

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

Docket C-2153. Complaint, Feb. 16, 1972—Decision, Feb. 16, 1972

Consent order requiring a Modesto, Calif., seller of used automobiles to cease violating the Truth in Lending Act by failing to use in his consumer credit contracts the terms cash price, finance charge, amount financed, annual percentage rate, deferred payment price, total of payments and other terms 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 Raymond C. Engel, Sr., an individual trading as National 2nd Car Outlet, hereinafter referred to as respondent, has violated the provisions of said Acts, and of the regulations promulgated under the Truth in Lending Act, 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 Raymond C. Engel, Sr., is an individual trading as National 2nd Car Outlet with his office and principal place of business located at 401-14th Street, Modesto, California.

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

PAR. 3. In the ordinary course and conduct of his business as aforesaid, respondent regularly extends, and for some time last past has 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, respondent, in the ordinary course and conduct of his business and in connection with credit sales as "credit sale" is defined in Regulation Z, has caused, and is causing, certain of his customers to execute Motor Vehicle Purchase Orders, hereinafter referred to as the "Order" on which the respondent provides certain consumer credit cost information.

By and through the use of the order respondent:

1. Fails to render the consumer credit cost disclosures required by Section 226.8 of Regulation Z before consummation of the credit transactions as required by Section 226.8(a) of Regulation Z.

2. Fails to exclude the State of California Department of Motor Vehicles license, registration, and certificate of title transfer fees in computing the "cash price" as required by Section 226.2(i) of Regulation Z.

3. Fails to disclose the term "finance charge" clearly, conspicuously, in meaningful sequence as required by Section 226.6(a) of Regulation Z. Specifically, respondent deletes the word "finance" in the term "finance charge" and in lieu thereof writes the word "contract."

4. Fails to include the amount of premiums for vendor's single interest insurance, required by respondent to be purchased in con-

nection with the credit sale, as part of the finance charge, as required by Section 226.4(a)(7) of Regulation Z.

5. Fails to disclose the "finance charge" in credit transactions where finance charges are imposed as required by Sections 226.4, 226.6(a), and 226.8(c)(8)(i) of Regulation Z.

6. Fails to disclose the "amount financed" as required by Section 226.8(c)(7) of Regulation Z.

7. Fails, in some instances, to disclose the "annual percentage rate" in credit transactions where finance charges are imposed, as required by Sections 226.5, 226.6(a), and 226.8(b)(2) of Regulation Z.

8. Fails, in some instances, 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.

9. Fails, in some instances, to disclose the "deferred payment price," which is 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 required by Section 226.8(c)(8)(ii) of Regulation Z.

10. Fails, in some instances, to disclose the "total of payments," as required by Section 226.8(b)(3) of Regulation Z.

11. Fails, in some instances, to disclose the number of payments scheduled to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.

12. Fails to identify the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation as required by Section 226.8(b)(7) of Regulation Z.

13. Fails to obtain the customer's specific dated and separately signed affirmative written indication of the desire for insurance coverage as required by Section 226.4(a)(5)(ii) 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 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 San Francisco 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 Federal Trade Commission Act, the Truth in Lending Act, and the regulations promulgated under the Truth in Lending 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 respondent has 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 issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Raymond C. Engel, Sr., is an individual trading as National 2nd Car Outlet with his office and principal place of business located at 401-14th Street, Modesto, California.

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

ORDER

It is ordered, That respondent Raymond C. Engel, Sr., an individual trading as National 2nd Car Outlet, or under any other name or names, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with any consumer credit extension as "consumer credit" is defined in Regulation Z (12 CFR §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 render the consumer credit cost disclosures required by Section 226.8 of Regulation Z before consummation of the credit transactions, as required by Section 226.8(a) of Regulation Z.

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2. Failing to exclude the State of California Department of Motor Vehicles license, registration, and certificate of title transfer fees in computing the "cash price" as required by Section 226.2(i) of Regulation Z.

3. Failing to disclose the term "finance charge" clearly, conspicuously, in meaningful sequence, as required by Section 226.6(a) of Regulation Z.

4. Failing to include the amount of premiums for Vendor's Single Interest insurance, required by respondent to be purchased in connection with the credit sale, as part of the finance charge, as required by Section 226.4(a)(7) of Regulation Z.

5. Failing to disclose the "finance charge" in credit transactions where finance charges are imposed as required by Sections 226.4, 226.6(a), and 226.8(c)(8)(i) of Regulation Z.

6. Failing to disclose the "amount financed" as required by Section 226.8(c)(7) of Regulation Z.

7. Failing to disclose the "annual percentage rate" in credit transactions where finance charges are imposed, as required by Sections 226.5, 226.6(a), and 226.8(b)(2) of Regulation Z.

8. 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.

9. Failing to disclose the "deferred payment price," which is 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 required by Section 226.8(c)(8)(ii) of Regulation Z.

10. Failing to disclose the "total of payments," as required by Section 226.8(b)(3) of Regulation Z.

11. Failing to disclose the number of payments scheduled to repay the indebtedness, 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, as required by Section 226.8(b)(7) of Regulation Z.

13. Failing to obtain the customer's specific dated and separately signed affirmative written indication of the desire for insurance coverage as required by Section 226.4(a)(5)(ii) of Regulation Z.

14. Failing, in any consumer credit transaction or advertisement, to make all disclosures determined in accordance with

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Sections 226.4 and 226.5 of Regulation Z, in the manner, form and amount required by Sections 226.6, 226.8, 226.9 and 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, and other persons 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 the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.