/Zoom Internet Camera  
TV-IP422WN**

- Wireless N technology assures crystal clear streaming video
- Pan 330° side-to-side and tilt 105° up-and-down from any Internet connection
- Program motion detection recording and email alerts with complimentary software
- SecurView Mobile Application allows you to stay in touch while on-the-go

 **TRENDNET**

Exh. K, p. 1 of 1

Complaint

**Exhibit L**

The advertisement is titled "Security on the Go" and features a woman in a business suit holding a smartphone that displays a live camera feed. In the background, a man in a white lab coat is working in a server room. A large white camera is shown in the foreground. The text "Headquarters" is visible in the top right corner of the background image.

**SecuView Wireless N Day/Night Pan/Tilt/Zoom Internet Camera TV-IP402WN**

- Night vision of up to 80 ft (30 ft)
- High speed wireless connection

**Mix & Match**

**Free Software**

**Free App**

TV-IP110WN, TV-IP210WN, TV-IP402WN, TV-IP410WN, TV-IP750P

**TRENDNET**

Exh. L, p. 1 of 1

Complaint

**Exhibit M**

The advertisement features the Trendnet logo at the top left. Below it, the headline "Security Video in Your Hands" is written in large, bold, yellow letters. The central image shows a man in a suit holding a smartphone that displays a live security camera feed of a warehouse. To the right, a larger image shows a warehouse aisle with a forklift and a security camera mounted on the ceiling. At the bottom, a "Mix & Match" section displays six different camera models connected by double-headed arrows: TV-F110WN, TV-F121WN, TV-F550P, TV-F101WN, TV-F1010WN, and TV-F1020WN. The Trendnet logo and name are at the bottom right, with a small copyright notice "©2011 Trendnet. All rights reserved." on the left.

Exh. M, p. 1 of 1

## Decision and Order

**DECISION AND ORDER**

The Federal Trade Commission (“Commission” or “FTC”), having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft complaint that 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 violations of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 45 *et seq.*;

The respondent, its attorney, 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 had reason to believe that the respondent has violated the FTC Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such 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 Decision and Order (“Order”):

1. Respondent TRENDnet, Inc. (“TRENDnet”) is a California corporation with its principal office or place of business at 20675 Manhattan Place, Torrance, California 90501.

## 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 purposes of this Order, the following definitions shall apply:

- A. “Affected Consumers” shall mean persons who purchased and installed one of the following Cameras with software last updated prior to February 7, 2012: TV-IP110 (Version A1.xR); TV-IP110W (Version A1.xR); TV-IP110WN (Version A1.xR); TV-IP110WN (Version V2.0R); TV-IP121W (Version A1.xR); TV-IP121WN (Version V1.0R); TV-IP121WN (Version V2.0R); TV-IP212 (Version A1.xR); TV-IP212W (Version A1.xR); TV-IP252P (Version B1.xR); TV-IP312 (Version A1.xR); TV-IP312W (Version A1.xr); TV-IP312WN (Version A1.xR); TV-IP322P (Version V1.0R); TV-IP410 (Version A1.XR); TV-IP410W (Version A1.xR); TV-IP410WN (Version V1.0R); TV-IP422 (Versions A1.xR/A2.xR); TV-IP422W (Versions A1.xR/A2.xR); TV-IP422WN (Version V1.0R); TV-VS1 (Version V1.0R); and TV-VS1P (Version V1.0R).
- B. “App” or “Apps” shall mean any software application or related code developed, branded, or provided by respondent for a mobile device, including, but not limited to, any iPhone, iPod touch, iPad, BlackBerry, Android, Amazon Kindle, or Microsoft Windows device.
- C. “Cameras” shall mean any Internet Protocol (“IP”) camera, cloud camera, or other Internet-accessible camera advertised, developed, branded, or sold by respondent, or on behalf of respondent, or any corporation, subsidiary, division or affiliate owned or controlled by respondent that transmits, or allows for

## Decision and Order

the transmission of Live Feed Information over the Internet.

- D. “Clear(ly) and prominent(ly)” shall mean:
1. In textual communications (*e.g.*, printed publications or words displayed on the screen of a computer or 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 comprehend them, and in the same language as the predominant language that is used in the communication; and
  4. In all instances, the required disclosures (1) are presented in an understandable language and syntax; and (2) include nothing contrary to, inconsistent with, or in mitigation of any other statements or disclosures provided by respondent.
- E. “Commerce” shall mean commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or

## Decision and Order

Territory or foreign nation, as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

- F. “Covered Device” shall mean: (1) any Internet-accessible electronic product or device, including but not limited to “Cameras,” advertised, developed, branded, or sold by respondent, or on behalf of respondent, or any corporation, subsidiary, division or affiliate owned or controlled by respondent that transmits or allows for the transmission of Covered Information over the Internet; and (2) any App or software advertised, developed, branded, or provided by respondent or any corporation, subsidiary, division or affiliate owned or controlled by respondent used to operate, manage, access, or view the product or device.
- G. “Covered Device Functionality” shall mean any capability of a Covered Device to capture, access, store, or transmit Covered Information.
- H. “Covered Information” shall mean individually-identifiable information from or about an individual consumer input into, stored on, captured with, accessed, or transmitted through a Covered Device, including but not limited to: (a) a first or last name; (b) a home or other physical address, including street name and name of city or town; (c) an email address or other online contact information, such as a user identifier or screen name; (d) photos; (e) videos; (f) pre-recorded and live-streaming audio; (g) an IP address, User ID or other persistent identifier; or (h) an authentication credential, such as a username or password.
- I. “Live Feed Information” shall mean video, audio, or audiovisual data.
- J. Unless otherwise specified, “respondent” shall mean TRENDnet, Inc., and its successors and assigns.

## Decision and Order

**I.**

**IT IS ORDERED** that respondent and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, website, other device, or an affiliate owned or controlled by respondent, in or affecting commerce, shall not misrepresent in any manner, expressly or by implication:

- A. The extent to which respondent or its products or services maintain and protect:
  - 1. The security of Covered Device Functionality;
  - 2. The security, privacy, confidentiality, or integrity of any Covered Information; and
- B. The extent to which a consumer can control the security of any Covered Information input into, stored on, captured with, accessed, or transmitted by a Covered Device.

**II.**

**IT IS FURTHER ORDERED** that respondent shall, no later than the date of service of this Order, establish and implement, and thereafter maintain, a comprehensive security program that is reasonably designed to (1) address security risks that could result in unauthorized access to or use of Covered Device Functionality, and (2) protect the security, confidentiality, and integrity of Covered Information, whether collected by respondent, or input into, stored on, captured with, accessed, or transmitted through a Covered Device. Such program, the content and implementation of which must be fully documented in writing, shall contain administrative, technical, and physical safeguards appropriate to respondent's size and complexity, the nature and scope of respondent's activities, and the sensitivity of the Covered Device Functionality or Covered Information, including:

- A. The designation of an employee or employees to coordinate and be accountable for the security program;



## Decision and Order

- B. The identification of material internal and external risks to the security of Covered Devices that could result in unauthorized access to or use of Covered Device Functionality, and assessment of the sufficiency of any safeguards in place to control these risks;
- C. The identification of material internal and external risks to the security, confidentiality, and integrity of Covered Information that could result in the unauthorized disclosure, misuse, loss, alteration, destruction, or other compromise of such information, whether such information is in respondent's possession or is input into, stored on, captured with, accessed, or transmitted through a Covered Device, and assessment of the sufficiency of any safeguards in place to control these risks;
- D. At a minimum, the risk assessments required by Subparts B and C should include consideration of risks in each area of relevant operation, including, but not limited to: (1) employee training and management; (2) product design, development, and research; (3) secure software design, development, and testing; and (4) review, assessment, and response to third-party security vulnerability reports;
- E. The design and implementation of reasonable safeguards to control the risks identified through the risk assessments, including but not limited to reasonable and appropriate software security testing techniques, such as: (1) vulnerability and penetration testing; (2) security architecture reviews; (3) code reviews; and (4) other reasonable and appropriate assessments, audits, reviews, or other tests to identify potential security failures and verify that access to Covered Information is restricted consistent with a user's security settings;
- F. Regular testing or monitoring of the effectiveness of the safeguards' key controls, systems, and procedures;

## Decision and Order

- G. The development and use of reasonable steps to select and retain service providers capable of maintaining security practices consistent with this Order, and requiring service providers, by contract, to establish and implement, and thereafter maintain, appropriate safeguards consistent with this Order; and
- H. The evaluation and adjustment of the security program in light of the results of the testing and monitoring required by Subpart F, any material changes to the respondent's operations or business arrangements, or any other circumstances that respondent knows or has reason to know may have a material impact on the effectiveness of its security program.

**III.**

**IT IS FURTHER ORDERED** that, in connection with its compliance with Part II of this Order, respondent shall obtain initial and biennial assessments and reports ("Assessments") from a qualified, objective, independent third-party professional, who uses procedures and standards generally accepted in the profession. Professionals qualified to prepare such Assessments shall be: a person qualified as a Certified Secure Software Lifecycle Professional (CSSLP) with experience programming secure Covered Devices or other similar Internet-accessible consumer-grade devices; or as a Certified Information System Security Professional (CISSP) with professional experience in the Software Development Security domain and in programming secure Covered Devices or other similar Internet-accessible consumer-grade devices; or a similarly qualified person or organization; or a similarly qualified person or organization approved by the Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580. The reporting period for the Assessments shall cover: (1) the first one hundred eighty (180) days after service of the Order for the initial Assessment; and (2) each two (2) year period thereafter for twenty (20) years after service of the Order for the biennial Assessments. Each Assessment shall:

## Decision and Order

- A. Set forth the specific administrative, technical, and physical safeguards that respondent has implemented and maintained during the reporting period;
- B. Explain how such safeguards are appropriate to respondent's size and complexity, the nature and scope of respondent's activities, and the sensitivity of the Covered Device Functionality or Covered Information;
- C. Explain how the safeguards that have been implemented meet or exceed the protections required by Part II of this Order; and
- D. Certify that respondent's security program is operating with sufficient effectiveness to provide reasonable assurance that the security of Covered Device Functionality and the security, confidentiality, and integrity of Covered Information is protected and has so operated throughout the reporting period.

Each Assessment shall be prepared and completed within sixty (60) days after the end of the reporting period to which the Assessment applies. Respondent shall provide the initial Assessment to the Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, within ten (10) days after the Assessment has been prepared. All subsequent biennial Assessments shall be retained by respondent until the Order is terminated and provided to the Associate Director of Enforcement within ten (10) days of request. Unless otherwise directed by a representative of the Commission, the initial Assessment, and any subsequent Assessments requested, shall be sent by overnight courier (not the U.S. Postal Service) to the Associate Director of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, D.C. 20580, with the subject line *In the Matter of TRENDnet, Inc.*, FTC File No. 1223090, Docket No. C-4426. *Provided, however*, that in lieu of overnight courier, notices may be sent by first-class mail, but only if an electronic version of any such notice is contemporaneously sent to the Commission at [Debrief@ftc.gov](mailto:Debrief@ftc.gov).

## Decision and Order

**IV.**

**IT IS FURTHER ORDERED** that respondent shall:

- A. Notify Affected Consumers, clearly and prominently, that their Cameras had a flaw that allowed third parties to access their Live Feed Information without inputting authentication credentials, despite their security setting choices; and provide instructions on how to remove this flaw. Notification shall include, but not be limited to, each of the following means:
1. On or before ten (10) days after the date of service of this Order and for two (2) years after the date of service of this Order, posting of a notice on its website;
  2. On or before ten (10) days after the date of service of this Order and for three (3) years after the date of service of this Order, informing Affected Consumers who complain or inquire about a Camera; and
  3. On or before ten (10) days after the date of service of this Order and for three (3) years after the date of service of this Order, informing Affected Consumers who register, or who have registered, their Camera with respondent; and
- B. Provide prompt and free support with clear and prominent contact information to help consumers update and/or uninstall a Camera. For two (2) years after the date of service of this Order, this support shall include toll-free, telephonic and electronic mail support.

