

with distribute a copy of this order to each of its operating divisions.

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

TALLMAN PIANO STORES, 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-2297. Complaint, Oct. 5, 1972—Decision, Oct. 5, 1972.

Consent order requiring Salem, Oregon, and Burien, Washington, sellers and distributors of new and used pianos and organs, among other things to cease representing used merchandise as new; misrepresenting prices as regular or customary; representing any price as special or reduced unless such reduction in price is substantial; and failing to disclose to customers such information as required by Regulation Z of the Truth In Lending Act.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and 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 Tallman Piano Stores, Inc., Tallman Pianos-Organs, Inc., and Piano Organ Acceptance Corporation, corporations and Richard L. Taw, individually and as an officer of said corporations, hereinafter collectively referred to as respondents, have violated the provisions of said Acts, 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. Respondents Tallman Piano Stores, Inc., and Piano Organ Acceptance Corporation are corporations organized, existing and doing business under and by virtue of the laws of the State of Oregon with their principal office and place of business located at 388 Commercial Street, Salem, Oregon.

Complaint

81 F.T.C.

Respondent Tallman Pianos-Organs, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Washington with its principal office and place of business located at 427 S.W. 153rd Avenue, Burien, Washington.

Respondent Richard L. Taw is an individual and is an officer, director, and shareholder of the corporate respondents. He formulates, directs and controls the acts and practices of the corporate respondents, including the acts and practices herein described. His address is the same as that of Tallman Piano Stores, Inc.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of new and used pianos and organs to members of the general public. Respondents operate approximately 12 retail stores located in Washington, Oregon, California and Idaho.

COUNT I

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

PAR. 3. In the course and conduct of their business, respondents now cause and for some time last past have caused, their pianos and organs to be sold to residents of the States of Washington, Oregon, California and Idaho. In the course and conduct of their business, respondents maintain, and at all times mentioned herein, have maintained a substantial course of trade in said pianos and organs, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, and for the purpose of inducing prospective customers to come to their place of business and to purchase their pianos and organs, respondents are now causing and for some time last past have caused numerous statements and representations to be disseminated in newspapers of interstate circulation, with respect to the description, condition, cost and availability of their pianos and organs.

Typical and illustrative of these statements and representations, but not all inclusive thereof, are the following:

1.

LYNNWOOD

\$1095 Lowrey Holiday-----	\$695
* * * * *	
\$1295 Baldwin Organsonic-----	\$695
\$3495 Story & Clark 25 Ped.-----	\$2,995
\$1595 Kimball Fr. Pr. Organ-----	\$995

567

Complaint

The advertisement failed to indicate whether the items were new or used, and it failed to identify or describe the higher price associated with each of the items.

2. Gulbransen Spinet Organ \$795, regular \$1295
 Lowrey Holiday LSO \$488, formerly \$995
 Kimball Console Piano \$395, regular \$995
 Thomas Model 205 \$579, regular \$1395
 Thomas Spinet 2 Manual \$199, regular \$695

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Thomas Model VL \$477, regular \$1095
 Gulbransen Model B w/Les \$789, regular \$1495

* * * * *

Lowrey Heritage \$398, formerly \$795
 Thomas M25 Spinet \$595, regular \$1195

The advertisement failed to indicate whether the items were new or used, and it failed to further identify or describe the "regular" and "formerly" prices.

3. 100% Unconditional Guarantee Parts and Labor

The advertisement failed to disclose any of the terms and conditions of the guarantee.

4. ORGAN BUYS OF THE WEEKEND

THOMAS 25 PEDAL, percussion----- \$485
 KIMBALL THEATER, loaded----- \$1,450

* * * * *

STORY & CLARK 76, Leslie, etc----- \$895
 GULBRANSEN PACEMAKER----- \$860
 LOWREY HOLIDAY, French prov----- \$590

* * * * *

BALDWIN 25 PEDAL----- \$1,350
 HUNDREDS MORE ON HAND

The advertisement failed to indicate whether the items were new or used.

PAR. 5. By and through the use of the statements and representations described above and others of similar import and meaning but not specifically set out herein, and through oral statements made by their salesmen or representatives, respondents represent, and have represented, directly or by implication, that:

1. The items are new and not used; that the unidentified higher prices are the prices at which respondents regularly sell or in good faith offer to sell the items; and that the difference between the higher and lower prices in each case represents a bona fide savings.

2. The items are new and not used, and that the "regular" and "formerly" prices are the prices at which respondents sell or in good faith

offer to sell the items; and that the difference between the "regular" or "formerly" price and the lower price in each case represents a bona fide savings.

3. The guarantee or warranty is unlimited in duration; and without terms or conditions.

4. The items are new and not used, and that respondents have at least 200 additional pianos and organs in stock at the advertised store location.

PAR. 6. In truth and in fact:

1. The items were not new but were used and the unidentified higher prices are not the prices at which respondents regularly sell or in good faith offer to sell the items; the unidentified higher prices exceed the prices at which respondents sell or in good faith offer to sell the items, and in some cases exceed the manufacturers' suggested list price; the difference between the higher and lower price does not in each case represent a bona fide savings.

