

IN THE MATTER OF

G. & M., INC., TRADING AS GABBY'S AUTO DISCOUNT,
ET AL.ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL
TRADE COMMISSION ACT*Docket 7910. Complaint, June 3, 1960—Decision, Feb. 8, 1961*

Order requiring used automobile dealers in Washington, D.C., to cease advertising falsely in newspapers and otherwise that used automobiles could be purchased from them on credit for as little as \$1 down and terms as low as \$8.69 per week, could be financed at bank rate terms, and were fully warranted up to 10,000 miles.

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

Mr. John T. Bonner, of Washington, D. C., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges that G. & M., Inc., a corporation trading as Gabby's Auto Discount and Gabriel Bobrow, alias Gabby McCoy, have violated the Federal Trade Commission Act, by the use of false, misleading and deceptive statements and representations in connection with their business of selling used automobiles.

The facts are as follows:

1. G. & M., Inc. (in all of respondents' pleading the name so appears) is a corporation organized and doing business under the laws of the District of Columbia, trading as Gabby's Auto Discount, with offices at 12th and I Streets, N.W., Washington, D. C. Gabriel Bobrow, of the same address, known also as Gabby McCoy, is an officer of said corporation and, during the period covered by the complaint herein, formulated, directed and controlled its business activities, including the acts and practices referred to in the complaint.

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

3. In the course and conduct of their business and for the purpose of promoting the sale of their used automobiles, respondents have made certain statements and representations in newspaper advertisements published in the District of Columbia.

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4. Representative of such advertising statements are the following:

A. From the Washington Daily News of Wednesday, August 5, 1959, page 55 (CX 1):

DRIVE NOW!

PAY LATER!

\$1

DOWN.

On Any Car You Want!

on approved credit.

B. From the Washington Daily News of Tuesday, January 12, 1960, page 60 (CX 2):

\$ 1 D O W N

on approved credit

* * * * *

(5 cars listed with prices
ranging from \$350 to \$1,746)
Many More to Choose From

Terms as

low as

\$8.69

Per Wk.

* * * * *

Military Personnel Financed.

C. From the Washington Daily News of Monday, January 18, 1960, page 34 (CX 3):

GUARANTEE OF
SATISFACTION

* * * * *

5. Bank rate terms available!

6. Up to 10,000-mile warranty available on all cars!

D. From the Washington Post of Tuesday, January 12, 1960 (CX 4):

DRIVE NOW!

PAY LATER!

(5 cars listed with prices
ranging from \$464 to \$1,820)
Many more hardtops, convertibles and sedans to
choose from!

* * * * *

Terms as

low as

\$8.69

Per

Wk.

5. Through such statements respondents conveyed the impression to prospective purchasers and represented that any of the automobiles offered in the respective advertisements could be purchased from respondents on credit for as little as \$1 down and terms as low as \$8.69 per week; that they could be financed at bank rate terms and fully warranted up to 10,000 miles.

6. These representations were and are false, misleading and deceptive.

Respondent Bobrow testified that there were three or four types of dollar-down contracts. One such contract, dated 1/21/60 (CX 5) shows sale of a \$950 car to purchaser Golden of Ft. Meade, Md., with a down payment of \$1, but on the margin are the notations "Payment of \$299.00 due 1-22-60" and "Payment of \$50.00 due 2-3-60". The contract lists "total cash price balance—\$949.00", to which is added \$70 for \$100 deductible collision 12-months insurance, \$32.03 for 21-month life-insurance, and a finance charge of \$212.97, making "total time price balance due from purchaser—\$1,264.00". Terms of payment were to be: 3 payments of \$35.00 each, payable on the fifth day of each month beginning March 5, 1960, and 18 payments of \$45.00 each. The two marginal payments were described by witness Bobrow as "pick-up payments", which he defined as "payment that's paid after the original downpayment has been made to supplement the downpayment to bring the payments down lower to accommodate the customer. It depends on what payment the customer wanted".

The amount due for the car and insurance on the day following the day of purchase, after the \$299 pick-up payment, was approximately \$750.00. The financing charge of \$212.97 amounted to 28.40% of this sum, which is far in excess of "bank rate terms". The \$1 down payment is a figment of the imagination. To all intents and purposes the down payment in this instance was \$300.00.

