

Complaint

80 F.T.C.

IN THE MATTER OF

RIVERSIDE MOTORS, 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-2128. Complaint, Jan. 4, 1972—Decision, Jan. 4, 1972

Consent order requiring a Harahan, La., seller of used automobiles to cease misrepresenting that it extends credit in selling its automobiles and to cease violating the Truth in Lending Act by failing to make the required disclosures as to downpayments and finance charges as required by Regulation Z of said Act.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and of the Truth in Lending Act and the regulations promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Riverside Motors, Inc., a corporation, and Roy Tannahill and John Stephens, individually and as officers of said corporation, hereinafter referred to as respondents have violated provisions of said Acts and 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 Riverside Motors, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at 6502 Jefferson Highway, Harahan, Louisiana.

Respondents Roy E. Tannahill and John Stephens are officers of the Riverside Motors, Inc. They formulate, direct and control the policies, acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the corporation.

PAR. 2. Respondents Riverside Motors, Inc., Roy E. Tannahill and John Stephens are now, and for some time last past have been, engaged in the advertising and sale of used cars to the public.

COUNT I

Alleged violation of the Federal Trade Commission Act. The allegations of Paragraphs One and Two above are incorporated by reference as if fully set forth herein.

PAR. 3. In the ordinary course and conduct of its business respondents now cause, and for some time last past have caused, its adver-

34

Complaint

tisements to be run in newspapers, *i.e.*, The Times-Picayune and The New Orleans States-Item, which are circulated in the State of Louisiana and various other States of the United States.

PAR. 4. For the purpose of inducing the purchase of respondents' used automobiles, respondents have made various statements in said advertisements respecting said automobiles being offered for sale.

Among and typical, but not all inclusive of said statements, are the following:

A.	\$50 DOWN	
	\$40 DOWN	
B.	\$65 DOWN	
	\$44.22 A MONTH	
	FULL PRICE.....	1115. 00
	Includes Tax and License	
	Down Payment.....	65. 00
	Balance to Finance.....	1050. 00
	Interest for 30 Mos.....	276. 60
	Total Time Price.....	1326. 60
	30 Mos. Payments.....	44. 22

ANNUAL
PERCENTAGE RATE
16.35%

C.

\$50 DOWN
NO FINANCE CHARGES
NO INTEREST OF ANY KIND
\$49 A MO. FOR 24 MOS.
TOTAL TIME PRICE \$1176

PAR. 5. Through the use of said statements and representations, and others of similar import and meaning but not specifically set out herein, respondents have represented and are now representing, directly or by implication, that they are arrangers and/or extenders of credit.

PAR. 6. In truth and in fact, respondents do not have any arrangements or contracts with finance companies or other lending institutions nor do they carry their own notes.

Therefore, the statements and representations set forth in Paragraphs Four and Five hereof were and are false, misleading and deceptive.

PAR. 7. In the conduct of its business, and at all times mentioned herein, respondents have been in substantial competition with corporations, firms and individuals in the sale of used automobiles.

PAR. 8. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices, has had, and now has, the capacity and tendency to mislead members of the pur-

Complaint

80 F.T.C.

chasing public into the erroneous and mistaken belief that respondents' said representations and statements were unqualified offers to arrange or extend credit and into the purchase of substantial numbers of respondents' automobiles by reason of said erroneous and mistaken belief.

PAR. 9. The aforesaid acts and practices of the respondents, as herein alleged, were, and are, all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce in violation of Section 5 of the Federal Trade Commission Act.

COUNT II

Alleged violations of the Truth in Lending Act and the implementing regulation promulgated thereunder, the allegations of Paragraphs One through Three are incorporated by reference as if fully set forth herein.

PAR. 10. Subsequent of July 1, 1969, respondents in the ordinary course and conduct of their business have caused advertisements to be published, as "advertisement" is defined in Regulation Z, the implementing regulation of the Truth in Lending Act. These advertisements aided, promoted or assisted directly or indirectly extensions of consumer credit in connection with the sale of respondents' automobiles. By and through the use of the advertisements, respondents:

1. Failed in some instances to disclose the cash price or the amount of the loan as required by Section 226.10(d)(2)(i) of Regulation Z.
2. Failed in some instances to disclose the number, amount and due dates or periods of payments scheduled to repay the indebtedness as required by Section 226.10(d)(2)(iii) of Regulation Z.
3. Failed in some instances to disclose the amount of the finance charge expressed as annual percentage rate as required by Section 226.10(d)(2)(iv) of Regulation Z.
4. Failed in some instances to disclose the deferred payment price or the sum of the payments as required by Section 226.10(d)(2)(v) of Regulation Z.

PAR. 11. 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 Bureau of Consumer Protection 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

The respondents 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 Act, 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. The respondent Riverside Motors, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana with its principal office and place of business located at 6502 Jefferson Highway, Harahan, Louisiana.

Respondents Roy E. Tannahill and John Stephens are officers of Riverside Motors, Inc. They formulate, direct and control the policies, acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the 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 Riverside Motors, Inc., a corporation, and Roy E. Tannahill and John Stephens, individually and as

officers of said corporation, and respondents' agents, representatives, and employees, successors and assigns, directly or through any corporate or other device, in connection with the advertising, offering for sale or sale of used automobiles, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Representing, directly or by implication, that they arrange or extend credit in relation to the sale of their used automobiles.

It is further ordered. That the respondents Riverside Motors, Inc., a corporation, and Roy E. Tannahill and John Stephens, individually and as officers of said corporation, and respondents' agents, representatives, and employees, successors and assigns, directly or through any corporate or other device, in connection with the 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 C.F.R. §226) of the Truth in Lending Act (Pub. L. 90-321, 15 U.S.C. 1601 *et seq.*), do forthwith cease and desist from:

A. Stating in any advertisement the amount of the downpayment or that no downpayment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment or that there is no charge for credit, without stating all the following items, the manner and form prescribed by Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) of Regulation Z:

1. The cash price or the amount of the loan, as applicable;
2. The amount of the downpayment required or that no downpayment is required, as applicable;
3. The number, amount and due dates or periods of payments scheduled to repay the indebtedness;
4. The amount of the finance charge expressed as an annual percentage rate;
5. The deferred payment price or the total of payments, as applicable.

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 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 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