

IN THE MATTER OF
WEST POINT CHINCHILLAS, 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-2140. Complaint. Feb. 3, 1972—Decision, Feb. 3, 1972

Consent order requiring Akron, Ohio, sellers and distributors of chinchilla breeding stock to cease making exaggerated profit claims, exaggerating the number of live offspring produced, deceptively guaranteeing their stock, and making other unfair representations; each contract is also required to contain a three day cancellation provision and a notice that any note may be negotiated to a third party. Respondents are also required to use in their consumer credit transactions the terms prescribed by Regulation Z of the Truth in Lending Act.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and of the Truth In Lending Act and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that West Point Chinchillas, Inc., a corporation, and John J. Meyers and Katherine Meyers, also known as Katherine Summerville, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts, and it appearing to the Commission that a proceeding by it in

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respect thereof would be in the public interest, hereby issues its complaint stating its charges as follows:

PARAGRAPH 1. Respondent West Point Chinchillas, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its sole office and place of business located at 1258 East Tallmadge Avenue, Akron, Ohio.

Respondents John J. Meyers and Katherine Summerville Meyers are individuals and officers of West Point Chinchillas, Inc. Together they formulate, direct, and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent. The respondents corroborate and act together in carrying out the acts and practices hereinafter set forth.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of chinchilla breeding stock to the public.

COUNT I

Alleging violations of Section 5 of the Federal Trade Commission Act, the allegations in Paragraphs One and Two hereof are incorporated by reference in COUNT I as if fully set forth verbatim.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, said chinchillas to be shipped from various locations including Nashville, Tennessee, West Point, Nebraska, and respondents' place of business in Akron, Ohio, to purchasers thereof located in various States of the United States. Respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in said merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid business, and for the purpose of obtaining the names of prospective purchasers and inducing the purchase of said chinchillas and related products, the respondents have made, and are now making, numerous statements and representations in newspapers of general interstate circulation, by means of direct mail advertising, by means of television broadcasts, and through oral statements and displays of promotional materials to prospective purchasers by their salesmen. Typical and illustrative of the foregoing, but not all inclusive thereof, are the following:

Each year more garment manufacturers are demanding to use chinchilla fur. More pelts are being sold each year. Dramatic growth over a recent six-year

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period puts the chinchilla pelt market into the multi-million dollar bracket. A much stronger market is anticipated in the future as chinchillas become more plentiful.

* * * * *

A couple of minutes of simple procedure will normally fill the time requirements for general maintenance of the chinchilla herd.

* * * * *

Chinchillas respond beautifully when given individual attention but they resist mass production methods. For this reason the choice chinchilla of the future may well come from thousands of relatively small producers rather than from mass breeding farms where individual attention to animals is not possible.

* * * * *

Although it is impossible to forecast what any new rancher's production figure will be a conservative average of three babies per female per year would be a good number to try for.

* * * * *

Our chinchillas are accompanied by fur evaluation sheets issued by a competent person with considerable experience in evaluating chinchillas for fur values.

* * * * *

Chinchilla fur is considered by many as the finest fur in the world today and there should always be a market for good quality chinchilla breeding stock.

* * * * *

We are in the business of producing the most expensive fur in the world and look forward to getting a high price for our product. Our thoughts are concurred with by the various fur auction people whom we have contacted on the subject.

* * * * *

West Point has spent thousands of dollars in research and development. All of the knowledge gained is available to you at no extra charge. This know-how is a most valuable feature of the West Point program.

* * * * *

With few, if any, pelts reaching the market each year the world must look to controlled breeding farms for the future supply.

* * * * *

Chinchilla breeding as a full-time occupation or as a part-time profitable business is bringing a source of enjoyment and important financial return to increasing numbers of persons. You may also find pleasure and profit along with others who are engaged in this fascinating enterprise.

* * * * *

Low overhead is one of the most distinct advantages. In most instances time required is only about three minutes per animal per day. Feed costs should not exceed \$4.00 per animal per year on a large herd basis.

