

Docket C-1837. Complaint, Dec. 30, 1970—Decision, Dec. 30, 1970

Consent order requiring a Cleveland, Ohio, seller of used automobiles to cease violating the Truth in Lending Act by failing to use the following terms in its customer contracts: cash price, cash downpayment, unpaid balance of cash price, amount financed, finance charge, annual percentage rate, total of payments, and deferred payment price; failing to include the premium for required credit life insurance, to disclose the method of computing any default, and to clearly identify property to which any security interest relates.

Complaint

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COMPLAINT

Pursuant to the provisions of the Truth in Lending Act and the implementing regulation thereunder, and the Federal Trade Commission Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Hank's Auto Sales, Inc., a corporation, and Henry E. Rellah, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and implementing regulation, 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:

PARAGRAPH 1. Respondent Hank's Auto Sales, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its principal office and place of business located at 13601 Miles Avenue, Cleveland, Ohio.

Respondent Henry E. Rellah is an officer of the corporate respondent. He formulates, directs, and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the offering for sale and sale of used cars to the public at retail.

PAR. 3. In the ordinary course and conduct of their business as aforesaid, respondents regularly extend, and for some time last past have regularly extended, consumer credit as "consumer credit" is defined in Regulation Z, the implementing regulation of the Truth in Lending Act duly promulgated by the Board of Governors of the Federal Reserve System.

PAR. 4. Subsequent to July 1, 1969, respondents, in the ordinary course and conduct of their business, and in connection with their credit sales as "credit sale" is defined in Regulation Z, have caused and are causing customers to execute Used Car Order Contracts, hereinafter referred to as the "Order Contract," and "Retail Installment Security Agreements," hereinafter referred to as the "Security Agreement." Respondents make no disclosures to customers in connection with their credit sales, except on the order contract.

By and through the use of the order contract, respondents:

(1) Fail to use the term "cash price," as defined in § 226.2, to describe the purchase price of the automobile, as required by § 226.8(c) (1) of Regulation Z.

(2) Fail to use the term "cash downpayment" when all or part of the downpayment is in money, as required by § 226.8(c) (2) of Regulation Z.

(3) Fail to use the term "unpaid balance of cash price" to describe the difference between the cash price and the total downpayment, as required by § 226.8(c) (3) of Regulation Z.

(4) Fail to use the term "amount financed" to describe the balance financed, as required by § 226.8(c) (7) of Regulation Z.

(5) Fail to disclose the "finance charge" and "annual percentage rate," using those terms, in credit transactions where finance charges are imposed, as required by § 226.4, § 226.5, § 226.6, and § 226.8(b) of Regulation Z.

(6) Fail to use the term "total of payments" to describe the dollar amount of the sum of payments scheduled to repay the indebtedness, as required by § 226.8(b) (3) of Regulation Z.

(7) Fail to use the term "deferred payment price" to describe the sum of the cash price, all other charges individually itemized, and the finance charge, as required by § 226.8(c) (8) (ii) of Regulation Z.

(8) Fail to include the premium for required credit life insurance in the finance charge and to disclose it as part of the finance charge, as required by § 226.4 and § 226.8, respectively, of Regulation Z.

(9) Fail to disclose the amount, or method of computing the amount, of any default, delinquency, or similar charges payable in the event of late payments, as required by § 226.8(b) (4) of Regulation Z.

(10) Retain a security interest in the automobile sold on consumer credit and fail to clearly identify the property to which the security interest relates, as required by § 226.8(b) (5) of Regulation Z.

PAR. 5. By the aforesaid failure to make the disclosures in the order contract, respondents have failed to comply with the requirements of Regulation Z, the implementing regulation of the Truth in Lending Act duly promulgated by the Board of Governors of the Federal Reserve System. Pursuant to Section 103(k) of the Truth in Lending Act, respondents' aforesaid failures to comply with Regulation Z constitute violations of that Act and, pursuant to Section 108 thereof, respondents have thereby violated the Federal Trade Commission Act.

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DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging respondents named in the caption hereof with violation of the Federal Trade Commission Act, the Truth in Lending Act and the implementing regulation promulgated thereunder, and respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

Respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having considered the agreement and having accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of thirty (30) days, and comments thereon having been received, considered, and adopted in part by the Commission, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Proposed respondent, Hank's Auto Sales, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Ohio, with its principal office and place of business located at 13601 Miles Avenue, Cleveland, Ohio.

Proposed respondent, Henry E. Rellah, is the president and owner of the said corporation; he formulates, directs, and controls the policies, acts, and practices of said corporation, and his business address is the same as that of said corporation.

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

ORDER

It is ordered, That respondents Hank's Auto Sales, Inc., a corporation, and its officers, and Henry E. Rellah, 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 any consumer credit sale of automobiles or any other merchandise or service, as "credit sale" is defined in Regulation Z (12 CFR Part 226) of the Truth In Lending Act (Public Law 90-321, 15 U.S.C. 1601, *et seq.*), do forthwith cease and desist from:

- (1) Failing to employ the term "CASH PRICE," as defined in Regulation Z, to describe the price at which respondents offer to sell for cash the goods or services which are the subject of a contract the balance financed, as required by § 226.8(b)(7) of Regulation Z.
- (2) Failing to employ the term "CASH DOWNPAYMENT" to describe any downpayment in money, as required by § 226.8(c)(2) of Regulation Z.
- (3) Failing to employ the term "UNPAID BALANCE OF CASH PRICE" to describe the difference between the cash price and the total downpayment, as required by § 226.8(c)(3) of Regulation Z.
- (4) Failing to employ the term "AMOUNT FINANCED" to describe the balance financed, as required by § 226.8(b)(7) of Regulation Z.
- (5) Failing to disclose the "FINANCE CHARGE" and the "ANNUAL PERCENTAGE RATE," using those terms, in credit transactions where finance charges are imposed, in the manner and form required by § 226.4, § 226.5, § 226.6, and § 226.8 of Regulation Z.
- (6) Failing to employ the term "TOTAL OF PAYMENTS" to describe the dollar amount of the payments scheduled to repay the indebtedness, as required by § 226.8(b)(3) of Regulation Z.
- (7) Failing to employ the term "DEFERRED PAYMENT PRICE" to describe the sum of the cash price, all other charges individually itemized, and the finance charge, as required by § 226.8(b)(8)(ii) of Regulation Z.
- (8) Failing to include the premium for required credit life insurance in the finance charge, and to disclose it as part of the finance charge, as required by § 226.4 and § 226.8, respectively, of Regulation Z.
- (9) Failing to disclose the amount, or method of computing the amount, of any default, delinquency, or similar charges payable in the event of late payments, as required by § 226.8(b)(4) of Regulation Z.
- (10) Failing to make a clear identification of the property to which any SECURITY INTEREST relates, as required by § 226.8(b)(5) of Regulation Z.
- (11) Failing, in any consumer credit transaction or advertisement,

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to make all disclosures in the manner, form and amount required by § 226.6, § 226.8, § 226.9 and § 226.10 of Regulation Z.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment, or sale, resultant in the emergence of a successor corporation, the creation of or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondents 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 contained herein.

IN THE MATTER OF

HOLLYWOOD CREDIT CLOTHING CO., INC., ET AL.