**V.**

**IT IS FURTHER ORDERED** that respondent shall maintain and upon request make available to the Federal Trade Commission for inspection and copying, a print or electronic copy of:

## Decision and Order

- A. For a period of five (5) years after the date of preparation of each Assessment required under Part III of this Order, all materials relied upon to prepare the Assessment, whether prepared by or on behalf of the respondent, including but not limited to all plans, reports, studies, reviews, audits, audit trails, policies, training materials, and assessments, and any other materials relating to respondent's compliance with Part III of this Order, for the compliance period covered by such Assessment;
- B. Unless covered by V.A, for a period of five (5) years from the date of preparation or dissemination, whichever is later, all other documents relating to compliance with this Order, including but not limited to:
1. All advertisements, promotional materials, installation and user guides, and packaging containing any representations covered by this Order, as well as all materials used or relied upon in making or disseminating the representation; and
  2. Any documents, whether prepared by or on behalf of respondent, that contradict, qualify, or call into question respondent's compliance with this Order.

**VI.**

**IT IS FURTHER ORDERED** that respondent shall deliver a copy of this Order to all (1) current and future subsidiaries, (2) current and future principals, officers, directors, and managers, (3) current and future employees, agents, and representatives having responsibilities relating to the subject matter of this Order, and (4) current and future manufacturers and service providers of the Covered Products. Respondent shall deliver this Order to such current subsidiaries, personnel, manufacturers, and service providers within thirty (30) days after service of this Order, and to such future subsidiaries, personnel, manufacturers, and service providers within thirty (30) days after the person assumes such position or responsibilities. For any business entity resulting from any change in structure set forth in Part VII, delivery shall be at

## Decision and Order

least ten (10) days prior to the change in structure. Respondent must secure a signed and dated statement acknowledging receipt of this Order, within thirty (30) days of delivery, from all persons receiving a copy of the Order pursuant to this section.

**VII.**

**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(s) about which respondent learns fewer 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, all notices required by this Part shall be sent by overnight courier (not the U.S. Postal Service) to the Associate Director of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, D.C. 20580, with the subject line *In the Matter of TRENDnet, Inc.*, FTC File No. 1223090, Docket No. C-4426. *Provided, however,* that in lieu of overnight courier, notices may be sent by first-class mail, but only if an electronic version of any such notice is contemporaneously sent to the Commission at [Debrief@ftc.gov](mailto:Debrief@ftc.gov).

**VIII.**

**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 compliance with this Order. Within ten (10) days of receipt of written notice from a representative of the Commission, it shall submit an additional true and accurate written report.

## Analysis to Aid Public Comment

**IX.**

This Order will terminate on January 16, 2034, or twenty (20) years from the most recent date that the United States or the 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 fewer 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 as to such respondent 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 has accepted, subject to final approval, an agreement containing a consent order applicable to TRENDnet, Inc. ("TRENDnet").

## Analysis to Aid Public Comment

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 Commission 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.

TRENDnet is a California corporation that among other things, sells networking devices, such as routers, modems, and Internet Protocol ("IP") security cameras that allow users to conduct remote surveillance of their homes and businesses via the Internet. In many instances, TRENDnet markets its IP cameras under the trade name "SecurView," and tells consumers they may use the cameras to monitor "babies at home, patients in the hospital, offices and banks, and more." By default, these IP cameras are subject to security settings, such as a requirement to enter a user name and password ("login credentials") in order to access the live video and audio feeds ("live feeds") over the Internet. On approximately January 10, 2012, a hacker discovered a flaw in the IP cameras that allowed access to these live feeds without entering login credentials, resulting in hundreds of previously private live feeds being made public.

The Commission's complaint alleges that TRENDnet violated Section 5(a) of the FTC Act by falsely representing that it had taken reasonable steps to ensure that its IP cameras and mobile apps are a secure means to monitor private areas of a consumer's home or workplace. The complaint also alleges that TRENDnet misrepresented that it had taken reasonable steps to ensure that a user's security settings on its devices would be honored. Finally, the Commission's complaint alleges that TRENDnet engaged in a number of practices that, taken together, failed to provide reasonable security to prevent unauthorized access to personal information, namely the live feeds from the IP cameras. Among other things, TRENDnet:

- (1) transmitted user login credentials in clear, readable text over the Internet, despite the existence of free code libraries (i.e., repositories of programming language that can be integrated by third parties), publicly available since



## Analysis to Aid Public Comment

at least 2008, that would have enabled respondent to secure such transmissions;

- (2) stored user login credentials in clear, readable text on a user's mobile device, despite the existence of free software, publicly available since 2008, that would have enabled respondent to secure such stored credentials;
- (3) failed to implement a process to actively monitor security vulnerability reports from third-party researchers, academics, or other members of the public, despite the existence of free tools to conduct such monitoring, thereby delaying the opportunity to correct discovered vulnerabilities or respond to incidents;
- (4) failed to employ reasonable and appropriate security in the design and testing of the software that it provided consumers to install, operate, and access its IP cameras. Among other things, TRENDnet, either directly or through its service providers, failed to:
  - a) perform security review and testing of the software at key points, such as upon the release of the IP camera or upon the release of software to install, operate, or access the IP camera, including measures such as:
    - i. a security architecture review to evaluate the effectiveness of the software's security infrastructure;
    - ii. vulnerability and penetration testing of the software, such as by inputting invalid, unanticipated, or random data to the software;
    - iii. reasonable and appropriate code review and testing of the software to verify that access to data is restricted consistent with a user's privacy and security settings; and
  - b) implement reasonable guidance or training for any employees responsible for the testing, designing, and

## Analysis to Aid Public Comment

reviewing the security of its IP cameras and related software.

The complaint further alleges that, due to these failures, TRENDnet subjected users to a significant risk that their live feeds would be compromised, thereby causing significant injury to consumers. Moreover, the complaint alleges that affected consumers include not only those consumers who maintained login credentials for their cameras, but also unwitting third parties who were present in locations under surveillance by the cameras. The exposure of personal information through TRENDnet's IP cameras increases the likelihood that consumers or their property will be targeted for theft or other criminal activity, increases the likelihood that consumers' personal activities or the activities of their young children or other family members will be observed and recorded by strangers over the Internet, impairs consumers' peaceful enjoyment of their homes, increases consumers' susceptibility to physical tracking or stalking, and reduces consumers' ability to control the dissemination of personal or proprietary information (e.g., intimate video and audio streams or images from business properties). Indeed, consumers had little, if any, reason to know that their information was at risk, particularly if those consumers maintained login credentials for their cameras or were merely unwitting third parties present in locations where the cameras were used.

The proposed order contains provisions designed to prevent TRENDnet from engaging in the future in practices similar to those alleged in the complaint.

Part I of the proposed order prohibits TRENDnet from misrepresenting (1) the extent to which TRENDnet or its products or services maintain and protect the security of covered device functionality or the security, privacy, confidentiality, or integrity of any covered information; and (2) the extent to which a consumer can control the security of any covered information input into, stored on, captured with, accessed, or transmitted by a covered device.

Part II of the proposed order requires TRENDnet to establish and implement, and thereafter maintain, a comprehensive security program to (1) address security risks that could result in

## Analysis to Aid Public Comment

unauthorized access to or use of the functions of covered devices, and (2) protect the security, confidentiality, and integrity of covered information, whether collected by respondent or input into, stored on, captured with, accessed or transmitted through a covered device. The security program must contain administrative, technical, and physical safeguards appropriate to TRENDnet's size and complexity, nature and scope of its activities, and the sensitivity of the information collected from or about consumers. Specifically, the proposed order requires TRENDnet to:

- (1) designate an employee or employees to coordinate and be accountable for the security program;
- (2) identify material internal and external risks to the security of covered devices that could result in unauthorized access to or use of covered device functionality, and assess the sufficiency of any safeguards in place to control these risks;
- (3) identify material internal and external risks to the security, confidentiality, and integrity of covered information that could result in the unauthorized disclosure, misuse, loss, alteration, destruction, or other compromise of such information, whether such information is in TRENDnet's possession or is input into, stored on, captured with, accessed, or transmitted through a covered device, and assess the sufficiency of any safeguards in place to control these risks;
- (4) consider risks in each area of relevant operation, including but not limited to (a) employee training and management; (b) product design, development and research; (c) secure software design, development, and testing; and (d) review, assessment, and response to third-party security vulnerability reports;
- (5) design and implement reasonable safeguards to control the risks identified through risk assessments, including but not limited to reasonable and appropriate software security testing techniques, such as: (a) vulnerability and penetration testing; (b) security architecture reviews; (c)

## Analysis to Aid Public Comment

code reviews; and (d) other reasonable and appropriate assessments, audits, reviews, or other tests to identify potential security failures and verify that access to covered information is restricted consistent with a user's security settings;

- (6) regularly test or monitor the effectiveness of the safeguards' key controls, systems, and procedures;
- (7) develop and use reasonable steps to select and retain service providers capable of maintaining security practices consistent with the order, and require service providers by contract to establish and implement, and thereafter maintain, appropriate safeguards; and
- (8) evaluate and adjust its information security program in light of the results of testing and monitoring, any material changes to TRENDnet's operations or business arrangement, or any other circumstances that it knows or has reason to know may have a material impact on its security program.

Part III of the proposed order requires TRENDnet to obtain, within the first one hundred eighty (180) days after service of the order and on a biennial basis thereafter for a period of twenty (20) years, an assessment and report from a qualified, objective, independent third-party professional, certifying, among other things, that: (1) it has in place a security program that provides protections that meet or exceed the protections required by Part II of the proposed order; and (2) its security program is operating with sufficient effectiveness to provide reasonable assurance that the security of covered device functionality and the security, confidentiality, and integrity of covered information is protected.

Part IV of the proposed order requires TRENDnet to notify consumers whose cameras were affected by the breach that their IP cameras had a flaw that allowed third parties to access their live feeds without inputting login credentials; and provide instructions to such consumers on how to remove this flaw. In addition, TRENDnet must provide prompt and free support with clear and prominent contact information to help consumers update and/or uninstall their IP cameras. TRENDnet must provide this

## Analysis to Aid Public Comment

support via a toll-free, telephonic number and via electronic mail for two (2) years.

Parts V through IX of the proposed order are reporting and compliance provisions. Part V requires TRENDnet to retain documents relating to its compliance with the order for a five-year period. Part VI requires dissemination of the order now and in the future to all current and future principals, officers, directors, and managers, and to persons with responsibilities relating to the subject matter of the order. Part VII ensures notification to the FTC of changes in corporate status. Part VIII mandates that TRENDnet submit a compliance report to the FTC within 60 days, and periodically thereafter as requested. Part IX is a provision “sunsetting” the order after twenty (20) years, with certain exceptions.

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

Complaint

IN THE MATTER OF

**AB ACQUISITION, LLC**CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF  
SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT AND  
SECTION 7 OF THE CLAYTON ACT*Docket No. C-4424; File No. 131 0227**Complaint, December 23, 2013 – Decision, January 28, 2014*

This consent order addresses the acquisition by AB Acquisition, LLC of United Supermarkets, L.L.C. The complaint alleges that the proposed merger, if consummated, would violate Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act by removing an actual, direct, and substantial supermarket competitor in Amarillo and Wichita Falls, Texas. The consent order requires Respondent to divest its supermarkets in the two affected markets.