* * * * *

If you can use from \$2,000 to \$20,000 each year as: extra income, retirement

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income, full-time income, raise chinchillas for a profit. Start building your herd today for future security.

* * * * *

West Point Chinchillas, Inc. guarantees you:

Your herd will prosper and double in the first twelve months.
 The market for all the chinchillas you can raise.
 Top quality foundation stock.
 Progressive assistance.
 Local associate members.
 Constant consultation services.
 Monthly branch meetings.
 Continuous quality improvement.
 Regular educational seminars.
 Financial assistance.
 Lifetime membership.

* * * * *

Do you like animals? Can you use extra income? If your answers are yes and you have a garage, basement or spare bedroom that would be suitable to start raising chinchillas your net earnings could be from \$2,000 to \$20,000 per year.

* * * * *

PAR. 5. By and through the use of the above-quoted statements and representations and others of similar import and meaning not expressly set out herein, and through the oral representations of salesmen, respondents have represented, and are now representing, directly or by implication, that:

(1) It is commercially feasible to breed stock and raise chinchillas from breeding stock purchased from respondents in homes, basements, spare rooms, or garages and large profits can be expected in this manner.

(2) The breeding of chinchillas from breeding stock purchased from respondents as a commercially profitable enterprise requires no previous experience in the breeding, caring for, and raising of such animals.

(3) Each female chinchilla purchased from respondents and each female offspring will usually litter successively several times annually, producing from one to six animals per litter, averaging about three offspring annually.

(4) A purchaser starting with eight (8) females and two (2) males of respondents' chinchilla breeding stock will start to earn a profit after three years from the sale of live animals or their pelts.

(5) Chinchilla breeding stock purchased from respondents is guaranteed to live and litter and the herd will double in one year.

(6) The respondents will promptly fulfill all of their obligations

and requirements set forth in or represented directly or by implication in the guarantee applicable to each and every chinchilla.

(7) Purchasers of respondents' chinchilla breeding stock can expect a great demand for the offspring and for the pelts of the offspring of respondents' chinchillas.

(8) Respondents will purchase any or all of the chinchilla offspring raised by purchasers of respondents' chinchillas.

(9) Through the assistance and advice furnished to purchasers of respondents' chinchilla breeding stock by respondents, purchasers are able to successfully breed and raise chinchillas as a commercially profitable enterprise.

(10) Respondents have an expert staff to assist purchasers of respondents' chinchilla breeding stock in the care and maintenance of said animals and such assistance is available promptly and at all times.

(11) Respondents' chinchilla breeding stock is top quality as rated by a reputable fur grading system.

(12) Chinchillas are hardy animals and are not susceptible to ailments.

(13) West Point is one of the largest sellers of chinchilla breeding stock in the United States and has had many years of experience in chinchilla raising.

(14) A rancher must buy all supplies from National Chinchilla Supply Corporation or obtain permission from respondents prior to buying from another source so as to assure the quality of the food and supplies purchased.

PAR. 6. In truth and in fact:

(1) It is not commercially feasible to breed or raise chinchillas from breeding stock purchased from respondents in homes, basements, spare rooms, garages, and large profits cannot be expected this way. Such quarters or buildings, unless they have adequate space and the requisite temperature, humidity, ventilation, and necessary environmental conditions, are not adaptable to or suitable for the breeding or raising of chinchillas.

(2) The breeding of chinchillas from breeding stock purchased from respondents as a commercially feasible enterprise requires specialized knowledge in the breeding, caring for, and raising of said animals, much of which must be acquired through actual experience.

(3) Each female chinchilla purchased from respondents and each female offspring will not usually litter successively several times annually producing one to six offspring per year, averaging three offspring annually, but generally less than that number.

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(4) A purchaser starting with eight (8) females and two (2) males of respondents' chinchilla breeding stock will not start to earn a profit after three years from the sale of live animals or their pelts but it will take substantially longer than that amount of time.