7. The respondent Bobrow testified further that he could sell any used car "up to a value between say around \$700 or a little over \$700" for weekly payments of \$8.69 per week, but beyond that price payments would necessarily have to be higher. As an example of a contract calling for payments as low as \$20 per month, respondent presented a conditional sales contract (RX 1) dated 3/31/59, showing sale of a 1953 Chevrolet to Henrietta Boswell of Silver Spring, Md., for \$790, with cash down payment of \$125; "irregular installments" of \$295.00 due 4/2/59 and \$75 due 4/10/59; 11 payments of \$20 per month beginning 5/5/59; and a final payment of \$221. The financing

charges were \$126.00. There was no insurance. If the payments were made as scheduled on the conditional sales contract, the purchaser paid, within less than two weeks from the date of purchase of the \$790 car, the sum of \$495, and was then obligated to pay within one year \$441 more. On this contract the total car cost, including \$126 for financing, amounts to \$916, the payments to \$936. No explanation was offered for the \$20 discrepancy, and the payments on the time balance, shown as \$791, averaged more than \$60 per month.

8. As an example of an \$8-per-week payment contract, respondent presented another conditional sales contract (RX 2) dated 4/20/59 showing sale of a 1949 Chevrolet sedan to Thomas L. Bittle of Washington, D. C., for \$310 with \$115 down. Financing charges in this case were \$50.00, leaving a time balance of \$245. Payments on this contract were shown to be due as follows:

\$25 due 4/24/59,
\$20 due 5/1/59,
25 payments of \$8 due on Friday of each week
beginning 5/8/59.

Within less than 28 weeks the purchaser would have paid out \$360 for his \$310 car. The deferred payments on the \$245 amounted to approximately \$8.75 per week. The financing charges were in excess of "bank rate terms". As to bank rate terms, one witness testified that his bank only financed 1958, 1959 and 1960 cars, that the rate was 5% discount, that older cars were not financed as such but that personal loans were made available to eligible customers at 6% discount rate.

9. Without attempting to belabor the issues, but to show enough examples of respondents' practices to remove any doubt as to their methods of operation, further examples have been selected at random from exhibits of record.

A. By a car order (CX 10), dated 1/25/60, a 1957 Buick was sold to James R. Johnson of Washington, D.C., for \$1895. Additional charges were:

\$ 67 for 12 months' \$100 deductible
collision insurance;
78.68 for 24 months' life insurance;
471.32 financing charge:

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Total car cost \$2,512, time price balance due \$2,362.

Payments were:

Balance for trade-in -----	\$ 150
1/26/60 -----	295
1/29/60 -----	50
2/27/60 -----	50
Beginning 3/12/60, 52 bi-weekly payments	
of \$34 each -----	1,768
Final payment -----	199
	\$2,512

Within five days of the order the purchaser had paid \$495 on his car, but was charged \$471.32 for financing \$2,362—a charge much above “bank rate terms.”

B. Another car order (CX 12) dated 9/19/59 is for a 1956 Ford sold to Robert E. Geluz of the District for \$1,295. Additional charges were:

\$ 97 for 12 months' \$100 deductible
collision insurance;
79.80 for 18 months' life, health and
accident insurance;
253.20 for financing;

Total car cost \$1,725.

Payments were:

9/19/59 down payment -----	\$ 210
9/25/59 pick-up payment -----	100
10/2/59 pick-up payment -----	45
10/16/59 pick-up payment -----	40
Beginning 11/2/59, 37 bi-weekly payments	
of \$35 each -----	1,295
Final payment -----	35
	\$1,725

Total time price balance due from purchaser is shown on the order as \$1,515, taking no account of the “pick-up” payments.

C. One more transaction evidenced by a conditional sales contract (RX 9A) dated 8/31/59 involves sale of a 1957 Ford for \$2,460. Additional charges were:

\$ 73 for 12 months' fire, theft, \$100
deductible collision insurance;
74.24 for 24 months' life insurance;
312.76 financing charges;

Total car cost \$2,920.

