

Complaint

78 F.T.C.

IN THE MATTER OF

S & R USED CARS INC., DOING BUSINESS AS
GENERAL CAR & WAGON SALES, ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION AND THE TRUTH IN LENDING ACTS*Docket C-1943. Complaint, June 8, 1971—Decision, June 8, 1971*

Consent order requiring a Washington, D.C., seller of used automobiles to cease violating the Truth in Lending Act by failing to disclose on installment contracts the terms cash price, cash downpayment, unpaid balance, amount financed, and deferred payment price, failing to itemize the charge for property insurance, and failing to make the disclosures required by Regulation Z of said Act.

COMPLAINT

Pursuant to the provisions of the Truth in Lending Act and the implementing Regulation promulgated 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 S & R Used Cars Inc., a corporation doing business as General Car & Wagon Sales, and Samuel J. Battista, 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 S & R Used Cars Inc., a corporation doing business as General Car & Wagon Sales, is a corporation organized, existing and doing business under and by virtue of the laws of the District of Columbia with its principal office and place of business located at 1717 Rhode Island Avenue, N.E., Washington, D.C.

Respondent Samuel J. Battista is an officer of the corporate respondent. He formulates, directs and controls the policies, 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 advertising for sale, offering for sale, and sale of automobiles to the public.

PAR. 3. Since July 1, 1969, 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 their customers to execute personal loan notes, installment loan contracts, or retail installment contracts, each hereinafter referred to as the "contract." Respondents make no consumer credit cost disclosures to customers other than on the contract. By and through the use of the contract, respondents:

1. Failed to disclose accurately the amount of cash price, and to describe that amount as the "cash price," as required by Section 226.8(c)(1) of Regulation Z.
2. Failed to disclose accurately the amount of the downpayment in money, and to describe that amount as the "cash downpayment," as required by Section 226.8(c)(2) of Regulation Z.
3. By reason of failing to accurately disclose the "cash price" and "cash downpayment" as stated in Paragraphs 1 and 2 above, failed to disclose accurately the "unpaid balance of cash price," "unpaid balance," "amount financed," and "deferred payment price," as required by Sections 226.8(c)(3), 226.8(c)(5), 226.8(c)(7) and 226.8(c)(8)(ii), respectively, of Regulation Z.
4. Failed to disclose the "annual percentage rate" accurately to the nearest quarter of one percent, computed in accordance with the provisions of Section 226.5 of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.
5. Failed to disclose accurately the due dates and periods of payments scheduled to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.
6. Failed to include in the finance charge the amount of the charge for required property insurance in instances where the customer was not furnished with a statement in writing setting forth the cost of the insurance if obtained from or through the creditor and stating that the customer may choose the person through which the insurance was to be obtained, as provided in Section 226.4(a)(6) of Regulation Z, in violation of Section 226.8(c)(8)(i), and thereby failed to state the amount of the finance charge accurately, as required by that section.

PAR. 5. Subsequent to July 1, 1969, in the ordinary course and con-

duct of their business, respondents have caused to be published advertisements for their used cars, as "advertisement" is defined in Regulation Z, which advertisements aid, promote, or assist directly or indirectly extensions of consumer credit in connection with the sale of these used cars. By and through use of these advertisements, respondents failed to disclose accurately the "annual percentage rate" and "deferred payment price," as required by Section 226.10(d)(2) of Regulation Z.

PAR. 6. Pursuant to Section 103(k) of the Truth in Lending Act, respondents' aforesaid failures to comply with the provisions of Regulation Z constitute violations of that Act and, pursuant to Section 108 thereof, respondents thereby violated the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Washington Area Field Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act and of the Truth in Lending Act and the Regulation promulgated thereunder; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, 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 thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts, and that complaint should issue stating its charges in that respect and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent S & R Used Cars Inc., is a corporation organized,

existing and doing business under and by virtue of the laws of the District of Columbia, doing business as General Car & Wagon Sales, with its principal office and place of business located at 1717 Rhode Island Avenue, N.E., Washington, D.C.

Respondent Samuel J. Battista is an individual and an officer of said corporation. He formulates, directs and controls the policies of said corporation, including the acts and practices under investigation. His address is the same as that of the corporate respondent.

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 S & R Used Cars Inc., a corporation, doing business as General Car & Wagon Sales or under any other name, and its officers, and Samuel J. Battista, 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 extension of consumer credit or any advertisement to aid, promote, or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are 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 disclose accurately the amount of the cash price or failing to describe that amount as "cash price," as required by Section 226.8(c) (1) of Regulation Z.

2. Failing to disclose accurately the amount of any downpayment or failing to describe that amount as the "cash downpayment," as required by Section 226.8(c) (2) of Regulation Z.

3. Failing to disclose accurately the amount of the difference between the cash price and the cash downpayment, or failing to describe that difference as the "unpaid balance of cash price," as required by Section 226.8(c) (3) of Regulation Z.

4. Failing to disclose accurately the amount of the unpaid balance or failing to describe that amount as the "unpaid balance," as required by Section 226.8(c) (5) of Regulation Z.

5. Failing to disclose accurately the amount financed or failing to describe that amount as the "amount financed," as required by Section 226.8(c) (7) of Regulation Z.

6. Failing to disclose accurately the amount of the deferred payment price or failing to describe that amount as the "de-

ferred payment price," as required by Section 226.8(c)(8)(ii) of Regulation Z.

7. Failing to disclose the annual percentage rate, accurate to the nearest quarter of one percent, computed in accordance with the provisions of Section 226.5 of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.

8. Failing to disclose accurately the due dates and periods of payments scheduled to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.

9. Failing to separately itemize and to disclose as part of the finance charge the amount of any charge for property insurance written in connection with the transaction unless a clear, conspicuous, and specific statement in writing is furnished to the customer setting forth the cost of the insurance if obtained from or through the creditor and stating that the customer may choose the person through which the insurance is to be obtained, in accordance with Section 226.4(a)(6) of Regulation Z, as required by Section 226.8(c)(8)(i) of Regulation Z.

10. Failing to disclose the finance charge accurately, computed in accordance with Section 226.4 of Regulation Z, as required by Section 226.8(c)(8)(i) of Regulation Z.

11. Failing to disclose accurately in any advertisement the "annual percentage rate" or "deferred payment price," as required by Section 226.10(d)(2) of Regulation Z.

12. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with Section 226.4 and Section 226.5 of Regulation Z, in the manner, form and amount required by Sections 226.6, 226.8, 226.9 and 226.10 of Regulation Z.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the offering for sale, or sale of any products or in the consummation of any extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That the respondents shall forthwith distribute a copy of this order to each of their operating divisions.

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 resulting in the emergence of a successor corporation, the creation 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 herein 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 this order.