*Participants*

For the *Commission*: *Chester Choi and Jeremy Morrison.*

For the *Respondents*: *Michael Cutini and Michael E. Swartz, Schulte Roth & Zabel LLP; John Goheen and Matthew J. Reilly, Simpson Thacher & Bartlett LLP.*

**COMPLAINT**

Pursuant to the Clayton Act and the Federal Trade Commission Act (“FTC Act”), and by virtue of the authority vested in it by said Acts, the Federal Trade Commission (“Commission”), having reason to believe that AB Acquisition, LLC, a limited liability company, subject to the jurisdiction of the Commission, entered into a merger agreement with United Supermarkets, L.L.C. (“United”), a limited liability company, subject to the jurisdiction of the Commission, in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. § 45, and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues its Complaint, stating its charges as follows:

## Complaint

**I. RESPONDENT**

1. Respondent AB Acquisition, LLC is a limited liability company organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its corporate headquarters and principal place of business located at 250 Parkcenter Boulevard, Boise, Idaho.

2. Respondent, through its wholly owned indirect subsidiary, Albertson's LLC ("Albertson's"), owns and operates 606 supermarkets in the Western and Southern United States. In Texas, Respondent owns and operates 72 supermarkets under the Albertsons banner--ten of which are located in the West Texas zone, which consists of North and West Texas.

**II. THE ACQUIRED COMPANY**

3. United is a limited liability company organized, existing, and doing business under and by virtue of the laws of Texas, with its office and principal place of business located at 7830 Orlando Avenue, Lubbock, Texas 79423.

4. United owns and operates 51 supermarkets in North and West Texas. United operates these supermarkets under three banners--United Supermarkets, Market Street, and Amigos. United Supermarkets is a traditional supermarket banner. Market Street offers everyday grocery needs, as well as gourmet and specialty items, whole health products, and prepared food. Amigos is operated as a specialty store with a focus on traditional and authentic items targeted to Hispanic shoppers.

**III. JURISDICTION**

5. Respondent is, and at all times relevant herein has been, engaged in commerce, or in activities affecting commerce, within the meaning of Section 1 of the Clayton Act, 15 U.S.C. § 12, and Section 4 of the FTC Act, 15 U.S.C. § 44.

6. United is, and at all times relevant herein has been, engaged in commerce, or in activities affecting commerce, within the meaning of Section 1 of the Clayton Act, 15 U.S.C. § 12, and Section 4 of the FTC Act, 15 U.S.C. § 44.

## Complaint

**IV. THE PROPOSED MERGER**

7. On September 9, 2013, Respondent and United entered into a merger agreement pursuant to which Respondent would acquire 100% of United's equity for a purchase price of approximately \$385 million ("the Proposed Merger").

8. The Proposed Merger would combine two of the only three retail sellers of food and other grocery products in full-line supermarkets in Amarillo and Wichita Falls, Texas. Respondent and United both own and operate supermarkets in these areas and compete and promote their businesses in these areas.

**V. THE RELEVANT PRODUCT MARKET**

9. The relevant line of commerce in which to analyze the acquisition is the retail sale of food and other grocery products in supermarkets.

10. For purposes of this complaint, the term "supermarket" means any full-line retail grocery store that enables customers to purchase substantially all of their weekly food and grocery shopping requirements in a single shopping visit with substantial offerings in each of the following product categories: bread and baked goods; dairy products; refrigerated food and beverage products; frozen food and beverage products; fresh and prepared meats and poultry; fresh fruits and vegetables; shelf-stable food and beverage products, including canned, jarred, bottled, boxed and other types of packaged products; staple foodstuffs, which may include salt, sugar, flour, sauces, spices, coffee, tea and other staples; other grocery products, including nonfood items such as soaps, detergents, paper goods, other household products, and health and beauty aids; pharmaceutical products and pharmacy services (where provided); and, to the extent permitted by law, wine, beer and/or distilled spirits.

11. Supermarkets provide a distinct set of products and services and offer consumers convenient one-stop shopping for food and grocery products. Supermarkets typically carry more than 10,000 different items, typically referred to as stock-keeping units or SKUs, as well as a deep inventory of those items. In order to accommodate the large number of food and non-food



### Complaint

products necessary for one-stop shopping, supermarkets are large stores that typically have at least 10,000 square feet of selling space.

12. Supermarkets compete primarily with other supermarkets that provide one-stop shopping opportunities for food and grocery products. Supermarkets base their food and grocery prices primarily on the prices of food and grocery products sold at other nearby competing supermarkets. Supermarkets do not regularly conduct price checks of food and grocery products sold at other types of stores and do not typically set or change their food and grocery prices in response to prices at other types of stores.

13. Although retail stores other than supermarkets also sell food and grocery products--including convenience stores, specialty food stores, limited assortment stores, hard-discounters, and club stores--these types of stores do not, individually or collectively, provide sufficient competition to effectively constrain prices at supermarkets. These retail stores do not offer a supermarket's distinct set of products and services that provide consumers with the convenience of one-stop shopping for food and grocery products. The vast majority of consumers shopping for food and grocery products at supermarkets are not likely to start shopping elsewhere, or significantly increase grocery purchases elsewhere, in response to a small but significant price increase by supermarkets.

## **VI. THE RELEVANT GEOGRAPHIC MARKET**

14. Customers shopping at supermarkets are motivated by convenience and, as a result, competition for supermarkets is local in nature. Generally, the overwhelming majority of consumers' grocery shopping occurs at stores located very close to where they live.

15. Respondent and United operate supermarkets under the Albertsons, United Supermarkets, and Market Street banners within approximately two to five miles of each other in both the western half of Amarillo, Texas and the southwest region of Wichita Falls, Texas. The primary trade area of Respondent's and United's banners in both Amarillo and Wichita Falls overlap significantly.

## Complaint

16. The relevant geographic markets in which to assess the competitive effects of the acquisition are localized areas within Amarillo and Wichita Falls. Specifically, in Amarillo, the relevant geographic market is the area encompassing the area from the western city limit to the railroad tracks that run parallel to, and are located to the east of, the Interstate 40 and the U.S. Route 87/287 corridor (“West Amarillo”). In Wichita Falls, the relevant geographic market is the area within the city limits that runs south of U.S. Route 277 and west of U.S. Route 281 (“Southwest Wichita Falls”). A hypothetical monopolist controlling all supermarkets in these areas could profitably raise prices by a small but significant amount.

**VII. MARKET CONCENTRATION**

17. The relevant markets of West Amarillo and Southwest Wichita Falls, Texas already are highly concentrated, and the Proposed Merger will substantially increase concentration, whether measured by the Herfindahl Hirschman Index (“HHI”) or by the number of competitively significant firms remaining in the markets post-acquisition.

18. In West Amarillo, the post-merger HHI in the relevant geographic market would increase 503 points from 4501 to 5004, when measured by revenues. This market concentration level gives rise to a presumption that the Proposed Merger is unlawful in the West Amarillo geographic market.

19. In Southwest Wichita Falls, the post-merger HHI in the relevant geographic market would increase 811 points from 4193 to 5004. This market concentration level, once again, gives rise to a presumption that the acquisition is unlawful in the Southwest Wichita Falls geographic market.

20. The Proposed Merger reduces the number of supermarket competitors in the relevant geographic markets from three to two in both West Amarillo and Southwest Wichita Falls.

**VIII. ENTRY CONDITIONS**

21. Entry into the relevant markets would not be timely, likely, or sufficient in magnitude to prevent or deter the likely

## Complaint

anticompetitive effects of the Proposed Merger. Significant entry barriers include the time and costs associated with conducting necessary market research, selecting an appropriate location for a supermarket, obtaining necessary permits and approvals, constructing a new supermarket or converting an existing structure to a supermarket, and generating sufficient sales to have a meaningful impact on the market.

**IX. EFFECTS OF THE ACQUISITION**

22. The Proposed Merger, if consummated, is likely to substantially lessen competition for the retail sale of food and other grocery products in supermarkets in the relevant geographic markets identified in Paragraph 16 in the following ways, among others:

- a. by eliminating direct and substantial competition between Respondent and United; and
- b. by increasing the likelihood that Respondent will unilaterally exercise market power.

23. The ultimate effect of the Proposed Merger would be to increase the likelihood that the prices of food, groceries, or services will increase, and that the quality and selection of food, groceries, or services will decrease, in the relevant sections of the country.

**X. VIOLATIONS CHARGED**

24. The agreement described in Paragraph 7 constitutes a violation of Section 5 of the FTC Act, as amended, 15 U.S.C. § 45, and the acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. § 45.

**WHEREFORE, THE PREMISES CONSIDERED,** Federal Trade Commission on this twenty-third day of December 2013, issues its complaint against said Respondent.

By the Commission.

## Order to Maintain Assets

**ORDER TO MAINTAIN ASSETS**

The Federal Trade Commission (“Commission”), having initiated an investigation of the proposed acquisition by AB Acquisition, LLC (“Albertson’s” or “Respondent”) of United Supermarkets L.L.C. (“United”), and Respondent having been furnished thereafter with a copy of a draft Complaint that the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge Respondent with violations of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45; and

Respondent, its attorneys, and counsel for the Commission having thereafter executed an Agreement Containing Consent Orders (“Consent Agreement”), containing an admission by Respondent of all the jurisdictional facts as set forth in the aforesaid draft Complaint, a statement that the signing of said Consent Agreement is for settlement purposes only and does not constitute an admission by Respondent that the law has been violated as alleged in such Complaint, or that the facts as alleged in such Complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission’s Rules; and

The Commission, having thereafter considered the matter and having determined that it had reason to believe that the Respondent has violated the said Acts, and that a Complaint should issue stating its charges in that respect, and having determined to accept the executed Consent Agreement and to place the Consent Agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, the Commission hereby issues its Complaint, makes the following jurisdictional findings, and issues this Order to Maintain Assets:

1. Respondent AB Acquisition, LLC is a company organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its company headquarters and principal place of business located at 250 Parkcenter Boulevard, Boise, Idaho;

## Order to Maintain Assets

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

**I.**

**IT IS ORDERED** that, as used in this Order to Maintain Assets, the definitions used in the Consent Agreement and the Decision and Order shall apply. In addition, “Supermarket To Be Maintained” means any Supermarket business identified as part of the Assets To Be Divested under the Decision and Order.

**II.**

**IT IS FURTHER ORDERED** that:

- A. Respondent shall maintain the viability, marketability, and competitiveness of the Assets To Be Divested, and shall not cause the wasting or deterioration of the Assets To Be Divested, nor shall it cause the Assets To Be Divested to be operated in a manner inconsistent with applicable laws, nor shall it sell, transfer, encumber or otherwise impair the viability, marketability or competitiveness of the Assets To Be Divested. Respondent shall conduct or cause to be conducted the business of the Assets To Be Divested in the regular and ordinary course and in accordance with past practice (including regular repair and maintenance efforts) and shall use best efforts to preserve the existing relationships with suppliers, customers, employees, and others having business relations with the Assets To Be Divested in the ordinary course of business and in accordance with past practice.
- B. Respondent shall not terminate the operation of any Supermarket To Be Maintained. Respondent shall continue to maintain the inventory of each Supermarket To Be Maintained at levels and selections consistent with those maintained by Respondent at such Supermarket in the ordinary course of business consistent with past practice. Respondent shall use best

## Order to Maintain Assets

efforts to keep the organization and properties of each Supermarket To Be Maintained intact, including current business operations, physical facilities, working conditions, staffing levels, and a work force of equivalent size, training, and expertise associated with the Supermarket To Be Maintained. Included in the above obligations, Respondent shall, without limitation:

1. Maintain all operations and departments, and not reduce hours, at each Supermarket To Be Maintained;
2. Not transfer inventory from any Supermarket To Be Maintained, other than in the ordinary course of business consistent with past practice;
3. Make any payment required to be paid under any contract or lease when due, and otherwise pay all liabilities and satisfy all obligations associated with each Supermarket To Be Maintained, in each case in a manner consistent with past practice;
4. Maintain the books and records of each Supermarket To Be Maintained;
5. Not display any signs or conduct any advertising (e.g., direct mailing, point-of-purchase coupons) that indicates that Respondent is moving its operations at a Supermarket To Be Maintained to another location, or that indicates a Supermarket To Be Maintained will close;
6. Not conduct any “going out of business,” “close-out,” “liquidation” or similar sales or promotions at or relating to any Supermarket To Be Maintained; and
7. Not change or modify in any material respect the existing advertising practices, programs and policies for each Supermarket To Be Maintained, other than changes in the ordinary course of

## Order to Maintain Assets

business consistent with past practice for Supermarkets of the Respondent not being closed or relocated.