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Payments were:

8/31/59 cash down	\$ 50
9/1/59 "irregular installment"	800
9/18/59 "irregular installment"	100
10/2/59 "irregular installment"	50
Beginning 10/16/59, 23 monthly payments of \$65 each	1,495
Final payment	425
	\$2,920

Total time balance is shown as \$2,870, although within less than twenty days from purchase date \$950 had been paid in on a \$2,460 sale. The financing charge of \$312.76 is far in excess of "bank rate terms", even assuming the insurance charges totaling \$147.24 are accurate and reasonable.

10. The record contains documentary evidence of eleven of respondents' used-car transactions, a tabulation of which, excluding the three mentioned in the preceding paragraph, follows:

Ex. No.	Car selling price	Down pay- ment	Addi- tional pay- ments within 30 days	Insur- ance charge	Finance charge	Time balance	Credit term (years)
CX 5.....	\$950	\$1	\$349	\$102.03	\$212.97	\$1,264	2
CX 7.....	1,800	140	330	176.20	403.80	2,240	2½
CX 9.....	850	250	None	118.31	47.50		
CX 11.....	1,295	250	95	116.25	197.94	963.75	1¾
CX 13.....	2,095	545	100	224.15	350.49	1,512	2
RX 1.....	790	125	370	None	470.85	2,245	2
RX 2.....	310	115	45	None	126.00	791	1
RX 10A.....	2,725	1,000	None	*95.00 211.15	50.00 577.80	245 2,608.95	¾ 2

*GAD warranty charge.

Cash selling price plus insurance and finance charges minus the down payment equals time balance. The amounts of the pick-up payments made almost immediately (always within 30 days) were never deducted before determining the time balance. As to warranties, Commission's Exhibits 5, 7, 10 and 12 show "Gabby's Gold Star Warranty"; Commission's Exhibits 8, 9, 11 and 13 show "This car is purchased as is."; Respondents' Exhibits 1 and 2 make no reference to seller's warranty; and Respondents' Exhibit 10 shows a charge of \$95 for G.A.D. warranty.

11. Respondents' warranty form (CX 6) provides that Gabby's Auto Discount agrees under certain conditions to protect the purchaser "from ----- % of the cost" of certain specified parts and labor "for a period of ----- days". If a 10,000-mile or any other war-

ranty was given, the terms had to be written in. The evidence warrants the conclusion that in many cases no warranty was given or offered, and that the warranties, where given, were not uniform, varying with the amount paid for the warranty and the demands made by the individual customers. There was no standard warranty.

12. Seven of the eleven exhibits of record show that financing was through United Securities Corporation, at rates which respondent Bobrow admitted were not bank financing rates. One exhibit shows financing through Franklin Discount Company; three do not disclose the financing company's name. (Respondents' rates were uniformly much higher than bank rates.)

CONCLUSIONS

The charges set forth in the complaint have been established by substantial, reliable, probative evidence.

The acts and practices of respondents so established were and are all to the prejudice and injury of the public and of respondents' competitors, and 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.

The Federal Trade Commission has jurisdiction in this proceeding, which is in the public interest.

Accordingly,

It is ordered, That respondents G. & M., Inc., a corporation doing business under its own name or trading as Gabby's Auto Discount, or under any other name, and its officers, and Gabriel Bobrow, alias Gabby McCoy, individually and as an officer of said corporation, 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 purchaser makes such payment, or the sale is made without a down payment, the automobile is in fact put into the purchaser's unrestricted possession;

2. They offer or make available bank rate financing, or that the financing rate under which used automobiles are sold is any rate not in accordance with the facts;

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3. Terms as low as \$8.69, or any other amount, per week, month, or any other period, are available to purchasers, unless such is the fact;

4. Used automobiles are warranted unless the nature and extent of the warranty and the manner in which the warrantor will perform are clearly set forth, and, if a charge is made for the warranty, such fact and the amount of the service charge are clearly disclosed.

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 8th day of February, 1961, become the decision of the Commission; and, accordingly:

It is ordered, That respondents G. & M., Inc., a corporation, trading as Gabby's Auto Discount and Gabriel Bobrow, alias Gabby McCoy, individually and as an officer of said corporation, 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.