

IN THE MATTER OF
MOTHER'S AUTO SALES, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE TRUTH IN LENDING ACTS

Docket C-2004. Complaint, Aug. 10, 1971—Decision, Aug. 10, 1971

Consent order requiring a Miami, Fla., retailer and distributor of used automobiles to cease violating the Truth in Lending Act by failing to make all material 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 Mother's Auto Sales, Inc., a corporation, and Thomas F. McCarson, individually and as an officer of said corporation, and David Talles, individually and as manager 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 Mother's Auto Sales, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its principal office and place of business located at 9750 Northwest 27 Avenue, Miami, Florida.

Respondent Thomas F. McCarson is an officer of the corporate respondent. Respondent David Talles is manager of the corporate respondent. They formulate, direct and control the policies, acts and practices of the corporation, including the acts and practices hereinafter set forth. Their 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, offering for sale and retail sale and distribution of used cars to the public.

PAR. 3. In the ordinary course and conduct of their business as aforesaid, respondents regularly extend 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 of business as aforesaid, and in connection with credit sales, as "credit sale" is defined in Regulation Z, have caused and are causing customers to execute a binding Used Car Order Contract, hereinafter referred to as the "Order Contract," which does not contain any required consumer credit cost disclosures, except the number and amount of installments. No other consumer credit cost disclosures are provided prior to consummation of the order contracts as required by Section 226.8(a) of Regulation Z.

By and through the use of the Order Contract, respondents fail in any consumer credit transaction to make all disclosures determined in accordance with Sections 226.4 and 226.5 of Regulation Z at the time and in the manner, form, and amount required by Sections 226.6 and 226.8 of Regulation Z.

PAR. 5. In the ordinary course of their business as aforesaid, respondents cause to be published advertisements of their goods and services, as "advertisement" is defined by Regulation Z. These advertisements aid, promote or assist directly or indirectly extensions of consumer credit in connection with the sale of these goods and services.

By and through the use of the advertisements, respondents state the amount of the downpayment which can be arranged in connection with a consumer credit transaction, without also stating all of the following items, in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d) (2) thereof:

- (i) The cash price;
- (ii) The amount of the downpayment required or that no downpayment is required, as applicable;
- (iii) The number, amount, and due dates or periods of payments scheduled to repay the indebtedness if the credit is extended;
- (iv) The amount of the finance charge as an annual percentage rate; and
- (v) The deferred payment price.

PAR. 6. Pursuant to Section 103(q) 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 have 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 Atlanta Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Truth in Lending Act and the implementing regulation promulgated thereunder, and the Federal Trade Commission Act; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent 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 respondent 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 Mother's Auto Sales, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 9750 Northwest 27th Avenue, Miami, Florida.

Respondent Thomas F. McCarson is an officer of said corporation. Respondent David Talles is manager of said corporation. They formulate, direct, and control the policies, acts and practices of said corporation, and their 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 Mother's Auto Sales, Inc., a corporation, and its officers, and Thomas F. McCarson, individually and as an officer of said corporation, and David Talles, individually and as manager 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 advertisement to aid, promote or assist directly or indirectly any extension of consumer

Decision and Order

79 F.T.C.

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:

Failing in any consumer credit transaction or advertising to make all disclosures determined in accordance with Sections 226.4 and 226.5 of Regulation Z at the time and in the manner, form, and amount required by Sections 226.6, 226.8 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 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 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 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.

IN THE MATTER OF

DAWN MIST CHINCHILLA, INC., ET AL.

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

Docket C-2005. Complaint, Aug. 12, 1971—Decision, Aug. 12, 1971

Consent order requiring a Des Moines, Iowa, seller and distributor of chinchilla breeding stock to cease misrepresenting that it is commercially feasible to raise chinchillas in homes, that chinchillas are hardy animals, that each pelt will sell for up to \$100, that purchasers will be given assistance and