**III.**

**IT IS FURTHER ORDERED** that Respondent shall notify the Commission at least thirty (30) days prior to:

- A. Any proposed dissolution of Respondent;
- B. Any proposed acquisition, merger or consolidation of Respondent; or
- C. Any other change in the Respondent, including but not limited to assignment and the creation or dissolution of subsidiaries, if such change might affect compliance obligations arising out of this Order to Maintain Assets.

**IV.**

**IT IS FURTHER ORDERED** that, for the purpose of determining or securing compliance with this Order to Maintain Assets, and subject to any legally recognized privilege, and upon written request with reasonable notice to Respondent made to its principal United States offices, Respondent shall permit any duly authorized representative of the Commission:

- A. Access, during office hours of Respondent and in the presence of counsel, to all facilities, and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda and all other records and documents in the possession or under the control of Respondent relating to compliance with this Order to Maintain Assets, which copying services shall be provided by Respondents at the request of the authorized representative(s) of the Commission and at the expense of Respondent; and
- B. Upon five (5) days' notice to Respondent and without restraint or interference from Respondent, to interview

## Decision and Order

officers, directors, or employees of Respondent, who may have counsel present, regarding any such matters.

**V.**

**IT IS FURTHER ORDERED** that this Order to Maintain Assets shall terminate at the earlier of:

- A. Three (3) business days after the Commission withdraws its acceptance of the Consent Agreement pursuant to the provisions of Commission Rule 2.34, 16 C.F.R. § 2.34; or
- B. With respect to each Supermarket To Be Maintained, the day after Respondent's (or a Divestiture Trustee's) completion of the divestiture of Assets To Be Divested related to such Supermarket, as described in and required by the Decision and Order.

*Provided, however,* that if the Commission, pursuant to Paragraph II.A. of the Decision and Order, requires the Respondent to rescind any or all of the divestitures contemplated by any Purchaser Agreement, then, upon rescission, the requirements of this Order to Maintain Assets shall again be in effect with respect to the relevant Assets To Be Divested until the day after Respondent's (or a Divestiture Trustee's) completion of the divestiture(s) of the relevant Assets To Be Divested, as described in and required by the Decision and Order.

By the Commission.

**DECISION AND ORDER**  
**[Public Record Version]**

The Federal Trade Commission ("Commission") having initiated an investigation of the proposed acquisition by AB Acquisition, LLC ("Albertson's" or "Respondent") of United



## Decision and Order

Supermarkets L.L.C. (“United”), and Respondent having been furnished thereafter with a copy of a draft of Complaint that the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge Respondent with violations of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45; and

Respondent, its attorneys, and counsel for the Commission having thereafter executed an Agreement Containing Consent Orders (“Consent Agreement”), containing an admission by Respondent of all the jurisdictional facts set forth in the aforesaid draft of Complaint, a statement that the signing of said Consent Agreement is for settlement purposes only and does not constitute an admission by Respondent that the law has been violated as alleged in such Complaint, or that the facts alleged in such Complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission’s Rules; and

The Commission having thereafter considered the matter and having determined that it has reason to believe that Respondent has violated the said Acts, and that a Complaint should issue stating its charges in that respect, and having thereupon issued its Complaint and Order to Maintain Assets, and having 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, now in further conformity with the procedure described in Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission hereby makes the following jurisdictional findings and issues the following Decision and Order (“Order”):

1. Respondent AB Acquisition, LLC is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its corporate headquarters and principal place of business located at 250 Parkcenter Boulevard, Boise, Idaho.
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.

## Decision and Order

**ORDER****I.**

**IT IS ORDERED** that, as used in this Order, the following definitions shall apply:

- A. “Albertson’s” or “Respondent” means Respondent AB Acquisition, LLC, its directors, officers, employees, agents, representatives, successors, and assigns; its joint ventures, subsidiaries, divisions, groups, and affiliates controlled by AB Acquisition, LLC (including Albertson’s LLC and New Albertson’s, Inc.) and the respective directors, officers, employees, agents, representatives, successors, and assigns of each. Following the Acquisition, “Albertson’s” or “Respondent” also includes United.
- B. “United” means United Supermarkets, L.L.C., a company organized, existing and doing business under and by virtue of the laws of the State of Texas, with its headquarters and principal place of business located at 7830 Orlando Avenue, Lubbock, Texas, 79423.
- C. “Acquisition” means Albertson’s proposed acquisition of United pursuant to the Agreement and Plan of Merger dated as of September 9, 2013.
- D. “Assets To Be Divested” means the Amarillo Supermarket Assets and the Wichita Falls Supermarket Assets.
- E. “Amarillo Supermarket Assets” means the Albertson’s Supermarket No. 4203, located at 2200 South Bell Street in Amarillo, Texas, and all rights, title, and interest in and to all assets, tangible and intangible, relating to, used in, and/or reserved for use in, the Supermarket business conducted at that location, including but not limited to all properties, leases, leasehold interests, equipment and fixtures, books and records, government approvals and permits (to the extent transferable), telephone and fax numbers, and

## Decision and Order

goodwill. At the Acquirer's option, the Amarillo Supermarket Assets shall also include any or all inventory as of the Divestiture Date.

*Provided, however,* that Amarillo Supermarket Assets shall not include those assets consisting of or pertaining to any of the Respondent's trademarks, trade dress, service marks or trade names, *except* with respect to any purchased inventory (including private label inventory) or as may be allowed pursuant to any Transition Services Agreement.

- F. "Wichita Falls Supermarket Assets" means the Albertson's Supermarket No. 4235, located at 2720 Southwest Parkway, Wichita Falls, Texas, and all rights, title, and interest in and to all assets, tangible and intangible, relating to, used in, and/or reserved for use in, the Supermarket business conducted at that location, including but not limited to all properties, leases, leasehold interests, equipment and fixtures, books and records, government approvals and permits (to the extent transferable), telephone and fax numbers, and goodwill. At the Acquirer's option, the Wichita Falls Supermarket Assets shall also include any or all inventory as of the Divestiture Date.

*Provided, however,* that Wichita Falls Supermarket Assets shall not include those assets consisting of or pertaining to any of the Respondent's trademarks, trade dress, service marks or trade names, *except* with respect to any purchased inventory (including private label inventory) or as may be allowed pursuant to any Transition Services Agreement.

- G. "Acquirer" means any entity approved by the Commission to acquire any or all of the Assets To Be Divested pursuant to this Order.
- H. "Divestiture Agreement" means any agreement between the Respondent and an Acquirer (or a Divestiture Trustee appointed pursuant to Paragraph III of this Order and an Acquirer) and all amendments,

## Decision and Order

exhibits, attachments, agreements, and schedules thereto, related to any of the Assets To Be Divested that have been approved by the Commission to accomplish the requirements of this Order. The term “Divestiture Agreement” includes, as appropriate, the Lawrence Brothers Divestiture Agreement.

- I. “Divestiture Date” means the closing date of the respective divestitures required by this Order.
- J. “Divestiture Trustee” means any person or entity appointed by the Commission pursuant to Paragraph III of the Order to act as a trustee in this matter.
- K. “Proposed Acquirer” means any proposed acquirer of any of the Assets To Be Divested submitted to the Commission for its approval under this Order; “Proposed Acquirer” includes, as appropriate, Lawrence Brothers.
- L. “Lawrence Brothers” means MAL Enterprises, Inc., a Supermarket operator organized, existing and doing business under and by virtue of the laws of the State of Texas, with its offices and principle place of business located at 300 Hailey Street, Sweetwater, Texas.
- M. “Lawrence Brothers Divestiture Agreement” means the asset purchase agreement entered into on December 12, 2013, by and between Albertson’s and Lawrence Brothers, attached as non-public Appendix I, for the divestiture by Respondent of the Assets To Be Divested.
- N. “Relevant Areas” means Randall, Potter and Wichita Counties in Texas.
- O. “Supermarket” means any full-line retail grocery store that enables customers to purchase substantially all of their weekly food and grocery shopping requirements in a single shopping visit with substantial offerings in each of the following product categories: bread and baked goods; dairy products; refrigerated food and

## Decision and Order

beverage products; frozen food and beverage products; fresh and prepared meats and poultry; fresh fruits and vegetables; shelf-stable food and beverage products, including canned, jarred, bottled, boxed and other types of packaged products; staple foodstuffs, which may include salt, sugar, flour, sauces, spices, coffee, tea and other staples; other grocery products, including nonfood items such as soaps, detergents, paper goods, other household products, and health and beauty aids; pharmaceutical products and pharmacy services (where provided); and, to the extent permitted by law, wine, beer and/or distilled spirits.

- P. “Third Party Consents” means all consents from any person other than the Respondent, including all landlords, that are necessary to effect the complete transfer to the Acquirer(s) of the Assets To Be Divested.
- Q. “Transition Services Agreement” means an agreement that receives the prior approval of the Commission between Respondent and an Acquirer of any of the assets divested under this Order to provide, at the option of each Acquirer, any services (or training for an Acquirer to provide services for itself) necessary to transfer the divested assets to the Acquirer in a manner consistent with the purposes of this Order.

**II.****IT IS FURTHER ORDERED** that:

- A. Respondent shall divest, by (a) 10 days after the date on which the Acquisition is consummated, or (b) January 13, 2014, whichever is later, absolutely and in good faith, the Assets To Be Divested as ongoing Supermarket businesses to Lawrence Brothers, pursuant to and in accordance with the Lawrence Brothers Divestiture Agreement;

*Provided, however,* that in cases in which books or records included in the Assets To Be Divested contain

## Decision and Order

information (a) that relates both to the Assets To Be Divested and to other retained business of Respondent or (b) such that Respondent has a legal obligation to retain the original copies, then Respondent shall be required to provide only copies or relevant excerpts of the materials containing such information. In instances where such copies are provided, the Respondent shall provide access to original materials under circumstances where copies of materials are insufficient for regulatory or evidentiary purposes.

*Provided, further,* that if, prior to the date this Order becomes final, Respondent has divested the Assets To Be Divested to Lawrence Brothers pursuant to the Lawrence Brothers Divestiture Agreement and if, at the time the Commission determines to make this Order final, the Commission notifies Respondent that:

1. Lawrence Brothers is not an acceptable Acquirer, then Respondent shall, within five days of notification by the Commission, rescind such transaction with Lawrence Brothers, and shall divest such assets as ongoing Supermarket businesses, absolutely and in good faith, at no minimum price, to an Acquirer and in a manner that receives the prior approval of the Commission, within 90 days of the date the Commission notified Respondent that Lawrence Brothers is not an acceptable Acquirer; or
2. The manner in which the divestiture was accomplished is not acceptable, the Commission may direct the Respondent, or appoint a Divestiture Trustee pursuant to Paragraph III of this Order, to effect such modifications to the manner of divesting those assets to Lawrence Brothers (including, but not limited to, entering into additional agreements or arrangements, or modifying the Lawrence Brothers Divestiture Agreement) as may be necessary to satisfy the requirements of this Order.

