

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

Docket C-2017. Complaint, Aug. 24, 1971—Decision, Aug. 24, 1971

Consent order requiring six retail jewelry firms in four Indiana cities engaged in advertising and selling watches, jewelry, diamonds and other merchandise at retail to cease violating the Truth in Lending Act by failing to use on their installment contracts the terms: "cash downpayment," "trade-in," "total downpayment," "unpaid balance of cash price," "amount financed," "finance charge," "deferred payment price," and other terms and conditions 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 Hillman Jewelers, Inc., a corporation, Hillman's of Vincennes, Inc., a corporation, Hillman's of Greencastle, Inc., a corporation, Hillman's of Crawfordsville, Inc., a corporation, Hillman's of Meadows Center, Inc., a corporation, Hillman's of Honey Creek Square, Inc., a corporation, and Allen Felstein and John Thompson, individually and as officers of said corporations, 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 Hillman Jewelers, Inc., is an Indiana corporation organized on January 25, 1935, with its principal office and place of business located at 612 Wabash Avenue, Terre Haute, Indiana.

Respondent Hillman's of Vincennes, Inc., is an Indiana corporation organized on September 30, 1957, with its principal office and place of business located at 231 Main Street, Vincennes, Indiana.

Respondent Hillman's of Greencastle, Inc., is an Indiana corporation organized on May 11, 1962, with its principal office and place of business located at 15 North Indiana, Greencastle, Indiana.

Respondent Hillman's of Crawfordsville, Inc., is an Indiana corporation organized on February 22, 1967, with its principal office and place of business located at Boulevard Mall, Crawfordsville, Indiana.

Respondent Hillman's of Meadows Center, Inc., is an Indiana corporation organized on March 30, 1960, with its principal office and place of business located at 11 Meadows Center, Terre Haute, Indiana.

Respondent Hillman's of Honey Creek Square, Inc., is an Indiana corporation organized on June 24, 1966, with its principal office and place of business located at Honey Creek Square, Terre Haute, Indiana.

Respondents, Allen Felstein and John Thompson are officers of the corporate respondents. They formulate, direct and control the acts and practices hereinafter set forth. Their address is 612 Wabash Avenue, Terre Haute, Indiana.

PAR. 2. Respondents are now and for some time last past have been engaged in the advertising and offering for sale, and sale of watches, jewelery, diamonds and other merchandise at retail to the public.

PAR. 3. Since July 1, 1969, in the ordinary course and conduct of their business as aforesaid, respondents 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 entered into retail installment contracts with their customers, hereinafter referred to as "the contract." Respondents make no consumer credit cost disclosures other than on the contract.

By and through the use of the contract, respondents:

1. Fail to disclose the amount of cash downpayment and fail to describe that amount as the "cash downpayment," as required by Section 226.8(c) (2) of Regulation Z.

2. Fail to disclose the amount of any downpayment in property and fail to describe that amount as the "trade-in," as required by Section 226.8(c) (2) of Regulation Z.

3. Fail to use the term "total downpayment" to describe the sum of the "cash downpayment" and the "trade-in," as required by Section 226.8(c) (2) of Regulation Z.

4. 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 Section 226.8(c) (3) of Regulation Z.

5. Fail to use the term "amount financed" to describe the amount of credit of which the customer will have the actual use, as required by Section 226.8(c) (7) of Regulation Z.

6. Fail to use the term "finance charge" to describe the total cost of credit determined in accordance with Section 226.4 of Regulation Z, as required by Section 226.8(c) (8) (i) of Regulation Z.

7. Fail to use the term "deferred payment price" to describe the sum of the "cash price," the "finance charge" and all other charges which are not part of the finance charge but which are included in the "amount financed."

8. Fail, in some instances, accurately to disclose the annual percentage rate, computed to the nearest one quarter of one percent in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(c) (2) of Regulation Z.

9. Fail to disclose the date the finance charge begins to accrue if different from the date of the transaction, as required by Section 226.8(b) (1) of Regulation Z.

10. Fail to disclose the number of payments scheduled to repay the indebtedness, as required by Section 226.8(b) (3) of Regulation Z.

11. Fail to disclose the sum of the payments scheduled to repay the indebtedness and fail to describe that sum as the "total of payments," as required by Section 226.8(b) (3) of Regulation Z.

12. Fail to identify the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation and fail to provide a statement of the amount or method of computation

of any charge that may be deducted from the amount of any rebate of such unearned finance charge that will be credited to the obligation or refunded to the customer, as required by Section 226.8(b)(7) of Regulation Z.

