

(60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

IN THE MATTER OF

QUINN R. BARTON COMPANY

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

Docket C-2102. Complaint, Nov. 17, 1971—Decision, Nov. 17, 1971

Consent order requiring a truck and farm equipment dealer of Jacksonville, Fla., to cease using non-complying contract forms, in connection with its credit sales, which fail to contain all of the required credit cost disclosures in the prescribed form and terminology of Regulation Z of the Truth in Lending 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 Quinn R. Barton Company, a corporation, hereinafter referred to as respondent, has 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 Quinn R. Barton Company 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 1205 West Forsyth Street, Jacksonville, Florida.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the offering for sale and retail sale of new and used trucks and farm equipment to the public.

PAR. 3. In the ordinary course of its business as aforesaid, respondent regularly extends 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, in the ordinary course of its business as aforesaid, and in connection with its credit sales, as "credit sale" is defined in Regulation Z, respondent has caused and is causing its customers to execute installment contracts, hereinafter referred to as the "Contract," which do not contain all required credit cost disclosures in the prescribed form and terminology. Respondent does not furnish its customers with any other consumer credit disclosures.

Respondent failed to take bona fide steps prior to July 1, 1969, to obtain printed forms necessary for compliance with the requirements of Regulation Z and continued, prior to December 31, 1969, to use non-complying forms without altering or supplementing them to assure that all items of information required to be disclosed were set forth clearly and conspicuously. Respondent has continued in certain instances to use these non-complying forms subsequent to December 31, 1969.

By and through the use of the contract, respondent in certain instances:

1. Fails 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.

2. Fails to use the term "amount financed" to describe the amount of credit extended, as required by Section 226.8(c) (7) of Regulation Z.

3. Fails to include the amount of premiums for credit life insurance in the finance charge, as required by Section 226.8(c) (8) (1) of Regulation Z, since respondent fails to disclose that credit life insurance is not required and fails to obtain separately signed and specifically dated signatures requesting the insurance, in accordance with Section 226.4(a) (5) of Regulation Z.

4. Fails to print "finance charge" and "annual percentage rate" more conspicuously than other terminology, in accordance with Section 226.6(a) of Regulation Z, as required by Section 226.8(b) (2) and (c) (8) (i) of Regulation Z.

5. Fails to disclose the "annual percentage rate" accurately to the nearest quarter of one percent, in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(b) (2) of Regulation Z.

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

7. Fails to describe the sum of payments scheduled to repay the indebtedness as "total of payments," as required by Section 226.8(b) (3), of Regulation Z.

PAR. 5. Pursuant to Section 103(q) of the Truth in Lending Act, respondent's aforesaid failures to comply with the provisions of Regulation Z constitute violations of that Act and pursuant to Section 108 thereof respondent has 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 respondent named in the caption hereof, and the respondent 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 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 respondent has 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 is a corporation, with its office and principal place of business located at 1205 West Forsyth Street, Jacksonville, Florida.

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

ORDER

It is ordered, That respondent Quinn R. Barton Company, a corporation, its officers, and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with any credit sale or advertisement to aid, promote or assist

Decision and Order

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directly or indirectly any extension of consumer credit, as "consumer credit," "credit sale" and "advertisement" are defined in Regulation Z (12 CFR § 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 in any credit sale to describe the difference between the "cash price" and the "total downpayment" as the "unpaid balance of cash price," as required by Section 226.8(c)(3) of Regulation Z.

2. Failing to describe the amount of credit extended as the "amount financed," as required by Section 226.8(c)(7) of Regulation Z.

3. Failing in any credit sale to include the amount of premiums for credit life insurance in the finance charge as required by Section 226.8(c)(8)(i) of Regulation Z unless the respondent discloses that credit life insurance is not required and obtains a separately signed and specifically dated signature requesting the insurance in accordance with Section 226.4(a)(5) of Regulation Z.

4. Failing to print "finance charge" and "annual percentage rate" more conspicuously than other terminology in accordance with Section 226.6(a) of Regulation Z, as required by Section 226.8(b)(2) and (c)(8)(i) of Regulation Z.

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

6. Failing in any credit sale to disclose the sum of the cash price, all charges which are included in the amount financed, but which are not part of the finance charge, and the finance charge as the "deferred payment price," as required by Section 226.8(c)(8)(ii) of Regulation Z.

7. Failing in any credit sale to describe the sum of the payments scheduled to repay the indebtedness as "total of payments," as required by Section 226.8(b)(3) of Regulation Z.

8. 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 Section 226.6, Section 226.8 and Section 226.10 of Regulation Z.

It is further ordered, That respondent deliver a copy of this order to cease and desist to all present and future personnel of respondent engaged in the consummation of any extension of consumer credit

or in any aspect of preparation, creation, or placing of advertising, and that respondent secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That respondent 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 or dissolution of subsidiaries, or any other change which may affect compliance obligations arising out of the order.

It is further ordered, That respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist contained herein.

IN THE MATTER OF

SIRLES AND SON REALTY CO., INC., DOING BUSINESS AS
SIRLES AND SON REALTY, ET AL.