

Complaint

IN THE MATTER OF

LEO PAYNE PONTIAC, 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-2229. Complaint, June 1, 1972—Decision, June 1, 1972*

Consent order requiring a Lakewood, Colorado, dealer and seller of automobiles, campers and mobile homes to cease violating the Truth in Lending Act by failing to list the cash price, the downpayment required, the annual percentage rate, the deferred payment price, and any other disclosures required by Regulation Z of the said Act.

COMPLAINT

Pursuant to the provisions of the Truth in Lending Act and the implementing regulations 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 Leo Payne Pontiac, Inc., a corporation, and Leo Payne, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and implementing regulations, 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 Leo Payne Pontiac, Inc., is a corporation organized, existing, and doing business under and by virtue of the State of Colorado, with its principal office and place of business located at 300 Wadsworth Boulevard, Lakewood, Colorado.

Respondent Leo Payne is president of the corporate respondent. He formulates, directs, and controls the policies, acts, and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, and sale of new and used automobiles, motor homes, and campers to the public.

PAR. 3. In the course and conduct of their business as aforesaid, respondents have caused, and are now causing, advertisements, as "advertisement" is defined in Section 226.2(b) of Regulation Z, to be placed in various media for the purpose of aiding, promoting, or assisting, directly or indirectly, the credit sales, as "credit sale" is

Decision and Order

80 F.T.C.

defined in Section 226.2(n) of Regulation Z, or respondents' said automobiles, motor homes, and campers.

PAR. 4. Subsequent to July 1, 1969, certain of the advertisements referred to in Paragraph Three above have stated the amount of the downpayment required or that no downpayment is required, or the period of repayment, without also stating, as required by Section 226.10(d) (2) of Regulation Z, in terminology prescribed under Section 226.8 of Regulation Z, and in the manner and form prescribed under Section 226.6(a) of Regulation Z, all of the following:

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

PAR. 5. 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 respondents of all the jurisdictional facts set forth in the complaint to issue herein, 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 considered the agreement and having accepted same, and the agreement containing consent order having thereupon been placed 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 com-

plaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Leo Payne Pontiac, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Colorado, with its principal office and place of business located at 300 Wadsworth Boulevard, Lakewood, Colorado.

Respondent Leo Payne is president of the corporate respondent. He formulates, directs, and controls the policies, acts, and practices of the corporate respondent, including the acts and practices hereinafter set forth. His 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

It is ordered, That respondents Leo Payne Pontiac, Inc., a corporation, and Leo Payne, individually and as an officer of said corporation, trading under said corporate name or under any trade name or names, their successors and assigns, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the arrangement, extension, or advertisement of consumer credit in connection with the sale of automobiles, motor homes, campers, travel trailers, or other products or services, as "advertisement" and "consumer credit" 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. Causing to be disseminated to the public in any manner whatsoever any advertisement to aid, promote, or assist, directly or indirectly, any extension of consumer credit, which advertisement states the amount of the downpayment required, or that no downpayment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments of the period of repayment, or that there is no charge for credit, unless it states all of the following items in the manner and form as required by Section 226.10(d) (2) of Regulation Z:

- a. the cash price;
- b. the amount of the downpayment required or that no downpayment is required, as applicable;
- c. the number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;

Decision and Order

80 F.T.C.

d. the amount of the finance charge expressed as an annual percentage rate; and

e. the deferred payment price or the sum of the payments, as applicable.

2. Failing to print the term "annual percentage rate" more conspicuously than other terminology required by Regulation Z, when that term is required to be used by Regulation Z.

3. Failing, in any consumer credit transaction or advertisement, to make all the 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.

4. Failing to 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, and placing of advertising, all persons engaged in reviewing the legal sufficiency of advertising, and all present and future agencies engaged in preparation, creation, and placing of advertising on behalf of respondents, and failing to secure from each such person or agency a signed statement acknowledging receipt of said order.

It is further ordered, That respondents shall, within sixty (60) days after service upon them of this order, file, individually, with the Commission, a report in writing, setting forth in detail the manner and form in which each of them has complied with this order.

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.

IN THE MATTER OF

PRESTIGE FASHIONS, INC., ET AL.

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

Docket C-2230. Complaint, June 5, 1972—Decision, June 5, 1972

Consent order requiring a New York City manufacturer, distributor, and seller of wearing apparel, including custom-made wedding, cocktail and party