2. The items were not new but were used and the "regular" and "formerly" prices are not the prices at which respondents regularly sell or in good faith offer to sell the items; the "regular" and "formerly" prices exceed the prices at which respondents sell or in good faith offer to sell the items, and in some cases exceed the manufacturers' suggested list price; the difference between the "regular" or "formerly" prices and the lower price does not in each case represent a bona fide savings.

3. The guarantee or warranty is not unlimited in duration but is limited to 90-days, one year, five years or ten years, depending on the item, the manufacturer, whether it is new or used, the coverage and other factors; the guarantees or warranties have terms and conditions not disclosed.

4. The items are not new but are used, and respondents had less than 200 additional pianos and organs in stock at the advertised store location.

Therefore, respondents' statements and representations, as enumerated in Paragraphs Four, Five and Six herein, were and are false, misleading, and deceptive.

PAR. 7. In the course and conduct of their business, and for the purpose of inducing prospective customers to purchase their pianos and organs, respondents are now causing and for some time last past have caused price tags to be attached to the pianos and organs on display in their showrooms. Some of said price tags show two prices; i.e., the purported "Regular Price" and "Discount Price." None of respondents' price tags indicate whether the item is new or used.

Typical and illustrative of the price tags showing two prices, but not all inclusive thereof, are the following:

1. Regular Price \$1345
Discount Price \$650

The price tag was attached to a Thomas Model M-25 organ, serial no. 162090.

2. Regular Price \$2995.
Discount Price \$1740

The price tag was attached to a Kimball Model 1133 organ, serial no. 18325.

3. Regular Price \$1495
Discount Price \$1095

The price tag was attached to a Story and Clark Model 76 organ, serial no. 53083.

4. Regular Price \$1545
Discount Price \$965

The price tag was attached to a Gulbrandsen Pacemaker Model 2101 organ, serial no. 52795.

5. Regular Price \$3195
Discount Price \$1550

The price tag was attached to a Baldwin Model 45 HP organ, serial no. 45 HP 6198C1.

By and through the use of the prices on the aforesaid price tags and through oral statements and representations made by their salesmen or representatives, respondents have represented, directly or by implication, that the items are new and not used, that the "Regular" prices quoted on the price tags are the prices at which respondents regularly sell or in good faith offer to sell the items, that the "Discount" prices quoted on the price tags are special prices below respondents' regular prices; and that the difference between the two prices in each case represents a bona fide savings.

PAR. 8. In truth and in fact, the items to which the aforesaid price tags were attached were not new but used, the "Regular" prices are not the prices at which respondents regularly sell or in good faith offer to sell the items and the "Discount" prices quoted on the price tags are not special prices below respondents' regular prices. The "Regular" prices exceed the prices at which respondents regularly sell or in good faith offer to sell the items, and in some cases exceed the manufacturers' suggested list price; the difference between the two prices does not in each case represent a bona fide savings.

Therefore, respondents' statements and representations, as enumerated in Paragraphs Seven and Eight herein, were and are unfair or deceptive acts or practices.

PAR. 9. In the course and conduct of their business, and at all times mentioned herein, respondents have been, and now are, in substantial competition, in commerce, with corporations, firms and individuals in the sale of products of the same general kind and nature as that sold by respondents.

PAR. 10. The use by respondents of the aforesaid unfair and false, misleading and deceptive statements, representations and practices, and their failure to disclose material facts, 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 complete, and into the purchase of substantial quantities of said products by reason of said erroneous and mistaken belief and unfairly into the assumption of debts and obligations and the payments of monies which they might otherwise not have done.

PAR. 11. The aforesaid acts and practices of 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 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 above are incorporated by reference in Count II as if fully set forth verbatim:

PAR. 12. In the course and conduct of their business, 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. 13. Subsequent to July 1, 1969, in the course and conduct of their business, and in connection with their credit sales, as "credit sale" is defined in Regulation Z, respondents have caused and are causing their customers to enter into contracts for sale of respondents' goods and services. These contracts disclose consumer credit cost information which conforms to the requirements of Section 226.7 of Regulation Z, dealing with "open end" credit. However, respondents' extensions of

consumer credit are not "open end" credit, as that term is defined in Section 226.2(r) of Regulation Z, but rather extensions of other than "open end" credit, also referred to as "closed end" credit. Respondents have failed to provide all of the credit cost disclosure information required by Section 226.8 of Regulation Z.

PAR. 14. In the course and conduct of their business, 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 extension of consumer credit in connection with the sale of these goods and services. By and through the use of the advertisements, respondents:

1. State the rate of finance charge without describing that rate as the "annual percentage rate," in violation of Section 226.10(d)(1) of Regulation Z.

2. State the period of repayment and that no downpayment is required 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 the credit is extended;
- (iv) The amount of the finance charges expressed as an annual percentage rate; and
- (v) The deferred payment price.