(5) Chinchilla breeding stock purchased from respondents is guaranteed to live, breed, litter, and double in the first year, but such guarantee as is provided is subject to numerous terms, limitations, and conditions.

(6) Respondents do not, in fact, promptly fulfill all of their obligations and requirements set forth in or represented directly or by implication in the guarantee applicable to each and every chinchilla.

(7) Purchasers of respondents' breeding stock cannot expect a great demand for the offspring and pelts from respondents' chinchillas.

(8) Respondents will seldom, if ever, purchase any or all chinchilla offspring raised by purchasers of respondents' breeding stock.

(9) Purchasers of respondents' chinchilla breeding stock are not able to successfully breed and raise chinchillas as a commercially profitable enterprise through the assistance and advice furnished them by respondents.

(10) Respondents do not have an expert staff to aid purchasers of respondents' chinchilla breeding stock in the care and maintenance of said animals and respondents often fail to provide the guidance and assistance requested by purchasers of respondents' breeding stock.

(11) Respondents' chinchilla breeding stock is not all of top quality, nor is it rated by a reputable fur grading system.

(12) Chinchillas are not hardy animals and are susceptible to ailments.

(13) Respondents are not one of the largest sellers of chinchilla breeding stock in the United States, nor have respondents had many years of experience in chinchilla ranching.

(14) Purchasers of respondents' breeding stock need not buy all supplies from National Chinchilla Supply Corporation, nor is it necessary to obtain permission from respondents prior to buying food and supplies from another source so as to assure the quality of such food and supplies.

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

PAR. 7. In the conduct of their business at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms, and individuals in the sale of mer-

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chandise of the same general kind and nature as that sold by the respondents.

PAR. 8. The use by respondents of the aforesaid false, misleading, and deceptive statements and representations, acts, and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true, and into the purchase of substantial quantities of respondents' chinchillas by reason of said erroneous and mistaken belief.

PAR. 9. The acts and practices of the respondents as set forth above 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 and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

COUNT II

Alleging violation of the Truth In Lending Act and the implementing Regulation promulgated thereunder and of the Federal Trade Commission Act, the allegations of Paragraphs One and Two hereof are incorporated by reference in COUNT II as if fully set forth verbatim.

PAR. 10. 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. 11. Subsequent to July 1, 1969, respondents, in the ordinary course and conduct of their business, and in connection with credit sales as "credit sale" is defined in Regulation Z, have caused and induced, and are causing and inducing, their customers to execute Retail Installment Contracts, hereinafter referred to as The Contracts.

PAR. 12. By and through the use of The Contracts, respondents:

(1) Fail to print the term "finance charge" more conspicuously than other terminology where such term is required to be used as required by Section 226.6(a) of Regulation Z.

(2) Fail to make full consumer credit cost disclosures before the transaction is consummated and to furnish the customers with a duplicate of the instrument or a statement by which the required disclosures are made, as required by Section 226.8(a) of Regulation Z.

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(3) Fail to make all the required consumer credit cost disclosures in any one of the following three ways:

(a) Together on the contract evidencing the obligation on the same side of the page and above or adjacent to the place for the customer's signature, or

(b) On one side of the separate statement which identifies the transaction, or

(c) On both sides of the single document containing on each side thereof the statement *Notice*: "See Other Side For Important Information,"

with a place for the customer's signature following the full content of the document, as required by Section 226.8(a) of Regulation Z.

(4) Fail to make the full disclosures required in sale and non-sale credit transactions, as set forth in Section 226.8(b) of Regulation Z.

(5) Fail to make the full disclosures required for credit sales as set forth in Section 226.8(c) of Regulation Z.

PAR. 13. Pursuant to Section 103(q) of the Truth In Lending Act, respondents' aforesaid failures to comply with Regulation Z constitute violations of that Act and pursuant to Section 108 thereof, respondents have thereby violated the Federal Trade Commission Act.

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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 Cleveland 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 regulations 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 are 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 West Point Chinchillas, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its sole office and place of business located at 1258 East Tallmadge Avenue, Akron, Ohio.

