

Commissioner Mills not participating for the reason that he did not hear oral argument herein.

IN THE MATTER OF
BOB WILSON, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket 7913. Complaint, June 3, 1960—Decision, Nov. 30, 1960

Consent order requiring used car dealers in Washington, D.C., to cease making false claims concerning down payments, financing rates and plans, monthly terms, guarantees on their used cars, etc., as in the order below indicated.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Bob Wilson, Inc., a corporation, trading as Dan Brown, and Monroe Lenoff, individually and as an officer of the corporate respondent, and Marvin H. Greenfield, Phillip Rubenstein and Jack Kennedy, individually, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

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PARAGRAPH 1. Respondent Bob Wilson, Inc., is a corporation organized and existing under and by virtue of the laws of the State of Maryland and licensed to transact business in the District of Columbia. Said corporation trades under the name of Dan Brown. Its office and principal place of business is located at 3rd and K Streets, NW., Washington, D.C.

Respondent Monroe Lenoff is an officer of the respondent corporation and together with respondents Marvin H. Greenfield and Phillip Rubenstein, principal stockholders therein, and Jack Kennedy, formulate, direct and control the acts and practices of the corporate respondent, as hereinafter set forth. Their business address is the same as the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of used automobiles in the District of Columbia. Their volume of business is substantial.

PAR. 3. In the course and conduct of their business, and for the purpose of inducing the sale of their used automobiles, respondents have made certain statements in newspapers published in the District of Columbia and in radio broadcasts emanating from the District of Columbia, concerning their said automobiles and their method of doing business. Typical but not all inclusive of said statements are the following:

- \$1.00 Down Payments as Low as \$14 Per Mo.
- Only \$1 Down Charge the Balance.
- No Down Payment Too Small to Consider.
- \$1.00 Down and Assume Balance Due.
- \$1 Down on Any Car on lot.
- No Cash Needed.
- No Small Loan Needed.
- Name Your Terms.
- Up to 48 Months to Pay.
- Bank Financing and 1 Year 100% Warranty.
- All Cars Guaranteed.
- 100% Parts and Labor Guarantee Available.
- All Cars Approved for D.C. & Va. Inspection.
- Special Financing for D.C. and Federal Employees.
- Extra Special Financing for Military Personnel.
- Special Department for Military Personnel.
- New and Lower Financing Plans for All Grades and Department of D.C. and Federal Government Workers.
- Special Bank Financing for Military Personnel.

PAR. 4. Through the use of the aforesaid statements the respondents represent that:

(a) They sell used automobiles on credit accounts with little or no down payment.

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(b) No small loans are necessary to make a purchase of a used car.

(c) Terms as low as \$14.00 per month and over a period of 48 months are available to used car purchasers.

(d) They offer bank rate financing.

(e) All cars are guaranteed.

(f) All cars are approved by the District of Columbia and State of Virginia.

(g) Special financing plans are offered for all grades of District of Columbia and Federal Government employees.

(h) A special department and financing plans are operated for the benefit of military personnel.

PAR. 5. Said statements and representations are false, misleading and deceptive. In truth and in fact:

(a) Respondents do not sell cars without a down payment. When a minimum sum such as one dollar is accepted by the respondents it is not as a down payment, but is for the purpose of providing a consideration for a contract of purchase.

(b) Purchasers of respondents' used cars have been and frequently are required to contract for small loans, mostly with sources outside the District of Columbia, in addition to installment financing in order to meet respondents' down payment requirements.

(c) Used cars have seldom, if ever, been sold on terms as low as \$14.00 a month or over a period of 48 months.

(d) Bank rate financing is not offered by the respondents with respect to sales of used cars.

(e) Respondents, in most instances, sell their used cars with a purported 30 day, 50-50 guarantee or warranty which requires all work to be done in their shop. The limitations imposed upon the purchasers by this "written-in" purported warranty are not fully disclosed and, in some instances, are changed without the purchasers' knowledge. In those cases where a purported guarantee or warranty is given beyond 30 days, it is charged for in the guise of a delivery and handling charge on the car order or bill of sale.

(f) Respondents' used cars are not, in fact, approved by the District of Columbia and State of Virginia.

(g) Respondents have no special financing plans for the benefit of District of Columbia and Federal Government employees; likewise they do not operate any special department or financing plan for the benefit of military personnel.

PAR. 6. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of used automobiles.

PAR. 7. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were, and are, true and into the purchase of a substantial number of respondents' used automobiles by reason of said erroneous and mistaken belief. As a consequence thereof, substantial trade in commerce has been, and is being, unfairly diverted to respondents from their competitors and substantial injury has thereby been, and is being, done to competition in commerce.

PAR. 8. The aforesaid acts and practices of respondents, as herein alleged, were, and are, all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.

Mr. Ames W. Williams and *Mr. Michael P. Hughes* for the Commission.