## Decision and Order

- B. Respondent shall obtain at their sole expense all required Third Party Consents relating to the divestiture of all Assets To Be Divested prior to the applicable Divestiture Date.
- C. All Divestiture Agreements approved by the Commission:
1. Shall be deemed incorporated by reference into this Order, and any failure by Respondent to comply with the terms of any such Divestiture Agreement shall constitute a violation of this Order.
  2. Shall not limit or contradict, or be construed to limit or contradict, the terms of this Order, it being understood that nothing in this Order shall be construed to reduce any rights or benefits of any Acquirer or to reduce any obligation of Respondent under such agreement. If any term of any Divestiture Agreement varies from the terms of this Order (“Order Term”), then to the extent that Respondent cannot fully comply with both terms, the Order Term shall determine Respondent’s obligations under this Order.
- D. At the option of the Acquirer of any Assets To Be Divested, and subject to the prior approval of the Commission, Respondent shall enter into a Transition Services Agreement for a term extending up to 180 days following the relevant Divestiture Date. The services subject to the Transition Services Agreement shall be provided at no more than Respondent’s direct costs and may include, but are not limited to, payroll, employee benefits, accounting, IT systems, distribution, warehousing, use of trademarks or trade names for transitional purposes, and other logistical and administrative support.
- E. Pending divestiture of any of the Assets To Be Divested, Respondent shall:

## Decision and Order

1. Take such actions as are necessary to maintain the full economic viability, marketability, and competitiveness of the Assets To Be Divested, to minimize any risk of loss of competitive potential for the Assets To Be Divested, and to prevent the destruction, removal, wasting, deterioration, or impairment of the Assets To Be Divested, except for ordinary wear and tear; and
  2. Not sell, transfer, encumber, or otherwise impair the Assets To Be Divested (other than in the manner prescribed in this Decision and Order) nor take any action that lessens the full economic viability, marketability, or competitiveness of the Assets To Be Divested.
- F. With respect to each Divestiture Agreement:
1. No later than fifteen (15) days after signing each Divestiture Agreement, Respondent shall provide an opportunity for the Proposed Acquirer to:
    - a. Meet personally, and outside of the presence or hearing of any employee or agent of Respondent, with any one or more of the employees of the Assets To Be Divested pursuant to the Divestiture Agreement; and
    - b. Make offers of employment to any one or more of the employees of the Assets To Be Divested pursuant to the Divestiture Agreement; and
  2. Respondent shall: not interfere with the hiring or employing by the Acquirer of employees of the divested Supermarkets; remove any impediments within the control of Respondent that may deter those employees from accepting employment with such Acquirer (including, but not limited to, any non-compete or confidentiality provisions of employment or other contracts with Respondent that would affect the ability or incentive of those individuals to be employed by such Acquirer); and



## Decision and Order

not make any counteroffer to any employee who has an outstanding offer of employment from such Acquirer. This obligation shall continue for a period of one (1) year from the date of the divestiture of any of the Assets To Be Divested to an Acquirer.

- G. The purpose of the divestitures is to ensure the continuation of the Assets To Be Divested as ongoing, viable enterprises engaged in the Supermarket business and to remedy the lessening of competition resulting from the Acquisition as alleged in the Commission's Complaint.

**III.****IT IS FURTHER ORDERED** that:

- A. If Respondent has not divested all of the Assets To Be Divested as required by Paragraph II of this Order, the Commission may appoint a Divestiture Trustee to divest the remaining Assets To Be Divested in a manner that satisfies the requirements of this Order. In the event that the Commission or the Attorney General brings an action pursuant to § 5(l) of the Federal Trade Commission Act, 15 U.S.C. § 45(l), or any other statute enforced by the Commission, Respondent shall consent to the appointment of a Divestiture Trustee in such action. Neither the appointment of a Divestiture Trustee nor a decision not to appoint a Divestiture Trustee under this Paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed Divestiture Trustee, pursuant to § 5(l) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by Respondent to comply with this Order.
- B. If a Divestiture Trustee is appointed by the Commission or a court pursuant to this Order, Respondent shall consent to the following terms and

## Decision and Order

conditions regarding the Divestiture Trustee's powers, duties, authority, and responsibilities:

1. The Commission shall select the Divestiture Trustee, subject to the consent of Respondent, which consent shall not be unreasonably withheld. The Divestiture Trustee shall be a person with experience and expertise in acquisitions and divestitures. If Respondent has not opposed, in writing, including the reasons for opposing, the selection of any proposed Divestiture Trustee within ten (10) days after notice by the staff of the Commission to Respondent of the identity of any proposed Divestiture Trustee, Respondent shall be deemed to have consented to the selection of the proposed Divestiture Trustee.
2. Subject to the prior approval of the Commission, the Divestiture Trustee shall have the exclusive power and authority to sell, assign, grant, license, divest, transfer, contract, deliver, or otherwise convey the relevant assets or rights that are required to be sold, assigned, granted, licensed, divested, transferred, contracted, delivered, or otherwise conveyed by this Order.
3. Within ten (10) days after appointment of the Divestiture Trustee, Respondent shall execute a trust agreement that, subject to the prior approval of the Commission, transfers to the Divestiture Trustee all rights and powers necessary to permit the Divestiture Trustee to effect the relevant divestitures or transfers required by the Order.
4. The Divestiture Trustee shall have twelve (12) months from the date the Commission approves the trust agreement described in Paragraph III.B.3. to accomplish the divestiture(s), which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve-month period, the Divestiture Trustee has submitted a plan of divestiture or believes that the divestiture(s) can be

## Decision and Order

achieved within a reasonable time, the divestiture period may be extended by the Commission; *provided, however*, the Commission may extend the divestiture period only two (2) times.

5. Subject to any demonstrated legally recognized privilege, the Divestiture Trustee shall have full and complete access to the personnel, books, records and facilities relating to the relevant assets that are required to be assigned, granted, licensed, divested, transferred, contracted, delivered, or otherwise conveyed by this Order or to any other relevant information, as the Divestiture Trustee may request. Respondent shall develop such financial or other information as the Divestiture Trustee may request and shall cooperate with the Divestiture Trustee. Respondent shall take no action to interfere with or impede the Divestiture Trustee's accomplishment of the divestiture(s). Any delays in divestiture caused by Respondent shall extend the time for divestiture under this Paragraph in an amount equal to the delay, as determined by the Commission or, for a court-appointed Divestiture Trustee, by the court.
6. The Divestiture Trustee shall use commercially reasonable best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to Respondent's absolute and unconditional obligation to divest expeditiously at no minimum price. The divestiture(s) shall be made in the manner and to an Acquirer as required by this Order; *provided, however*, if the Divestiture Trustee receives bona fide offers from more than one acquiring entity for the Amarillo Supermarket Assets or for the Wichita Falls Supermarket Assets, and if the Commission determines to approve more than one such acquiring entity for either Supermarket, the Divestiture Trustee shall divest such Supermarket to the acquiring entity selected by Respondent from among those approved by the Commission;

## Decision and Order

*provided further, however*, that Respondent shall select such entity within five (5) days of receiving notification of the Commission's approval.

7. The Divestiture Trustee shall serve, without bond or other security, at the cost and expense of Respondent, on such reasonable and customary terms and conditions as the Commission or a court may set. The Divestiture Trustee shall have the authority to employ, at the cost and expense of Respondent, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the Divestiture Trustee's duties and responsibilities. The Divestiture Trustee shall account for all monies derived from the divestiture(s) and all expenses incurred. After approval by the Commission and, in the case of a court-appointed Divestiture Trustee, by the court, of the account of the Divestiture Trustee, including fees for his or her services, all remaining monies shall be paid at the direction of the Respondent, and the Divestiture Trustee's power shall be terminated. The compensation of the Divestiture Trustee shall be based at least in significant part on a commission arrangement contingent on the divestiture of all of the relevant assets required to be divested by this Order.
8. Respondent shall indemnify the Divestiture Trustee and hold the Divestiture Trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the Divestiture Trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of, any claim, whether or not resulting in any liability, except to the extent that such losses, claims, damages, liabilities, or expenses result from malsfeasance, gross

## Decision and Order

negligence, willful or wanton acts, or bad faith by the Divestiture Trustee.

9. If the Commission determines that the Divestiture Trustee has ceased to act or failed to act diligently, the Commission may appoint a substitute Divestiture Trustee in the same manner as provided in this Paragraph III.
10. The Commission or, in the case of a court-appointed trustee, the court, may on its own initiative or at the request of the Divestiture Trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture(s) required by this Order.
11. The Divestiture Trustee shall have no obligation or authority to operate or maintain the relevant assets required to be divested by this Order.
12. The Divestiture Trustee shall report in writing to Respondent and the Commission every thirty (30) days concerning the Divestiture Trustee's efforts to accomplish the divestiture(s).
13. Respondent may require the Divestiture Trustee and each of the Divestiture Trustee's consultants, accountants, attorneys, and other representatives and assistants to sign a customary confidentiality agreement; *provided, however*, such agreement shall not restrict the Divestiture Trustee from providing any information to the Commission.
14. The Commission may, among other things, require the Divestiture Trustee and each of the Divestiture Trustee's consultants, accountants, attorneys, representatives, and assistants to sign an appropriate confidentiality agreement relating to Commission materials and information received in connection with the performance of the Divestiture Trustee's duties and responsibilities.

## Decision and Order

**IV.**

**IT IS FURTHER ORDERED** that, for a period of ten (10) years commencing on the date this Order is issued, Respondent shall not, directly or indirectly, through subsidiaries, partnerships or otherwise, without providing advance written notification to the Commission:

- A. Acquire any ownership or leasehold interest in any facility that has operated as a Supermarket within six (6) months prior to the date of such proposed acquisition in any of the Relevant Areas.
- B. Acquire any stock, share capital, equity, or other interest in any entity that owns any interest in or operates any Supermarket, or owned any interest in or operated any Supermarket within six (6) months prior to such proposed acquisition, in any of the Relevant Areas.

*Provided, however,* that advance written notification shall not apply to the construction of new facilities by Respondent or the acquisition or leasing of a facility that has not operated as a Supermarket within six (6) months prior to Respondent's offer to purchase or lease such facility.

Said notification shall be given on the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended, and shall be prepared and transmitted in accordance with the requirements of that part, except that no filing fee will be required for any such notification, notification shall be filed with the Secretary of the Commission, notification need not be made to the United States Department of Justice, and notification is required only of Respondent and not of any other party to the transaction. Respondent shall provide the notification to the Commission at least thirty (30) days prior to consummating any such transaction (hereinafter referred to as the "first waiting period"). If, within the first waiting period,

## Decision and Order

representatives of the Commission make a written request for additional information or documentary material (within the meaning of 16 C.F.R. § 803.20), Respondent shall not consummate the transaction until thirty (30) days after substantially complying with such request. Early termination of the waiting periods in this Paragraph may be requested and, where appropriate, granted by letter from the Bureau of Competition. *Provided, however,* that prior notification shall not be required by this Paragraph for a transaction for which notification is required to be made, and has been made, pursuant to Section 7A of the Clayton Act, 15 U.S.C. § 18a.

**V.****IT IS FURTHER ORDERED** that:

- A. Within thirty (30) days after the date this Order becomes final and every thirty (30) days thereafter until the Respondent has fully complied with the provisions of Paragraphs II and III of this Order, Respondent shall submit to the Commission verified written reports setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with Paragraphs II and III of this Order. Respondent shall include in its reports, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraphs II and III of this Order, including a description of all substantive contacts or negotiations for the divestitures and the identity of all parties contacted. Respondent shall include in its reports copies of all material written communications to and from such parties, all non-privileged internal memoranda, reports and recommendations concerning completing the obligations; and
- B. One (1) year from the date this Order becomes final, annually for the next nine (9) years on the anniversary of the date this Order becomes final, and at other times as the Commission may require, Respondent shall file

## Decision and Order

verified written reports with the Commission setting forth in detail the manner and form in which it has complied and is complying with this Order.

**VI.**

**IT IS FURTHER ORDERED** that Respondent shall notify the Commission at least thirty (30) days prior to:

- A. any proposed dissolution of Respondent;
- B. any proposed acquisition, merger or consolidation of Respondent; or
- C. any other change in the Respondent, including but not limited to, assignment and the creation or dissolution of subsidiaries, if such change might affect compliance obligations arising out of this Order.