Respondents John J. Meyers and Katherine Meyers, also known as Katherine Summerville, are individuals and are officers of the corporate respondent. They formulate, direct, and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their 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

I

It is ordered, That respondents West Point Chinchillas, Inc., a corporation, and John J. Meyers and Katherine Summerville Meyers, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of chinchilla breeding stock or any other articles of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing directly or by implication that:

1. It is commercially feasible to breed or raise chinchillas in homes, basements, spare rooms, or garages, or other quarters or buildings, unless in immediate conjunction therewith it is clearly and conspicuously disclosed that the represented quarters or buildings can only be adaptable to and suitable for the breeding and raising of chinchillas on a commercial basis if they have the requisite space, temperature, humidity, ventilation, and other environmental conditions.

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2. Breeding chinchillas purchased from respondents as a commercially profitable enterprise can be achieved without previous knowledge or experience in the breeding, caring for and raising of such animals.

3. The number of litters or sizes thereof produced per female chinchilla is any number or range thereof; or representing, in any manner, the past number or range of numbers of litters or sizes produced per female chinchilla of purchasers of respondents' breeding stock unless, in fact, the past number or range of numbers represented are those of a substantial number of purchasers and accurately reflect the number or range of numbers of litters or sizes thereof produced per female chinchilla of these purchasers under circumstances similar to those of the purchaser to whom the representation is made and unless such facts are fully documented by accurate records.

4. A purchaser starting with eight (8) females and two (2) males of respondents' chinchilla breeding stock will start to earn profits or income from the sale of live animals or their pelts after three years, or representing in any manner the past earnings, profits, or income of purchasers of respondents' breeding stock unless, in fact, the past earnings, profits, or income represented are those of a substantial number of purchasers and accurately reflect the average profits or range of profits of these purchasers under circumstances similar to those of the purchaser to whom the representation is made and unless such facts are fully documented by accurate records.

5. Chinchilla breeding stock purchased from respondents is guaranteed to live and litter and herds will double in one year.

6. Chinchilla breeding stock purchased from respondents is guaranteed or warranted without clearly and conspicuously disclosing the nature and extent of the guarantee, the manner in which the guarantor will perform thereunder, and the identity of the guarantor, and unless respondents do, in fact, promptly fulfill all obligations and requirements set forth in or represented, directly or by implication, to be contained in any guarantee or warranty applicable to each and every chinchilla.

7. Chinchillas or chinchilla pelts are in great demand; or that purchasers of respondents' breeding stock can expect

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to be able to sell the offspring of respondents' chinchillas because said chinchillas or pelts are in great demand.

8. Respondents will purchase all or any offspring raised by purchasers of respondents' chinchilla breeding stock unless respondents do, in fact, purchase all of the offspring offered by said purchasers at the price and on the terms and conditions represented.

9. The assistance or advice furnished to purchasers of respondents' chinchilla breeding stock by respondents will enable purchasers to successfully breed or raise chinchillas as a commercially profitable enterprise.

10. Respondents have an expert staff to assist purchasers of respondents' chinchilla breeding stock in the care and maintenance of said animals and such assistance is available promptly and at all times unless they have such staff as represented and their services and assistance are available promptly and at all times.

11. Respondents' chinchilla breeding stock is of top quality as rated by a reputable fur grading system, or misrepresenting, in any manner, the quality of respondents' chinchilla breeding stock.

12. Chinchillas are hearty animals or are not susceptible to ailments.

13. West Point is one of the largest sellers of chinchilla breeding stock in the United States and has had many years of experience in chinchilla raising.

14. A rancher must buy all supplies from National Chinchilla Supply Corporation or obtain permission from respondents prior to buying from another source so as to assure the quality of the food and supplies purchased.

B. Misrepresenting, directly or by implication:

1. The assistance, training, services or advice supplied by respondents to purchasers of their chinchilla breeding stock.

