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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

<p>FEDERAL TRADE COMMISSION, Plaintiff, v. UNIVERSAL CITY NISSAN, INC., et al. Defendants.</p>	<p>Case no 2:16-cv-07329-CAS(AJWx) <i>Honorable Christina A. Snyder</i> (PROPOSED) STIPULATED PRELIMINARY INJUNCTION ORDER</p>
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THIS MATTER comes before the Court upon the stipulation of Plaintiff, the Federal Trade Commission (“Commission” or “FTC”) and Defendants Covina MJL, LLC, also d/b/a Sage Covina Chevrolet; Glendale Nissan/Infiniti, Inc., also d/b/a Glendale Infiniti and d/b/a Glendale Nissan; Sage Downtown, Inc., also d/b/a Kia Of Downtown Los Angeles; Sage Holding Company, Inc.; Sage Management Co., Inc.; Sage North Hollywood, LLC, also d/b/a Sage Pre-Owned; Sage Vermont, LLC, also d/b/a Sage Hyundai; Universal City Nissan, Inc., also d/b/a Universal Nissan; Valencia Holding Co., LLC, also d/b/a Mercedes-Benz Of Valencia; West Covina Auto Group, LLC, also d/b/a West Covina Toyota and d/b/a West Covina Toyota/Scion; West Covina Nissan, Inc.; Joseph Schrage, a/k/a Joseph Sage; Leonard Schrage, a/k/a Leonard Sage, and Michael Schrage, a/k/a

1 Michael Sage (collectively, “Defendants”) for the entry of a stipulated preliminary
2 injunction order (“Order”) to resolve the Commission’s Motion for a Preliminary
3 Injunction (“Motion”) seeking preliminary relief in connection with the acts and
4 practices alleged in the Complaint relating to Counts I-II and IV-XI.

5 Having considered the stipulation of the parties, and being otherwise
6 advised, the Court makes the following findings of fact and conclusions of law:

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8 **FINDINGS**

9 1. The FTC and Defendants have stipulated and agreed to the entry of
10 this preliminary injunction order without any admission of wrongdoing or violation
11 of law, and without a finding by the Court of law or fact other than stated below.

12 2. Defendants waive all rights to seek judicial review or otherwise
13 challenge or contest the validity of their Stipulation hereto or this Order.

14 3. This Court has jurisdiction over the subject matter of this case and all
15 parties hereto, and venue in this district is proper.

16 4. The FTC asserts that there is good cause to believe Defendants have
17 engaged in and are likely to engage in acts and practices that violate Section 5(a) of
18 the FTC Act, 15 U.S.C. §45(a); Section 144 of TILA, 15 U.S.C. § 1664, and
19 Section 226.24(d) of Regulation Z, 12 C.F.R. §226.24(d), as amended; and Section
20 184 of the CLA, 15 U.S.C. § 1667c, and Section 213.7 of Regulation M, 12 C.F.R.
21 §213.7. The FTC therefore asserts that it is likely to prevail on the merits of this
22 action. Defendants deny these assertions.

23 5. The FTC asserts that there is good cause to believe that immediate and
24 continuing harm will result unless Defendants are restrained and enjoined by order
25 of this Court. Defendants deny this assertion.

26 6. The entry of this Order is in the public interest. Defendants deny this
27 assertion.

- 1 4. In any communication using an interactive electronic medium,
2 such as the Internet or software, the disclosure must be
3 unavoidable.
- 4 5. The disclosure must use diction and syntax understandable to
5 ordinary consumers and must appear in each language in which the
6 representation that requires the disclosure appears.
- 7 6. The disclosure must comply with these requirements in each
8 medium through which it is received, including all electronic
9 devices.
- 10 7. The disclosure must not be contradicted or mitigated by, or
11 inconsistent with, anything else in the communication.

12 C. “**Consumer credit**” means credit offered or extended to a consumer
13 primarily for personal, family, or household purposes, as set forth in Section
14 226.2(a)(12) of Regulation Z, 12 C.F.R. § 226.2(a)(12), as amended.

15 D. “**Consumer lease**” means a contract in the form of a bailment or lease
16 for the use of personal property by a natural person primarily for personal, family,
17 or household purposes, for a period exceeding four months and for a total
18 contractual obligation not exceeding the applicable threshold amount, whether or
19 not the lessee has the option to purchase or otherwise become the owner of the
20 property at the expiration of the lease, as set forth in Section 213.2 of Regulation
21 M, 12 C.F.R. § 213.2, as amended.