**VII.**

**IT IS FURTHER ORDERED** that, for the purpose of determining or securing compliance with this Order, and subject to any legally recognized privilege, upon written request and upon five (5) days' notice to Respondent made to its principal United States office, Respondent shall permit any duly authorized representative of the Commission:

- A. Access, during office hours of Respondent and in the presence of counsel, to all facilities and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda and all other records and documents in the possession or under the control of Respondent relating to compliance with this Order, which copying services shall be provided by such Respondent at the request of the authorized representative(s) of the Commission and at the expense of Respondent; and
- B. To interview officers, directors, or employees of Respondent, who may have counsel present, regarding any such matters.



## Analysis to Aid Public Comment

**VIII.**

**IT IS FURTHER ORDERED** that this Order shall terminate on January 28, 2024.

By the Commission.

**APPENDIX I****Lawrence Brothers Divestiture Agreement**

**[Redacted From the Public Record Version, But Incorporated  
By Reference]**

**ANALYSIS OF CONSENT ORDER TO AID PUBLIC  
COMMENT****I. INTRODUCTION AND BACKGROUND**

The Federal Trade Commission (“Commission”) has accepted for public comment, subject to final approval, an Agreement Containing Consent Order (“Consent Order”) from AB Acquisition, LLC (“Respondent”). The purpose of the proposed Consent Order is to remedy the anticompetitive effects that otherwise would result from the merger of Respondent with United Supermarkets, L.L.C. (“United”). Under the terms of the proposed Consent Order, Respondent is required to divest its supermarkets and related assets in Amarillo and Wichita Falls, Texas to a Commission-approved purchaser. The divestitures must be completed no later than 10 days following the date of Respondent’s merger with United.

## Analysis to Aid Public Comment

The proposed Consent Order has been placed on the public record for 30 days to solicit comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission again will review the proposed Consent Order and any comments received, and decide whether it should withdraw the Consent Order, modify the Consent Order, or make it final.

On September 9, 2013, Respondent and United entered into a merger agreement whereby Respondent agreed to purchase 100% of United's equity. The Commission's Complaint alleges that the proposed merger, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, by removing an actual, direct, and substantial supermarket competitor in Amarillo and Wichita Falls, Texas. The elimination of this competition would result in significant competitive harm, specifically higher prices and diminished quality and service levels in both markets. The proposed Consent Order would remedy the alleged violations by requiring Respondent to divest its supermarkets in the two affected markets. The divestitures will establish a new independent competitor to Respondent in both relevant areas, replacing the competition that otherwise would be lost as a result of the proposed merger.

**THE PARTIES**

Respondent, through its wholly owned indirect subsidiary, Albertson's LLC ("Albertson's"), owns and operates 606 supermarkets in the western and southern United States under the Albertsons banner. In Texas, Albertson's operates 72 supermarkets under the Albertsons banner, the majority of which are in the Dallas-Fort Worth Metroplex. Albertson's operates 10 Albertsons banner stores in North and West Texas.

United is a privately held regional grocery retailer that owns and operates 51 traditional and specialty supermarkets and 7 convenience stores across North and West Texas. United operates its supermarkets under three different banners: United Supermarkets, Market Street, and Amigos. United Supermarkets is a traditional supermarket banner. Market Street offers everyday grocery needs, as well as gourmet and specialty items, whole

## Analysis to Aid Public Comment

health products, and prepared food. Amigos is operated as a specialty store with a focus on traditional and authentic items targeted to Hispanic shoppers. United also owns three distribution centers, an ice manufacturing plant, and a food manufacturing plant.

**SUPERMARKET COMPETITION IN AMARILLO AND WICHITA FALLS, TEXAS**

Respondent's proposed merger with United poses substantial antitrust concerns for the retail sale of food and other grocery products in supermarkets. Supermarkets are defined as traditional full-line retail grocery stores that sell, on a large-scale basis, food and non-food products that customers regularly consume at home—including, but not limited to, fresh meat, dairy products, frozen foods, beverages, bakery goods, dry groceries, detergents, and health and beauty products. This broad set of products and services provides a “one-stop shopping” experience for consumers by enabling them to shop in a single store for all of their food and grocery needs. The ability to offer consumers one-stop shopping is a critical differentiating factor between supermarkets and other food retailers.

The relevant product market includes supermarkets within “hypermarkets,” such as Wal-Mart Supercenters. Hypermarkets also sell an array of products that would not be found in traditional supermarkets. However, hypermarkets, like conventional supermarkets, contain bakeries, delis, dairy, produce, fresh meat, and sufficient product offerings to enable customers to purchase all of their weekly grocery requirements in a single shopping visit.

Other types of retailers – such as hard discounters, convenience stores, specialty food stores and club stores – also sell food and grocery items. However, these types of retailers are not in the relevant product market because they do not have a supermarket's full complement of products and services. Shoppers typically do not view these other food and grocery retailers as adequate substitutes for supermarkets. Further, although these other types of retailers offer some competition, supermarkets do not view them as providing as close competition

## Analysis to Aid Public Comment

as traditional supermarkets.<sup>1</sup> Thus, consistent with prior Commission precedent, grocery items sold in stores other than supermarkets are excluded from the relevant product market.<sup>2</sup>

There are two relevant geographic markets in which to analyze the merger's effects: (1) the western half of Amarillo, Texas ("West Amarillo"), and (2) the southwest area of Wichita Falls, Texas ("Southwest Wichita Falls"). Specifically, West Amarillo includes the area from the western city limit to the railroad tracks that run parallel to, and are located to the east of, the Interstate 40 and U.S. Route 87/287 corridor. Southwest Wichita Falls is the area within the city limits that runs south of U.S. Route 277 and west of U.S. Route 281. A hypothetical monopolist of the retail sale of food and other grocery products in supermarkets in each relevant area could profitably impose a small but significant non-transitory increase in price.

Interviews with the merging parties' executives and market participants, as well as a review of party documents, demonstrate that Albertson's and United are close and vigorous competitors in terms of format, service, product offerings, promotional activity, and location in the West Amarillo and Southwest Wichita Falls markets. For example, Albertson's and United are the only supermarkets in Amarillo and Wichita Falls that retain a traditional supermarket format, with both emphasizing specialty departments like meat and fresh seafood. Both are also the only traditional supermarket operators in Amarillo and Wichita Falls

---

<sup>1</sup> Shoppers typically do not view these other food and grocery retailers as adequate substitutes for supermarkets and would be unlikely to switch to one of these retailers in response to a small but significant price increase or "SSNIP" by a hypothetical supermarket monopolist. See U.S. DOJ and FTC Horizontal Merger Guidelines § 4.1.1 (2010).

<sup>2</sup> See, e.g., *Konkinlijke Ahold N.V./Safeway Inc.*, Docket C-4367 (August 17, 2012); *Shaw's/Star Markets*, Docket C- 3934 (June 28, 1999); *Kroger/Fred Meyer*, Docket C-3917 (January 10, 2000); *Albertson's/American Stores*, Docket C-3986 (June 22, 1999); *Ahold/Giant*, Docket C-3861 (April 5, 1999); *Albertson's/Buttrey*, Docket C-3838 (December 8, 1998); *Jitney-Jungle Stores of America, Inc.*, Docket C-3784 (January 30, 1998). But see *Wal-Mart/Supermercados Amigo*, Docket C-4066 (November 21, 2002) (the Commission's complaint alleged that in Puerto Rico, club stores should be included in a product market that included supermarkets because club stores in Puerto Rico enabled consumers to purchase substantially all of their weekly food and grocery requirements in a single shopping visit).

## Analysis to Aid Public Comment

that carry a broad range of products catering to the entire community. Additionally, Albertson's and United's stores have the most similar store formats and size among supermarket operators in Amarillo and Wichita Falls, including the amount of floor space devoted to food and other grocery products. Absent relief, the proposed merger would eliminate significant head-to-head competition between Respondent and United and would increase Respondent's ability and incentive to raise prices unilaterally post-merger. The proposed merger would also decrease incentives to compete on non-price factors, such as service levels, convenience, and quality.

The West Amarillo and Southwest Wichita Falls markets already are highly concentrated, and would become significantly more so post-merger. The merger would reduce the number of supermarket competitors from three to two; Wal-Mart Supercenter would be the only remaining competitor in each of the two relevant areas. In West Amarillo, the proposed merger would increase the Herfindahl-Hirschman Index ("HHI"), which is the standard measure of market concentration under the 2010 Department of Justice and Federal Trade Commission Horizontal Merger Guidelines ("HMG"), 503 points, from 4501 to 5004. In Southwest Wichita Falls, the proposed merger would increase the HHI 811 points, from 4193 to 5004. Under the HMG, these concentration levels trigger the presumption that the merger likely enhances Respondent's market power in West Amarillo and Southwest Wichita Falls.

New entry or expansion in the relevant markets is unlikely to deter or counteract the anticompetitive effects of the proposed merger. Moreover, even if a prospective entrant existed, the entrant must secure a viable location, obtain the necessary permits and governmental approvals, build its retail establishment or renovate an existing building, and open to customers before it could begin operating and serve as a relevant competitive constraint. It is unlikely that entry sufficient to achieve a significant market impact and act as a competitive constraint would occur in a timely manner.

## Analysis to Aid Public Comment

**THE PROPOSED CONSENT ORDER**

The proposed remedy, which requires the divestiture of the Albertson's supermarkets in Amarillo and Wichita Falls to a Commission-approved purchaser, will restore fully the competition that otherwise would be eliminated in these markets as a result of the merger. Respondent has agreed to divest the Albertson's supermarkets in Amarillo and Wichita Falls to MAL Enterprises, Inc., which operates as Lawrence Brothers IGA ("Lawrence Brothers"). Lawrence Brothers is a family owned and operated supermarket chain based in Sweetwater, Texas, with 18 supermarkets located throughout West Texas and two in New Mexico, all of which are located outside the two relevant geographic markets.<sup>3</sup> Lawrence Brothers appears to be a highly suitable purchaser, and it is well positioned to enter the relevant markets and prevent the increase in market concentration and likely competitive harm that otherwise would have resulted from the merger.

The proposed Order requires Respondent to divest Albertson's Amarillo and Wichita Falls stores and related assets to Lawrence by the later of: (a) January 13, 2014, or (b) 10 days following Albertson's merger with United. If Lawrence Brothers is not approved by the Commission to purchase the assets, Albertson's must immediately rescind the divestiture agreement and divest the Albertson's stores and related assets to a buyer that receives the Commission's prior approval. The proposed Consent Order contains additional provisions designed to ensure the adequacy of the proposed relief. For example, for a period of one year, the Consent Order prohibits Albertson's from interfering with Lawrence Brothers' hiring or employment of any employees currently working at the Albertson's stores in Amarillo and Wichita Falls. Additionally, for a period of 10 years, Respondent is required to give the Commission prior notice of plans to acquire

---

<sup>3</sup> Lawrence Brothers operates 14 stores under the "Lawrence Brothers" banner, four stores under the "Cash Saver" banner, and two stores under the "Save-A-Lot" banner. Lawrence Brothers plans to convert the two Albertson's stores in Amarillo and Wichita Falls to Cash Saver stores. Cash Saver stores are traditional supermarkets with specialty departments such as pharmacies, delis, and bakeries. Cash Saver prices all grocery products in its stores at 10% above cost.

## Analysis to Aid Public Comment

any interest in a supermarket, or an interest in a supermarket, that has operated or is operating in Amarillo and Wichita Falls.

\* \* \*

The sole purpose of this Analysis is to facilitate public comment on the proposed Consent Order. This Analysis does not constitute an official interpretation of the proposed Consent Order, nor does it modify its terms in any way.

## Complaint

## IN THE MATTER OF

**GANLEY FORD WEST, INC.**CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF  
SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket No. C-4428; File No. 122 3269**Complaint, January 28, 2014 – Decision, January 28, 2014*

This consent order addresses Ganley Ford West, Inc.'s failure to disclose material information to consumers wishing to purchase motor vehicles. The complaint alleges that respondent has advertised that particular Ford models are available at a specific dealer discount however, once consumers reach the dealership, they find out that respondent has failed to disclose that the specific discounts are only available for some, but not all, of the Ford models advertised. The consent order prohibits respondent from misrepresenting any material fact about the price, sale, financing, or leasing of motor vehicles; and from representing that a discount, rebate, bonus, incentive or price is available to consumers unless the representation clearly and conspicuously discloses all material qualifications or restrictions, if any, including but not limited to qualifications or restrictions on: (a) a consumer's ability to obtain the discount, rebate, bonus, incentive or price or (b) the vehicles available at the discount, rebate, bonus, incentive or price.

