

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

In the Matter of

**PROGRESSIVE CHEVROLET
COMPANY,
a corporation, also d/b/a**

**PROGRESSIVE AUTO GROUP,
PROGRESSIVE JEEP, and
PROGRESSIVE CHRYSLER,**

and

**PROGRESSIVE MOTORS, INC.,
a corporation, also d/b/a**

**PROGRESSIVE RAM and
PROGRESSIVE CHRYSLER JEEP
DODGE INC.**

FILE NO. 142 3133

AGREEMENT CONTAINING CONSENT ORDER

The Federal Trade Commission has conducted an investigation of certain acts and practices of Progressive Chevrolet Company, a corporation, also d/b/a Progressive Auto Group, Progressive Jeep, and Progressive Chrysler, and Progressive Motors, Inc., a corporation, also d/b/a Progressive Ram, and Progressive Chrysler Jeep Dodge Inc. (collectively, "Proposed Respondents"). Proposed Respondents, having been represented by counsel, are willing to enter into an agreement containing a consent order resolving the allegations contained in the attached draft complaint. Therefore,

IT IS HEREBY AGREED by Progressive Chevrolet Company and Progressive Motors, Inc., by their duly authorized counsel, and counsel for the Federal Trade Commission that:

1. Proposed Respondent Progressive Chevrolet Company is an Ohio corporation with its principal office or place of business at 8000 Hills and Dales Road, Massillon, Ohio 44646. Respondent offers automobiles for sale or lease to consumers.
2. Proposed Respondent Progressive Motors, Inc. is an Ohio corporation with its principal office or place of business at 7966 Hills and Dales Road, Massillon, Ohio 44646. Respondent offers automobiles for sale or lease to consumers.
3. Proposed Respondents waive:
 - a. Any further procedural steps;
 - b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and
 - c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.
4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft complaint, will be placed on the public record for a period of thirty (30) days and information about it publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify Proposed Respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.
5. Proposed Respondents neither admit nor deny any of the allegations in the draft complaint, except as specifically stated in this order. Only for purposes of this action, Proposed Respondents admit the facts necessary to establish jurisdiction.
6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to Proposed Respondents, (1) issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following order in disposition of the proceeding, and (2) make information about it public. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery of the complaint and the decision and order to each Proposed Respondent's address as stated in this agreement by any means specified in Section 4.4(a) of the Commission's Rules shall constitute service. Proposed Respondents waive any rights they may have to any other means of service. The complaint may be used in construing the terms of the order. No agreement,

understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed Respondents have read the draft complaint and consent order. Proposed Respondents understand they may be liable for civil penalties in the amount provided by law and other appropriate relief for each violation of the order after it becomes final.

ORDER

DEFINITIONS

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

1. Unless otherwise specified, “Proposed Respondents” shall mean Progressive Chevrolet Company and Progressive Motors, Inc., and their successors and assigns.
2. “Advertisement” shall mean a commercial message in any medium that directly or indirectly promotes a consumer transaction.
3. “Clearly and conspicuously” shall mean as follows:
 - a. 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.
 - b. 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.
 - c. 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.
 - d. In a radio advertisement, the disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it.

- e. 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.
- 4. “Consumer lease” shall mean a contract in the form of a bailment or lease for the use of personal property by a natural person primarily for personal, family, or household purposes, for a period exceeding four months and for a total contractual obligation not exceeding the applicable threshold amount, whether or not the lessee has the option to purchase or otherwise become the owner of the property at the expiration of the lease, as set forth in Section 213.2 of Regulation M, 12 C.F.R. §213.2, as amended.
- 5. “Lease inception” shall mean prior to or at consummation of the lease or by delivery, if delivery occurs after consummation.
- 6. “Material” shall mean likely to affect a person’s choice of, or conduct regarding, goods or services.
- 7. “Motor vehicle” shall mean:
 - a. Any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;
 - b. Recreational boats and marine equipment;
 - c. Motorcycles;
 - d. Motor homes, recreational vehicle trailers, and slide-in campers; and
 - e. Other vehicles that are titled and sold through dealers.

I.

IT IS HEREBY ORDERED that Proposed Respondents and their officers, agents, representatives, and employees shall not, directly or indirectly, expressly or by implication:

- A. In an advertisement concerning the leasing or financing of a motor vehicle, represent the amount of any monthly payment, periodic payment, initial payment, or down payment, or the length of any payment term, unless the representation is non-misleading, and the advertisement clearly and conspicuously discloses all qualifications or restrictions on the consumer’s ability to obtain the represented terms, including but not limited to qualifications or restrictions based on the consumer’s credit score. *Provided, further*, that, if a majority of consumers likely will not be able to meet a stated credit score

qualification or restriction, the advertisement must clearly and conspicuously disclose that fact.

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

II.

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

- A. State the amount of any payment or that any or no initial payment is required at lease inception, without disclosing clearly and conspicuously the following terms:
 - 1. that the transaction advertised is a lease;
 - 2. the total amount due prior to or at consummation or by delivery, if delivery occurs after consummation;
 - 3. the number, amounts, and timing of scheduled payments;
 - 4. whether or not a security deposit is required; and
 - 5. that an extra charge may be imposed at the end of the lease term where the consumer's liability (if any) is based on the difference between the residual value of the leased property and its realized value at the end of the lease term.

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

III.

IT IS FURTHER ORDERED that Proposed Respondents 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, 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.

IV.

IT IS FURTHER ORDERED that Proposed Respondents 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.* Proposed Respondents shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

V.

IT IS FURTHER ORDERED that Proposed Respondents shall notify the Commission at least thirty (30) days prior to any change in the corporation 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 Proposed Respondents learn less than thirty (30) days prior to the date such action is to take place, Proposed Respondents shall notify the Commission as soon as is practicable after obtaining such knowledge. Unless otherwise directed by a representative of the Commission in writing, all notices required by this Part shall be emailed to Debrief@ftc.gov or sent by overnight courier (not U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580. The subject line must begin: *In re Progressive Chevrolet Company and Progressive Motors, Inc.*

VI.

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

VII.

This order will terminate twenty (20) years from the date of its issuance, 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 Proposed 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 Proposed 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.

Signed and agreed-to on the dates set forth below.

**PROGRESSIVE CHEVROLET COMPANY, also
d/b/a
PROGRESSIVE AUTO GROUP,
PROGRESSIVE JEEP, and
PROGRESSIVE CHRYSLER**

Dated: _____ By: _____
Craig Sanders
President

Dated: _____ By: _____
David Brown
Counsel for Proposed Respondents

**PROGRESSIVE MOTORS, INC., also d/b/a
PROGRESSIVE RAM and
PROGRESSIVE CHRYSLER JEEP
DODGE INC.**

Dated: _____ By: _____
Craig Sanders
President

Dated: _____ By: _____
David Brown
Counsel for Proposed Respondents

FEDERAL TRADE COMMISSION

Dated: _____

MICHAEL B. ROSE
JONATHAN L. KESSLER
Counsel for the
Federal Trade Commission

APPROVED:

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