22 E. “**Defendants**” means all of the Individual and Corporate Defendants,
23 individually, collectively, or in any combination.

- 24 1. “**Corporate Defendants**” means Covina MJL, LLC, also d/b/a Sage
25 Covina Chevrolet; Glendale Nissan/Infiniti, Inc., also d/b/a Glendale
26 Infiniti and d/b/a Glendale Nissan; Sage Downtown, Inc., also d/b/a
27 Kia Of Downtown Los Angeles; Sage Holding Company, Inc.; Sage
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1 Management Co., Inc.; Sage North Hollywood, LLC, also d/b/a Sage
2 Pre-Owned; Sage Vermont, LLC, also d/b/a Sage Hyundai; Universal
3 City Nissan, Inc., also d/b/a Universal Nissan; Valencia Holding Co.,
4 LLC, also d/b/a Mercedes-Benz Of Valencia; West Covina Auto
5 Group, LLC, also d/b/a West Covina Toyota and d/b/a West Covina
6 Toyota/Scion; West Covina Nissan, Inc.; and their successors and
7 assigns.

- 8 2. **“Individual Defendants”** means Joseph Schrage, a/k/a Joseph Sage;
9 Leonard Schrage, a/k/a Leonard Sage, and Michael Schrage, a/k/a
10 Michael Sage.

11 F. **“Document”** and **“Electronically Stored Information”** are
12 synonymous in meaning and equal in scope to the usage of the terms in Rule 34(a)
13 of the Federal Rules of Civil Procedure and include but are not limited to:

- 14 1. The original or a true copy of any written, typed, printed,
15 electronically stored, transcribed, taped, recorded, filmed, punched, or
16 graphic matter or other data compilations of any kind, including, but
17 not limited to, letters, email or other correspondence, messages,
18 memoranda, interoffice communications, notes, reports, summaries,
19 manuals, magnetic tapes or discs, tabulations, books, records, checks
20 invoices, work papers, journals, ledgers, statements, returns, reports,
21 schedules, or files; and
22 2. Any electronically stored information stored on any server
23 Blackberrys or any type of mobile device, flash drives, personal
24 digital assistants (“PDAs”), desktop personal computers and
25 workstations, laptops, notebooks, and other portable computers, or
26 other electronic storage media, whether assigned to individuals or in
27 pools of computers available for shared use, or personally owned but
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1 used for work-related purposes; backup disks and tapes, archive disks
2 and tapes, and other forms of offline storage, whether stored onsite
3 with the computer used to generate them, stored offsite in another
4 company facility, or stored, hosted, or otherwise maintained offsite by
5 a third-party; and computers and related offline storage used by
6 Defendants or Defendants’ participating associates, which may
7 include persons who are not employees of the company or who do not
8 work on company premises.

9 G. “**Lease inception**” means prior to or at consummation of the lease or
10 by delivery, if delivery occurs after consummation.

11 H. “**Motor Vehicle**” means as follows:

- 12 1. Any self-propelled vehicle designed for transporting persons or
13 property on a street, highway, or other road;
- 14 2. Recreational boats and marine equipment;
- 15 3. Motorcycles;
- 16 4. Motor homes, recreational vehicle trailers, and slide-in campers; and
- 17 5. Other vehicles that are titled and sold through dealers.

18 **ORDER**

19 **I. REPRESENTATIONS RELATING TO THE**
20 **SALE, FINANCING, OR LEASING OF VEHICLES**

21 **IT IS ORDERED** that Defendants, Defendants’ officers, agents, employees,
22 and those persons or entities in active concert or participation with any of them,
23 who receive actual notice of this Order, whether acting directly or indirectly, in
24 connection with the advertising, marketing, offering for sale or lease, sale or lease,
25 or servicing of motor vehicles, are preliminarily restrained and enjoined from
26 misrepresenting, expressly or by implication:

27 A. The cost of:
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1 lease, sale or lease, or servicing of motor vehicles, are preliminarily restrained and
2 enjoined from making any representation, expressly or by implication, about:

3 A. A discount, rebate, bonus, incentive, or price unless the representation
4 is not otherwise misleading and the representation clearly and conspicuously
5 discloses any material qualifications or restrictions, including but not limited to
6 qualifications or restrictions on: (i) a consumer's ability to obtain the discount,
7 rebate, bonus, incentive, or price and (ii) the vehicles available at the discount,
8 rebate, bonus incentive, or price;