*Participants*

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

For the *Respondent*: *A. Steven Dever, A. Steven Dever, LPA*.

**COMPLAINT**

The Federal Trade Commission, having reason to believe that Ganley Ford West, 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 Ganley Ford West, Inc. is an Ohio corporation with its principal office or place of business at 16100 Lorain Avenue, Cleveland, OH 44111. Respondent offers motor vehicles for sale or lease.



## Complaint

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 August 4, 2012, respondent has disseminated, or has caused to be disseminated, advertisements promoting the purchase, financing, and leasing of its motor vehicles.

4.Respondent’s advertisements include, but are not necessarily limited to, advertisements posted on the website [www.ganleyfordwest.com](http://www.ganleyfordwest.com), copies of which are attached as Exhibits A and B. These advertisements list specific discounts from the manufacturer’s suggested retail price (“MSRP”) for Ford models. These advertisements include the following statements:

A. NEW 2013 FORD  
**F-150**  
**\$12,000**  
OFF MSRP!

(Exhibit A).

B. NEW 2012 FORD  
**F-150**  
**\$10,000** OFF  
MSRP

(Exhibit B).

5.In fact, in numerous instances when consumers have tried to obtain advertised discounts, they have learned that the discounts are only available for a particular version of the vehicle, often one of the more expensive versions. For example, in many instances when the promotion in Exhibit A was offered, the only 2013 Ford F-150 available for \$12,000 off the MSRP was the Ford F-150 Lariat, with an MSRP of \$47,000. In those instances, the discount was not available on any other versions of the F-150, including the base model, which has an MSRP of \$23,670.

## Complaint

**VIOLATIONS OF THE FEDERAL TRADE COMMISSION  
ACT**

6. Through the means described in Paragraph 4, including but not necessarily limited to Exhibits A and B, respondent has represented expressly or by implication that particular Ford models are available at a specific dealer discount.

7. Respondent has failed to disclose that these specific dealer discounts are only available for some, but not all, of the Ford models advertised. This fact would be material to consumers in their purchase of the motor vehicles offered for sale in the advertisements. In light of the representations made, the failure to disclose this fact was, and is, a deceptive practice.

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

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

By the Commission.

Complaint

Exhibit A

SAT: 9AM-6PM | SUN: 11AM-5PM | MON: 9AM-9PM



## GANLEY FORD FINAL YEAR-END COUNTDOWN

NOW THROUGH DEC. 31ST!

**\$2,000 OVER BOOK VALUE FOR YOUR TRADE!**



**NEW 2013 FORD FOCUS**

STARTS AT **\$120** PER MONTH

OR **25% OFF MSRP!**



**NEW 2013 FORD FUSION**

STARTS AT **\$180** PER MONTH

OR **25% OFF MSRP!**



**NEW 2013 FORD ESCAPE**

STARTS AT **\$180** PER MONTH

OR **\$4,000 OFF MSRP!**



**NEW 2013 FORD EDGE**

STARTS AT **\$240** PER MONTH

OR **20% OFF MSRP!**



**NEW 2013 FORD F-150**

STARTS AT **\$330** PER MONTH

OR **\$12,000 OFF MSRP!**

**OHIO'S PRE-OWNED SUPERCENTER!**

 2005 HONDA SONATA #1107 READY TO GO! <b>\$6954</b>	 2005 FORD EXPLORER LIMITED #1108 187001 <b>\$8995</b>	 2011 NISSAN CUBE #1109 SUPER SAIL SILVER <b>\$10990</b>	 2004 FORD MUSTANG #1110 LUXURY FOR LESS! <b>\$10995</b>
 2003 DODGE MAGNUM #1111 VM <b>\$10995</b>	 2006 FORD ESCAPE #1112 MICHIGAN W/CONVERSION <b>\$11221</b>	 2005 HONDA ACCORD #1113 SUPER FUEL EFFICIENT! <b>\$11573</b>	 2010 KIA SORENTO #1114 COUNTRY AND SAFETY! <b>\$11990</b>
 1999 TOYOTA CAMRY LE #1115 EFFICIENT AND SAFE! <b>\$11997</b>	 2010 FORD FUSION #1116 ONLY ONE OWNER! <b>\$15619</b>	 2010 HONDA ACCORD LE #1117 SPYDER CAR! <b>\$16066</b>	 2011 FORD FOCUS SE #1118 ONLY ONE OWNER! <b>\$16997</b>
 2005 FORD EXPLORER SPORT TRAC #1119 340000 <b>\$19995</b>	 2007 FORD F-150 #1120 18719-1071 W/POWER! <b>\$19995</b>	 2011 FORD RANGER #1121 18740-1071 W/POWER! <b>\$24,252</b>	 2010 MERCEDES-BENZ C300 #1122 LUXURY! <b>\$27442</b>

\*MSRP includes destination charge, tax, title, license, and dealer fees. Dealer price may vary. Dealer sets actual price. ©2011 Ford Motor Company. All rights reserved.



**GANLEY FORD CLEVELAND**  
16100 Lorain Ave.  
Cleveland  
1-888-439-8077

Monday - Thursday 9am-8pm • Friday & Saturday 9am-6pm  
 Sunday & Holiday Hours Varies • Individual Store Hours Varies

Shop Online at [www.GanleyFord.com](http://www.GanleyFord.com)

Complaint

Exhibit B

**NEW 2012 FORD TAURUS**  
 \$289 LEASE PER MONTH + TAX OR \$5000 OFF MSRP  
36 MONTH LEASE. 36 MONTHS PER YEAR. \$289 PLUS FIRST MONTH PAYMENT PLUS \$1000 IN SECURITY DEPOSIT PLUS TAX, TITLE AND LICENSE. LEASE RESPONSIBLE OF LEASE END FOR MILEAGE OVER YOUR MILES PER YEAR AT 15 CENTS PER MILE.

**NEW 2012 FORD ESCAPE**  
 \$249 LEASE PER MONTH + TAX OR 20% OFF MSRP  
36 MONTH LEASE. 36 MONTHS PER YEAR. \$249 PLUS FIRST MONTH PAYMENT PLUS \$1000 IN SECURITY DEPOSIT PLUS TAX, TITLE AND LICENSE. LEASE RESPONSIBLE OF LEASE END FOR MILEAGE OVER YOUR MILES PER YEAR AT 15 CENTS PER MILE.

**NEW 2012 FORD FOCUS**  
 \$189 LEASE PER MONTH + TAX OR 20% OFF MSRP  
PRICE INCLUDES \$1000 TRADE-IN ASSISTANCE. 36 MONTH LEASE. 36 MONTHS PER YEAR. \$189 PLUS FIRST MONTH PAYMENT PLUS \$1000 IN SECURITY DEPOSIT PLUS TAX, TITLE AND LICENSE. LEASE RESPONSIBLE OF LEASE END FOR MILEAGE OVER YOUR MILES PER YEAR AT 15 CENTS PER MILE.

**NEW 2012 FORD FUSION**  
 \$219 LEASE PER MONTH + TAX OR 20% OFF MSRP  
PRICE INCLUDES \$1000 TRADE-IN ASSISTANCE. 36 MONTH LEASE. 36 MONTHS PER YEAR. \$219 PLUS FIRST MONTH PAYMENT PLUS \$1000 IN SECURITY DEPOSIT PLUS TAX, TITLE AND LICENSE. LEASE RESPONSIBLE OF LEASE END FOR MILEAGE OVER YOUR MILES PER YEAR AT 15 CENTS PER MILE.

**NEW 2012 FORD F-150**  
 \$10,000 OFF MSRP  
Offer's plus tax, title, license. Dealer retains all factory vehicles and incentives. Percentage off is from top negotiated retail price. In stock inventory only. Offer for 100 dealers at 2012. Offer not available on 2011 models, all approved credit with best credit financing, not all buyers will qualify. Offer can't be combined. Offer void. Excludes A, G, and 2 plane miles, retires, and other. Offer may decrease trade value. Actual dealer offers apply to all stock vehicles only. With approved credit. Offer expires 12/31/11. ©2011 GM.

## Decision and Order

**DECISION AND ORDER**

The Federal Trade Commission having initiated an investigation of certain acts and practices of Respondent named in the caption hereof, and Respondent having been furnished thereafter with a copy of a draft complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge Respondent with violation of the Federal Trade Commission Act ("FTC Act"); and

Respondent, Respondent's attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order ("consent agreement"), an admission by Respondent of all the jurisdictional facts set forth in the aforesaid draft complaint, a statement that the signing of the agreement is for settlement purposes only and does not constitute an admission by Respondent that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that Respondent has violated the FTC Act and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such consent agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, and having duly considered the comments received from interested persons pursuant to section 2.34 of its Rules, now in further conformity with the procedure prescribed in § 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent is an Ohio corporation with its principal office or place of business at 16100 Lorain Avenue, Cleveland, OH.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the

## Decision and Order

Respondent, and the proceeding is in the public interest.

**ORDER****DEFINITIONS**

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

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

## Decision and Order

4. In a radio advertisement, the disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it.
  5. In all advertisements, the disclosure shall be in understandable language and syntax. Nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be used in any advertisement or promotion.
- D. “Material” shall mean likely to affect a person’s choice of, or conduct regarding, goods or services.
- E. “Motor Vehicle” shall mean:
1. Any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;
  2. Recreational boats and marine equipment;
  3. Motorcycles;
  4. Motor homes, recreational vehicle trailers, and slide-in campers; and
  5. Other vehicles that are titled and sold through dealers.

**I.**

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

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

## Decision and Order

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

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

**II.**

**IT IS FURTHER ORDERED** that respondent shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Commission for inspection and copying:

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



## Decision and Order

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

**III.**

**IT IS FURTHER ORDERED** that respondent shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order, with any electronic signatures complying with the requirements of the E-Sign Act, 15 U.S.C. § 7001 *et seq.* Respondent shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

**IV.**

**IT IS FURTHER ORDERED** that respondent shall notify the Commission at least thirty (30) days prior to any change in the corporation(s) that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. *Provided, however,* that, with respect to any proposed change in the corporation about which respondent learns less than thirty (30) days prior to the date such action is to take place, respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. Unless otherwise directed by a representative of the Commission in writing, all notices required by this Part shall be [emailed to Debrief@ftc.gov](mailto:emailed_to_Debrief@ftc.gov) or sent by overnight courier (not U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580. The subject

## Decision and Order

line must begin: *In re Ganley Ford West, Inc.*, FTC File No. 122 3269, Docket No. C-4426.

**V.**

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

**VI.**

This order will terminate on January 28, 2034, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; *provided, however*, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

*Provided, further*, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

## Analysis to Aid Public Comment

**ANALYSIS OF CONSENT ORDER TO AID PUBLIC COMMENT**

The Federal Trade Commission (“FTC”) has accepted, subject to final approval, an agreement containing a consent order from Ganley Ford West, 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 motor vehicle dealer. According to the FTC complaint, respondent has advertised that particular Ford models are available at a specific dealer discount. The complaint alleges that, in fact, once consumers reach the dealership, they find out that respondent has failed to disclose that the specific discounts are only available for some, but not all, of the Ford models advertised. The failure to disclose this information could be materially misleading to consumers wishing to purchase one of the numerous other versions of the model. The complaint alleges, therefore, that the representations constitute deceptive acts or practices in violation of Section 5 of the FTC Act.

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

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

## Analysis to Aid Public Comment

particular prices; or 4) any other material fact about the price, sale, financing, or leasing of motor vehicles.