Mr. Stanley M. Kaiser, of Washington, D.C., for respondent *Monroe Lenoff*; and *Mr. John T. Bonner*, of Washington, D.C., for all other respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondents, who are engaged in the advertising, offering for sale, sale and distribution of used automobiles in the District of Columbia, with violation of the Federal Trade Commission Act by the use of false, misleading and deceptive statements and representations in newspapers published in the District of Columbia, and in radio broadcasts emanating from the District of Columbia, concerning their said automobiles and their method of doing business.

After the issuance of the complaint, respondents, their counsel, and counsel supporting the complaint entered into an agreement containing consent order to cease and desist, which was approved by the Acting Director, the Associate Director, and the Assistant Director of the Commission's Bureau of Litigation, and thereafter transmitted to the Hearing Examiner for consideration.

This agreement states that respondent *Bob Wilson, Inc.*, is a corporation organized and existing under and by virtue of the laws of the State of Maryland and licensed to transact business in the District of Columbia; that said corporation trades under the name of *Dan Brown*, with its office and principal place of business located

at 3rd and K Streets, N.W., Washington, D.C.; that respondent Monroe Lenoff was an officer of the respondent corporation and together with respondents Marvin H. Greenfield and Philip Rubinstein (erroneously named in the complaint as Phillip Rubenstein) formulated, directed and controlled the acts and practices of the corporate respondent; that the business address of Marvin H. Greenfield and Philip Rubinstein is the same as that of the corporate respondent; and that the former address of Monroe Lenoff was the same as that of the corporate respondent, his present address being 4301 Rhode Island Avenue, Brentwood, Maryland.

The agreement further states that according to the deposition of John F. Kennery, erroneously named in the complaint as Jack Kennedy, which deposition is attached to and made a part of the agreement, this respondent had no part in formulating, directing or controlling the acts and practices of the corporate respondent, and it is therefore agreed that the complaint should be dismissed as to him; and that according to an affidavit attached to the agreement and made a part thereof, respondent Monroe Lenoff is no longer an officer of the corporate respondent, and it is therefore agreed that the complaint should be dismissed as to him as an officer of the corporate respondent.

The agreement provides, among other things, that respondents admit all the jurisdictional facts alleged in the complaint, and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement; that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; that the complaint may be used in construing the terms of the order agreed upon, which may be altered, modified or set aside in the manner provided for other orders; that the agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint; and that the order set forth in the agreement and hereinafter included in this decision shall have the same force and effect as if entered after a full hearing.

Respondents waive any further procedural steps before the Hearing Examiner and the Commission, the making of findings of fact or conclusions of law, and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

The Hearing Examiner has determined that the aforesaid agreement containing the consent order to cease and desist provides for

an appropriate disposition of this proceeding in the public interest, and such agreement is hereby accepted. Therefore,

It is ordered, That respondents Bob Wilson, Inc., a corporation, doing business under its own name or trading as Dan Brown, or under any other name, and its officers, and Monroe Lenoff, Marvin H. Greenfield and Philip Rubinstein, individually, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of used automobiles in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that:

1. Used automobiles will be delivered to purchasers upon the payment of one dollar or any other amount, or without a payment, unless after purchasers make such payment, or the sale is made without a down payment, the automobile is in fact put into the purchasers' unrestricted possession;

2. No loans are necessary to make a purchase of a used automobile, for the purchase or delivery of which the purchaser must in fact obtain a loan;

3. They offer terms of \$14.00 per month or over a period of 48 months; or that they offer terms in any other amount per month or any other period of time, that is not in accordance with the facts;

4. They offer or make available bank rate financing; or misrepresenting in any manner the financing rate under which used automobiles are sold;

5. Used automobiles are guaranteed unless the terms and conditions of the guarantee and the manner in which the guarantor will perform are clearly set forth;

6. Used automobiles are approved for District of Columbia or Virginia inspection;

7. Special financing plans are offered for any grade of District of Columbia or Federal Government employees or that a special department or special financing plan is available for military personnel.

It is further ordered, That respondents Bob Wilson, Inc., a corporation, trading as Dan Brown, or under any other name, and its officers, and Monroe Lenoff, Marvin H. Greenfield, and Philip Rubinstein, individually, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of used automobiles in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from: Making any false, misleading or deceptive statement, directly or by im-

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plication, concerning the down payment, financing costs, rates, terms, plans respecting and methods of financing, or the guarantees or warranties offered with respect to such used automobiles.

It is further ordered, That the complaint, insofar as it relates to respondent John F. Kennedy, be, and the same hereby is, dismissed, and that the complaint be, and the same hereby is, dismissed as to respondent Monroe Lenoff as an officer of the corporate respondent.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 30th day of November, 1960, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Bob Wilson, Inc., a corporation doing business under its own name or trading as Dan Brown, and Monroe Lenoff, Marvin H. Greenfield and Philip Rubinstein, individually, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.