9 B. A refund, cancellation, exchange, or repurchase policy unless the
10 representation is not otherwise misleading and the representation clearly and
11 conspicuously discloses any material qualifications or restrictions on the
12 consumer's ability to request or obtain a refund, cancellation, exchange, or
13 repurchase and the manner and timing of a refund, cancellation, exchange, or
14 repurchase; or

15 C. An opinion, belief, finding, or experience of any person unless the
16 opinion, belief, finding, or experience is not misleading and the representation
17 clearly and conspicuously discloses any material connection between such person
18 and Defendants. For purposes of this provision, material connection shall mean
19 any relationship that materially affects the weight and credibility of any
20 endorsement and that would not be reasonably expected by consumers.

21 **III. TRUTH IN LENDING ACT**

22 **IT IS FURTHER ORDERED** that Defendants, Defendants' officers,
23 agents, employees, and those persons or entities in active concert or participation
24 with any of them, who receive actual notice of this Order, whether acting directly
25 or indirectly, in connection with any advertisement for any extension of consumer
26 credit, are preliminarily restrained and enjoined from:

27 A. Stating, expressly or by implication:
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1 1. The amount or percentage of any down payment, the number of
2 payments or period of repayment, the amount of any payment, or the
3 amount of any finance charge, without disclosing clearly and
4 conspicuously all of the following terms:

- 5 a. The amount or percentage of the down payment;
- 6 b. The terms of repayment; and
- 7 c. The annual percentage rate, using the term “annual percentage
8 rate” or the abbreviation “APR.” If the annual percentage rate
9 may be increased after consummation of the credit transaction,
10 that fact must also be disclosed; or

11 2. A rate of finance charge without stating the rate as an “annual
12 percentage rate” or the abbreviation “APR,” using that term; or

13 B. Failing to comply in any respect with Regulation Z, 12 C.F.R. Part
14 226, as amended, and the Truth in Lending Act, as amended, 15 U.S.C. §§ 1601-
15 1667.

16 **IV. CONSUMER LEASING ACT**

17 **IT IS FURTHER ORDERED** that Defendants, Defendants’ officers,
18 agents, employees, and those persons or entities in active concert or participation
19 with any of them, who receive actual notice of this Order, whether acting directly
20 or indirectly, in connection with any advertisement for any consumer lease, are
21 preliminarily restrained and enjoined from:

22 A. Stating, expressly or by implication, the amount of any payment or
23 that any or no initial payment is required at lease inception without disclosing
24 clearly and conspicuously the following terms:

- 25 1. That the transaction advertised is a lease;
- 26 2. The total amount due at lease signing or delivery;
- 27 3. Whether or not a security deposit is required;

- 4. The number, amounts, and timing of scheduled payments; and
- 5. That an extra charge may be imposed at the end of the lease term in a lease in which the liability of the consumer at the end of the lease term is based on the anticipated residual value of the vehicle; or

B. Failing 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.

V. TEMPORARY REMOVAL OF DECEPTIVE REVIEWS

IT IS FURTHER ORDERED that Defendants, Defendants’ officers, agents, employees, and those persons or entities in active concert or participation with any of them, who receive actual notice of this Order, including any person hosting or otherwise controlling any Internet content, server, or website that contains any existing reviews or testimonials that do not comply with Sections I.E and II.C (hereinafter “Deceptive Reviews”), immediately upon service of the Order upon them, shall:

A. Immediately take any necessary steps to ensure that any Deceptive Reviews on any website, blog, or social media service are no longer viewable or accessible to the public using the Internet;

B. Preserve any: (1) Internet content, servers, or websites that contain Deceptive Reviews, by preserving such content, servers, or websites in the format in which they were maintained as of the date of entry of this Order, and (2) electronically stored information related to Deceptive Reviews; and

C. Within ten (10) days following this Order, notify in writing counsel for the FTC of any Deceptive Reviews subject to Section V.A-B.

Section V shall not be construed to require any action beyond any person or entity’s present ability, provided that each person or entity has taken all reasonable steps within its power to insure compliance with this Section.