2. The earnings or profits to purchasers or reproduction capacity of any chinchilla breeding stock.

3. The market demand for the pelts or offspring of respondents' chinchillas.

4. Chinchilla pelts and offspring from respondents' breeding stock will sell for any price, average price or range of prices; or the past price, average price or range of prices of purchasers of respondents' breeding stock unless, in fact, the past price, average price or range of prices represented

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are those of a substantial number of purchasers and accurately reflect the price, average price or range of prices realized by these purchasers under circumstances similar to those of the purchaser to whom the representation is made.

It is further ordered, That the respondents herein shall, in connection with the offering for sale, the sale or distribution of chinchilla breeding stock or any other related products, when the offer for sale or sale is made in the buyer's home, forthwith:

1. Include in each contract a provision giving the purchaser in any sale, whether in the form of trade acceptance, conditional sales contract, promissory note, or otherwise, that such sale shall not become binding on the buyer prior to midnight of the third day, excluding Sundays and legal holidays, after date of execution.

2. Disclose orally, prior to the time of sale, and in writing, on any trade acceptance, conditional sales contract, promissory note or other instrument executed by the buyer with such conspicuousness and clarity as is likely to be observed and read by such buyer, that the buyer may rescind or cancel by directing or mailing a notice of cancellation to respondents prior to midnight of the third day, excluding Sundays and legal holidays, after the date of sale. Upon such cancellation the burden shall be on respondents to collect any goods left in the buyer's home and to return any payments received from the buyer. Nothing contained in this right-to-cancel provision shall relieve buyers of the responsibility of taking reasonable care of the goods prior to cancellation and during a reasonable period following cancellation.

3. Provide a separate and clearly understandable form which the buyer may use as a notice of cancellation.

4. *Provided, however*, That nothing contained in this part of the order shall relieve respondents of any additional obligations respecting contracts made in the home required by federal law or the law of the state in which the contract is made. When such obligations are inconsistent, respondents can apply to the Commission for relief from this provision with respect to contracts executed in the state in which such different obligations are required. The Commission, upon proper showing, shall make such modifications as may be warranted in the premises.

It is further ordered, That the respondents will incorporate the following statement on the face of all contracts executed by respond-

ents' customers with such conspicuousness and clarity as is likely to be observed, read, and understood by the purchaser:

Important Notice

If you are obtaining credit in connection with this contract you will be required to sign a promissory note. This note may be purchased by a bank, finance company or any other third party. If it is purchased by another party, you will be required to make your payments to the purchaser of the note. You should be aware that if this happens you may be required to pay the note in full to the new owner of the note even if this contract is not fulfilled.

II

It is ordered, That respondents West Point Chinchillas, Inc., a corporation, and John J. Meyers and Katherine Meyers, individually and as officers 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, 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:

1. Failing to print the term "finance charge" more conspicuously than other terminology where such term is required to be used as required by Section 226.6(a) of Regulation Z.
2. Failing to make full disclosures before the transaction is consummated and to furnish the customers with a duplicate of the instrument or a statement by which the required disclosures are made, as required by Section 226.8(a) of Regulation Z.
3. Failing to make all the required disclosures in any one of the following three ways:
 - (a) Together on the contract evidencing the obligation on the same side of the page and above or adjacent to the place for the customer's signature; or
 - (b) On one side of the separate statement which identifies the transaction; or
 - (c) On both sides of the single document containing on each side thereof the statement: "Notice: See Other Side For Important Information,"with a place for the customer's signature following the full

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content of the document, as required by Sections 226.8(a) and 226.801 of Regulation Z.

4. Failing to make the full disclosures required in sale and non-sale credit transactions, as set forth in Section 226.8(b) of Regulation Z.

5. Failing to make the full disclosures required for credit sales as set forth in Section 226.8(c) of Regulation Z.

6. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with Sections 226.4 and 226.5 of Regulation Z, in the manner, form and amount required by Sections 226.6, 226.7, 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 the 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 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

HOWARD McMASTER ARNOLD, DOING BUSINESS AS
TED ARNOLD USED CARS

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