PAR. 5. 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 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 draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with a violation of the Federal Trade Commission Act and the Truth in Lending Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all 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 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, now in further conformity with the procedure prescribed in Section 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. Respondent Hillman Jewelers, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana, with its principal office and place of business located at 612 Wabash Avenue, Terre Haute, Indiana.

Respondent Hillman's of Vincennes, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana, with its principal office and place of business located at 231 Main Street, Vincennes, Indiana.

Respondent Hillman's of Greencastle, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana, with its principal office and place of business located at 15 North Indiana, Greencastle, Indiana.

Respondent Hillman's of Crawfordsville, Inc., a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana, with its principal office and place of business located at Boulevard Mall, Crawfordsville, Indiana.

Respondent Hillman's of Meadows Center, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana with its principal office and place of business located at 11 Meadows Center, Terre Haute, Indiana.

Respondent Hillman's of Honey Creek Square, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana, with its principal office and place of business located at Honey Creek Square, Terre Haute, Indiana.

Respondent Allen Felstein is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation and his address is the same as that of said corporation.

Respondent John Thompson is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation and his 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 Hillman Jewelers, Inc., a corporation, Hillman's of Vincennes, Inc., a corporation, Hillman's of Greencastle, Inc., a corporation, Hillman's of Crawfordsville, Inc., a corporation, Hillman's of Meadows Center, Inc., a corporation, Hillman's of Honey Creek Square, Inc., a corporation, and their officers, and Allen Felstein and John Thompson, individually and as officers of said corporations, 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 the amount of any cash downpayment or failing to describe such amount as the "cash downpayment," as required by Section 226.8(c)(2) of Regulation Z.

2. Failing to disclose the amount of downpayment in property or failing to describe that amount as the "trade-in," as required by Section 226.8(c)(2) of Regulation Z.

3. Failing to disclose the sum of the "cash downpayment" and the "trade-in," or failing to describe that sum as the "total downpayment," as required by Section 226.8(c)(2) of Regulation Z.

4. Failing to disclose the difference between the "cash price" and the "total 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.

5. Failing to disclose the amount of credit as defined in Section 226.2(d) of Regulation Z of which the customer will have the actual use or failing to disclose that amount as the "amount financed," as required by Section 226.8(c)(7) of Regulation Z.

6. Failing to disclose the amount of the "finance charge," determined in accordance with Section 226.4 of Regulation Z, or failing to describe that amount as the "finance charge," as required by Section 226.8(c)(8)(i) of Regulation Z.

7. Failing to use the term "deferred payment price" to describe the sum of the "cash price," the "finance charge," and all other charges which are not part of the finance charge but are included in the "amount financed," as required by Section 226.8(c)(8)(ii) of Regulation Z.

8. Failing to accurately disclose the "annual percentage rate," computed to the nearest one quarter of one percent in accordance with Section 226.5 of Regulation Z, or failing to describe that rate as the "annual percentage rate," as required by Section 226.8(b)(2) of Regulation Z.

9. Failing to disclose the date the finance charge begins to accrue if different from the date of the transaction, as required by Section 226.8(b)(1) of Regulation Z.

10. Failing to disclose the number of payments scheduled to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.

11. Failing to disclose the sum of the payments scheduled to repay the indebtedness, or failing to describe that sum as the "total of payments," as required by Section 226.8(b)(3) of Regulation Z.

12. Failing to identify the method of computing any unearned portion of the finance charge in the event of prepayment of the

obligation or failing to provide a statement of the amount or method of computation of any charge that may be deducted from the amount of any rebate of such unearned finance charge that will be credited to the obligation or refunded to the customer, as required by Section 226.8(b)(7) of Regulation Z.

13. 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, 226.7, 226.8, Section 226.9 and Section 226.10 of Regulation Z.

It is further ordered, That respondents shall deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the offering for sale and sale of respondents' products or services, and shall secure from each salesman or other person a signed statement acknowledging receipt of said order.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in respondents' business, such as assignment or sale resulting in the emergence of a successor business, corporate or otherwise, the creation of subsidiaries, or any other change 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.

IN THE MATTER OF

S. L. SAVIDGE, INC.

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

Docket C-2018. Complaint, Aug. 24, 1971—Decision, Aug. 24, 1971

Consent order requiring a Seattle, Wash., corporation engaged in selling new and used automobiles to cease violating the Truth in Lending Act by failing to include in the finance charge the premiums for credit life insurance, failing to disclose the accurate annual percentage rate, and making other representations in violation of Regulation Z of said Act. Respondent is