1 **VI. PRESERVATION OF RECORDS**

2 **IT IS FURTHER ORDERED** that Defendants, Defendants’ officers,
3 agents, employees, attorneys, and those persons or entities in active concert or
4 participation with any of them, who receive actual notice of this Order, whether
5 acting directly or indirectly, are hereby preliminarily restrained and enjoined from
6 destroying, erasing, mutilating, concealing, altering, transferring, or otherwise
7 disposing of, in any manner, directly or indirectly, any documents, including, but
8 not limited to electronically stored information, voicemail, or text messages on
9 personal devices or e-mail accounts, that relate to the business practices,
10 advertising or marketing, or business or finances, of Defendants, or an entity
11 directly or indirectly under the control of Defendants.

12 **VII. NOTICE OF FINANCIAL TRANSACTIONS, NEW ENTITIES, AND**
13 **LITIGATION**

14 **IT IS FURTHER ORDERED** that Defendants shall provide counsel for the
15 Commission with notice of the following while this Order is in effect:

16 A. Any transfer by any Corporate Defendants of any money or tangible
17 or intangible assets or any expenditure with a value of over \$100,000 from the date
18 of entry of this Order at least five (5) business days prior to such transfer or
19 expenditure. Such notice shall include: (1) the name of the recipient; (2) the
20 recipient’s address and telephone number; and (3) a detailed description of the
21 purpose of such transfer or expenditure. This provision shall not apply to (i) any
22 bona-fide, arms-length motor vehicle transaction of the Defendants or (ii) any
23 expenditure incurred in the normal course of business by Corporate Defendants,
24 such as payroll or tax obligations;

25 B. Any new business entity, whether newly formed or previously
26 inactive, including any partnership, limited partnership, joint venture, sole
27 proprietorship, or corporation, directly or indirectly, created, operated, or
28 controlled by any Defendant at least five (5) business days prior to any such action.

1 Such notice shall include: (1) the name of the business entity; (2) the address and
2 telephone number of the business entity; (3) the names of the business entity's
3 officers, directors, principals, and managers; and (4) a detailed description of the
4 business entity's intended activities; and

5 C. The commencement, prosecution, stay, continuation, cessation,
6 conclusion, or enforcement of any suit, legal proceeding, or judgment for, against,
7 on behalf of, in, or in the name of, any Defendant that is related to the subject
8 matter of this action, material to the business or financial condition of any
9 Defendant, or otherwise involves any potential claim, judgment, monetary award,
10 penalty, or sanction greater than \$100,000 at least five (5) business days after the
11 occurrence of any such action.

12 **VIII. DISTRIBUTION OF ORDER BY DEFENDANTS**

13 **IT IS FURTHER ORDERED** that immediately after service of this Order,
14 Defendants shall provide a copy of this Order to each of their agents, employees,
15 officers, subsidiaries, affiliates, attorneys, independent contractors, representatives,
16 franchisees, and all persons in active concert or participation with Defendants, who
17 participate in or have any responsibilities relating to the subject matter of this
18 action. Within ten (10) days following this Order, Defendants shall provide the
19 Commission with an affidavit identifying the names, titles, addresses, and
20 telephone numbers of the persons that Defendants have served with a copy of this
21 Order in compliance with this provision.

22 **IX. SERVICE OF THIS ORDER**

23 **IT IS FURTHER ORDERED** that copies of this Order may be served by
24 facsimile, email, personal or overnight delivery, or by U.S. Mail, by agents and
25 employees of the FTC or by private process server upon any person or entity that
26 may be subject to any provision of this Order.

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X. CORRESPONDENCE

IT IS FURTHER ORDERED that, for purposes of this Order, because mail addressed to the FTC is subject to delay due to heightened security screenings, all affidavits, correspondence, notice, and service on the Commission shall be sent via email or overnight courier such as FedEx or UPS addressed to:

Thomas J. Widor
Federal Trade Commission
600 Pennsylvania Ave., NW
Mail Stop: CC-10232
Washington, DC 20580

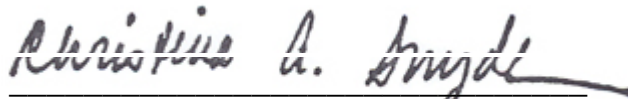
XI. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

XII. PENDING PRELIMINARY INJUNCTION MOTION AND HEARING

IT IS FURTHER ORDERED that the Commission’s Motion is withdrawn without prejudice and the Preliminary Injunction hearing set for November 14, 2016 at 10:00 am is hereby **VACATED**.

SO ORDERED THIS 25TH day of October, 2016.



THE HON. CHRISTINA SNYDER
UNITED STATES DISTRICT COURT