
IN THE MATTER OF

O & P MOTORS, INC., ET AL.

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

Docket C-2164. Complaint, March 2, 1972—Decision, March 2, 1972

Consent order requiring a Jacksonville, Fla., seller and distributor of used automobiles to cease violating the Truth in Lending Act in its consumer credit transactions by failing to disclose the cash price, cash downpayment, trade-in, total downpayment, unpaid balance of cash price, amount financed, annual percentage rate, and other terms 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 O & P Motors, Inc., a corporation, and Patricia V. Olsen, individually and as an officer of said corporation, 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 O & P Motors, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its principal office and place of business located at 1950 Main Street, Jacksonville, Florida.

Respondent Patricia V. Olsen is an officer of the corporate respondent. She formulates, directs, and controls the policy, acts and practices of the corporation, including the acts and practices hereinafter set forth. Her address is the same as that of corporate respondent.

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

PAR. 3. In the ordinary course and conduct of their business as aforesaid, respondents regularly extend 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 of business as aforesaid, and in connection with credit sales, as "credit sale" is defined in Regulation Z, have caused and are causing customers to execute the Used Car Order Contract, hereinafter referred to as the "Order Contract."

Respondents have caused and are causing certain customers to also sign blank Retail Installment Contracts, hereinafter referred to as "installment contract," thereby failing to furnish these customers with any consumer credit cost disclosure before the consummation of the contract as required by Section 226.8(a) of Regulation Z. Respondents do not provide these customers with any other consumer credit cost disclosure.

By and through the use of the order contract, respondents:

1. Fail to use the term "cash price" to describe the price at which respondents offer, in the regular course of business, to sell for cash the automobiles which are the subject of the credit sale, as required by Section 226.8(c)(1) of Regulation Z.

2. Fail to use the term "cash downpayment" to describe the downpayment in money made in connection with the credit sale, as required by Section 226.8(c)(2) of Regulation Z.

3. Fail to use the term "trade-in" to describe the downpayment in property made in connection with the credit sale, as required by Section 226.8(c)(2) of Regulation Z.

Complaint

80 F.T.C.

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

5. 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.

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

7. Fail to use the term "finance charge" to describe the sum of all charges required by Section 226.4 of Regulation Z to be included therein, as required by Section 226.8(c)(8)(i) of Regulation Z.

8. Fail 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.

9. Fail to disclose the "annual percentage rate," determined in accordance with Section 226.5 of Regulation Z as required by Section 226.8(b)(2) of Regulation Z.

10. Fail 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.

11. Fail to use the term "total of payments" to describe the sum of payments scheduled to repay the indebtedness as required by Section 226.8(b)(3) of Regulation Z.

12. Retain a security interest in property in connection with the credit sale and fail to describe the type of that security interest as required by Section 226.8(b)(5) of Regulation Z.

PAR. 5. In the ordinary course of their business as aforesaid, respondents cause to be published advertisements of their goods and services, as "advertisement" is defined in Regulation Z. These advertisements aid, promote or assist directly or indirectly extensions of consumer credit in connection with the sale of these goods and services. By and through the use of the advertisements, respondents:

1. State that no downpayment can be arranged when in truth and in fact respondents do require downpayments and do not customarily arrange for and will not arrange for a credit sale with no downpayment, thereby violating Section 226.10(a)(1) of Regulation Z.

2. State the amount of the downpayment required and the amount of monthly installment payments which can be arranged in connection with a consumer credit transaction, without also stating all of

318

Decision and Order

the following items, in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) thereof:

- (i) The cash price;
- (ii) The amount of the downpayment required or that no downpayment is required, as applicable;
- (iii) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;
- (iv) The amount of the finance charge expressed as an annual percentage rate; and
- (v) The deferred payment price.

PAR. 6. 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 Atlanta Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Truth in Lending Act and the implementing regulation promulgated thereunder, and 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 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 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 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 the rules, the

Decision and Order

80 F.T.C.

Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent O & P Motors, Inc., 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 1950 Main Street, Jacksonville, Florida.

Respondent Patricia V. Olsen is an individual and is president of O & P Motors, Inc. She directs, formulates, and control the acts and practices of the respondent corporation including the acts and practices under investigation.

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 O & P Motors, Inc., a corporation, its successors and assigns, and its officers, and Patricia V. Olsen, individually and as an officer of said corporation, and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with any extension of consumer credit or 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 §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 use the term "cash price" to describe the price at which respondents offer in the regular course of business to sell for cash the automobiles which are the subject of the credit sale, as required by Section 226.8(c)(1) of Regulation Z.

2. Failing to use the term "cash downpayment" to describe the downpayment in money made in connection with the credit sale, as required by Section 226.8(c)(2) of Regulation Z.

3. Failing to use the term "trade-in" to describe the downpayment in property made in connection with the credit sale, as required by Section 226.8(c)(2) of Regulation Z.

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

5. Failing 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.

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

7. Failing to use the term "finance charge" to describe the sum of all charges required by Section 226.4 of Regulation Z to be included therein, as required by Section 226.8(c)(8)(i) of Regulation Z.

8. Failing 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.

9. Failing to disclose the "annual percentage rate" determined in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(b)(2) 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 use the term "total of payments" to describe the sum of payments scheduled to repay the indebtedness as required by Section 226.8(b)(3) of Regulation Z.

12. Failing to describe the type of security interest retained or acquired as required by Section 226.8(b)(5) of Regulation Z.

13. Stating, in any advertisement, that no downpayment can be arranged when in truth and in fact respondents do require downpayments and do not customarily arrange for a credit sale with no downpayment, thereby violating Section 226.10(a)(1) of Regulation Z.

14. Stating, in any advertisement, the amount of the downpayment required and the amount of monthly installment payments which can be arranged in connection with a consumer credit transaction, without also stating all of the following items, in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) thereof:

- (i) The cash price;
- (ii) The amount of the downpayment required or that no downpayment is required, as applicable;
- (iii) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if credit is extended;

Decision and Order

80 F.T.C.

(iv) The amount of the finance charge expressed as an annual percentage rate; and

(v) The deferred payment price.

15. Failing in any consumer credit transaction or advertising to make all disclosures, determined in accordance with Sections 226.4 and 226.5 of Regulation Z, at the time and in the manner, form and amount required by Sections 226.6, 226.8 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 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 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 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

GREGORY & GOLDBERG, INC., ET AL.

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