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

## Complaint

## IN THE MATTER OF

**TIMONIUM CHRYSLER, INC.**  
**D/B/A**  
**DON WHITE'S TIMONIUM CHRYSLER JEEP**  
**DODGE**

CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF  
SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT

*Docket No. C-4429; File No. 132 3014*

*Complaint, January 28, 2014 – Decision, January 28, 2014*

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

*Participants*

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

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

**COMPLAINT**

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

## Complaint

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

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

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

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

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

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

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

Exhibit A at 2.

## Complaint

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

**VIOLATION OF THE FEDERAL TRADE COMMISSION  
ACT**

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

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

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

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

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

By the Commission.

Complaint

Exhibit A

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

**SEARCH INVENTORY** New Pre-Owned Certified Search by Make Search by Model  
 Search by Body Style Search by Price

**Don White's Timonium Chrysler Jeep Dodge Ram**  
 10300 York Road Cockeysville, MD 21030  
 Sales: (888) 519-9532  
 Service: (888) 655-4042  
 Parts: (888) 765-2980

VEHICLES VIDEOS FINANCING PARTS & SERVICE SPECIALS VEHICLE INCENTIVES DEALERSHIP

**Buy a New Chrysler Dodge Ram Jeep - Baltimore**  
 2013 Chrysler 200 Limited Sedan - Baltimore  
 Call Now (888) 519-9532

Back To Inventory Tech Specs Features Options

**GET PRE-APPROVED NOW** SPECIAL FINANCE RATES AVAILABLE  
 Click to review rates  
 REQUEST MORE INFO  
 SCHEDULE A TEST DRIVE  
 VIEW WINDOW STICKER  
 PRINT THIS VEHICLE  
 EMAIL A FRIEND  
 CARFINDER  
 KELLEY BLUE BOOK  
 SHARE THIS VEHICLE

MSRP	\$27,320
Dealer Discount	-\$7,499
<b>Internet Price</b>	<b>\$19,821</b>

Bodystyle: 4 door Sedan  
 Drivetrain: FWD  
 Engine: 3.6L V6  
 Fuel Type: regular unleaded  
 Transmission: Automatic 6-Speed  
 Ext. Color: Crystal Blue  
 Int. Color: Black  
 Stock Number: 316601  
 VIN: 1C3CCBCG1DN507480

City MPG **19** Hwy MPG **29**  
\*Other mpg's will vary with driver, driving conditions, habits and vehicle condition.

Blog Facebook Twitter YouTube Dealer Rating Directions Contact Featured

INFORMATION

http://www.donwhite.com/new/Chrysler/2013-Chrysler-200-d82864966a00640003216380E825d.htm[12/1/2012 10:45:33 AM]



Complaint

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

Comments

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

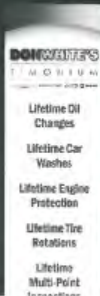
Special!

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

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

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

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



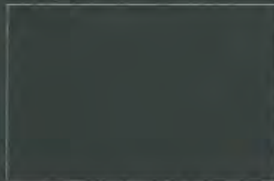
Call and ask for SHAWN RYAN with any questions regarding this vehicle

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

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

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

Financing rates may be as low as 4.99% for qualified buyers. Dealer price includes incentives and rebates. Dealer price includes factory, military and employee discounts. Make and model may vary. Availability subject to change. All payments are estimates. Tax, title, license, and other fees may apply.



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

Please Call  
**(888) 519-9532**

[GET DIRECTIONS](#)

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

Our Baltimore Chrysler dealership

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

Similar New cars in Cockeysville



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

[View Details](#)



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

[View Details](#)

Complaint

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





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

VIEW CAR



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

VIEW CAR



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

VIEW CAR

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

Proudly Serving Baltimore, Cockeyville, Towson & Timonium, Maryland

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

---

User Reviews

No comments have been posted.

POST A COMMENT

### 2013 Chrysler 200 Limited Sedan - Baltimore

<p><b>Options</b></p> <ul style="list-style-type: none"> <li>• 50 State Emissions</li> <li>• Engine: 3.6L V6 24V VVT</li> <li>• Leather Trimmed Bucket Seats</li> <li>• Quick Order Package 27V</li> <li>• Radio: UConnect 730N CD/DVD/MP3/HDD/NAV</li> <li>• Sun/Sound Group</li> <li>• Power Express Open/Close Sunroof</li> <li>• Transmission: 6-Speed Automatic</li> </ul> <p style="font-size: x-small;"><a href="#">Full Top</a></p>	<p><b>Features</b></p> <p style="font-weight: bold; font-size: x-small;">CONVENIENCE FEATURES</p> <ul style="list-style-type: none"> <li>• 1-touch down</li> <li>• Driver vanity mirror</li> <li>• Tilt steering wheel</li> <li>• Auto-dimming rearview mirror</li> <li>• Air conditioning</li> <li>• Garage door transmitter</li> <li>• Front beverage holders</li> <li>• Speed control</li> <li>• Illuminated entry</li> <li>• Rear door bins</li> <li>• Telescoping steering wheel</li> <li>• Rear beverage holders</li> <li>• Automatic temperature control</li> <li>• Power windows</li> <li>• Passenger door bin</li> <li>• Remote keyless entry</li> <li>• Passenger vanity mirror</li> <li>• Driver door bin</li> <li>• Voice recorder</li> </ul>	<p><b>Tech Specs</b></p> <p style="font-weight: bold; font-size: x-small;">POWERTRAIN</p> <ul style="list-style-type: none"> <li>• Fuel economy city: 19mpg</li> <li>• Fuel economy highway: 29mpg</li> <li>• Variable valve control</li> <li>• Transmission: multi-speed automatic</li> <li>• Recommended fuel: regular unleaded</li> <li>• Engine location: front</li> <li>• Sequential multi-point fuel injection</li> <li>• Manual-shift auto: AUTOSTICK</li> <li>• Drive type: front-wheel</li> </ul> <p style="font-weight: bold; font-size: x-small;">SPECS AND DIMENSIONS</p> <ul style="list-style-type: none"> <li>• Rear legroom: 919mm (36.2")</li> <li>• Front headroom: 963mm (37.9")</li> <li>• Turning radius: 5.7m (18.8')</li> <li>• Passenger volume: 2,840L (100.3 cu.ft.)</li> <li>• Exterior height: 1,483mm (58.4")</li> </ul>
---	---	---

[http://www.donwhite.com/used/Chrysler/2013/Chrysler\\_200\\_Limited\\_Sedan/316601.html](http://www.donwhite.com/used/Chrysler/2013/Chrysler_200_Limited_Sedan/316601.html)

## Complaint

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

- 1-touch up
- Power moonroof

**ENTERTAINMENT FEATURES**

- Radio data system
- DVD-Audio
- MP3 decoder
- AM/FM radio
- Speakers: 6
- Steering wheel mounted audio controls
- CD player

**SEATS AND TRIM**

- Heated front seats
- Max seating capacity: 5
- Rear seats: bench
- Front seats: bucket
- Front center armrest: w/storage
- Power driver seat
- Leather upholstery
- Rear seat center armrest
- Split folding rear seat

**WARRANTY**

- Basic warranty: 36 months/36,000miles
- Roadside assistance coverage: 60 months/100,000miles
- Powertrain warranty: 60 months/100,000miles
- Corrosion perforation warranty: 60 months/100,000miles

**BODY EXTERIOR**

- Rear cargo: trunk
- Power door mirrors
- Bumpers: body-color
- Heated door mirrors

**SAFETY AND SECURITY**

- Traction control
- Brake assist
- Electronic stability
- Dual front impact airbags
- ABS brakes
- Perimeter/approach lights
- Security system
- Dual front side impact airbags
- Anti-whiplash front head restraints
- 4 wheel disc brakes
- Panic alarm
- Overhead airbag
- Ignition disable

**LIGHTING, VISIBILITY AND INSTRUMENTATION**

- Fully automatic headlights
- Tachometer
- Delay-off headlights
- Trip computer

- Front shoulder room: 1,430mm (56.3")
- Wheelbase: 2,766mm (108.9")
- Exterior body width: 1,843mm (72.6")
- Towing capacity: 454kg (1,000lbs)
- Rear hiproom: 1,341mm (52.8")
- Air Pollution Score (AP): 6
- Rear headroom: 975mm (38.4")
- Front legroom: 1,077mm (42.4")
- Greenhouse Gas Score (GG): 5
- Interior maximum cargo volume: 385 L (14 cu.ft.)
- Exterior length: 4,869mm (191.7")
- Rear shoulder room: 1,422mm (56.0")
- Interior cargo volume: 385 L (14 cu.ft.)
- Front hiproom: 1,336mm (52.6")

**SUSPENSION/HANDLING**

- Four wheel independent suspension
- Rear anti-roll bar
- Power steering
- Front anti-roll bar
- Alloy wheels

[L To Top](#)

<http://www.dmvrites.com/new/Chrysler/2013-Chrysler-200-4a0964960ba006400031d380f825d.htm>[12/3/2012 10:45:33 AM]

## Complaint

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

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

[↑ To Top](#)

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

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

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

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

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

Website by  
DEALER.COM

[ABOUT US](#) | [DIRECTIONS](#) | [CONTACT US](#) | [PRIVACY](#) | [LEGAL NOTIFICATIONS AND DISCLAIMERS](#) | [SITEMAP](#)

## Decision and Order

**DECISION AND ORDER**

The Federal Trade Commission having initiated an investigation of certain acts and practices of Respondent named in the caption hereof, and Respondent having been furnished thereafter with a copy of a draft complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge Respondent with violation of the Federal Trade Commission Act ("FTC Act"); and

Respondent, Respondent's attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order ("consent agreement"), an admission by Respondent of all the jurisdictional facts set forth in the aforesaid draft complaint, a statement that the signing of the agreement is for settlement purposes only and does not constitute an admission by Respondent that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that Respondent has violated the FTC Act and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such consent agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, and having duly considered the comment received from an interested person pursuant to section 2.34 of its Rules, now in further conformity with the procedure prescribed in § 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

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

## Decision and Order

Respondent, and the proceeding is in the public interest.

**ORDER****DEFINITIONS**

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

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

## Decision and Order

4. In a radio advertisement, the disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it.
  5. In all advertisements, the disclosure shall be in understandable language and syntax. Nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be used in any advertisement or promotion.
- D. “Material” shall mean likely to affect a person’s choice of, or conduct regarding, goods or services.
- E. “Motor vehicle” shall mean:
1. Any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;
  2. Recreational boats and marine equipment;
  3. Motorcycles;
  4. Motor homes, recreational vehicle trailers, and slide-in campers; and
  5. Other vehicles that are titled and sold through dealers.

**I.**

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

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

## Decision and Order

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

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

**II.**

**IT IS FURTHER ORDERED** that respondent shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Commission for inspection and copying:

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



## Decision and Order

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

**III.**

**IT IS FURTHER ORDERED** that respondent shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order, with any electronic signatures complying with the requirements of the E-Sign Act, 15 U.S.C. § 7001 *et seq.* Respondent shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

**IV.**

**IT IS FURTHER ORDERED** that respondent shall notify the Commission at least thirty (30) days prior to any change in the corporation(s) that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. *Provided, however,* that, with respect to any proposed change in the corporation about which respondent learns less than thirty (30) days prior to the date such action is to take place, respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. Unless otherwise directed by a representative of the Commission in writing, all notices required by this Part shall be emailed to [Debrief@ftc.gov](mailto:Debrief@ftc.gov) or sent by overnight courier (not U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580. The subject

## Decision and Order

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

**V.**

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

**VI.**

This order will terminate on January 28, 2034, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; *provided, however*, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

*Provided, further*, that if such complaint is dismissed or a federal court rules that a respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

## Analysis to Aid Public Comment

**ANALYSIS OF CONSENT ORDER TO AID PUBLIC COMMENT**

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

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

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

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

## Analysis to Aid Public Comment

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

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

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