PAR. 15. 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 Seattle 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 Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by re-

spondents 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.

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. Respondents Tallman Piano Stores, Inc., and Piano-Organ Acceptance Corporation are corporations organized, existing and doing business under and by virtue of the laws of the State of Oregon, with their principal offices and places of business located at 388 Commercial Street, Salem, Oregon.

Respondent Tallman Pianos-Organs, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Washington with its principal office and place of business located at 427 SW 153rd, Burien, Washington. Respondent Richard L. Taw is an individual, and is an officer, director and shareholder of the corporate respondents. He formulates, directs and controls the acts and practices of the corporate respondents, including the acts and practices herein described. His address is the same as that of Tallman Piano Stores, Inc.

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 Tallman Piano Stores, Inc., Tallman Pianos-Organs, Inc., and Piano-Organ Acceptance Corporation, corporations, their successors and assigns, and their officers, and Richard L. Taw, individually and as an officer, and respondents' agents, representatives and employees directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of pianos, organs or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, orally, in writing or visually, that a used piano or organ is new; failing to disclose that a used piano or organ is not new.

2. Representing, directly or by implication, orally, in writing or visually, that an amount, including but not limited to the manufacturer's suggested list price, is respondents' regular and customary retail price for a piano or organ, unless such amount is the price at which such item has been sold in substantial quantities by respondents in the recent regular course of their business; or

3. Misrepresenting, directly or by implication, orally, in writing or visually, that any price for a piano or organ, however described, is the customary retail price for that piano or organ in a particular trade area.

4. Representing, directly or by implication, orally, in writing or visually, that one of respondents' stores has a particular number of pianos and organs available for sale unless the represented number is in that store's physical inventory at the time the representation is made.

5. Representing, directly or by implication, orally, in writing or visually, that respondents' products are guaranteed unless the nature and extent of the guarantee, the identity of the guarantor, and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed in immediate conjunction therewith.

6. Representing, directly or by implication, orally, in writing or visually, that any price for respondents' products is a special and reduced price, unless such price constitutes a significant reduction from an established selling price at which such products have been sold in substantial quantities by respondents in the recent regular course of their business; or misrepresenting, in any manner, the savings available to purchasers.

7. Failing to maintain adequate records (a) which disclose facts upon which any savings claims, including former pricing claims and comparative value claims, and similar representations of the type described in Paragraph Six of this order are based, and (b) from which the validity of any savings claims, including former pricing claims and comparative value claims, and similar representations of the type described in Paragraph Six of this order can be determined.

II

It is ordered, That respondents Tallman Piano Stores, Inc., Tallman Pianos-Organs, Inc., and Piano-Organ Acceptance Corporation, corporations, their successors and assigns, and their officers, and Richard L. Taw, individually and as an officer, and respondents' agents, representatives and employees directly or through any corporation, subsidiary, division or other device, in connection with any consumer credit sale, as "consumer credit" and "credit sale" 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 disclose the price at which respondents, in the regular course of business, offer to sell for cash the property or services which are the subject of the credit sale, and to describe that price as the "cash price," as required by Section 226.8(c) (1) of Regulation Z.

2. Failing to disclose the amount of any downpayment in money, and to describe that amount as the "cash downpayment" as required by Section 226.8(c) (2) of Regulation Z.

3. Failing to disclose the amount of any downpayment in property, and to describe that amount as the "trade-in," as required by Section 226.8(c) (2) of Regulation Z.

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

5. Failing to disclose the difference between the "cash price" and the "total downpayment," and to describe that difference as the "unpaid balance of cash price," as required by Section 226.8(c) (3) of Regulation Z.

6. Failing to disclose all charges which are not part of the "finance charge" but are included in the amount financed, and to itemize each such charge individually, as required by Section 226.8(c) (4) of Regulation Z.

7. Failing to disclose the sum of the "unpaid balance of cash price" and all other amounts itemized individually, which are part of the amount financed but which are not included in the finance charge, and to describe that amount as the "unpaid balance," as required by Section 226.8(c) (5) of Regulation Z.

8. Failing to disclose the amount of credit extended, and to describe that amount as the "amount financed," as required by Section 226.8(c) (7) of Regulation Z.

9. Failing to disclose the sum of all charges made to the custo-

mer which are required by Section 226.4 of Regulation Z to be included in the finance charge, and to describe that sum as the "finance charge," as required by Section 226.8(c)(8)(i) of Regulation Z.

10. Failing to disclose accurately 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.

11. Failing to disclose the date the finance charge begins to accrue in any transaction in which that date is different from the date of the transaction, as required by Section 226.8(b)(1) of Regulation Z.

12. Failing to disclose the annual percentage rate accurately to the nearest quarter of one percent, in accordance with Section 226.8(b)(2) of Regulation Z.

13. Failing to disclose the number, amount, and due dates or periods of payments scheduled to repay the indebtedness, and to describe any payment which is more than twice the amount of an otherwise regularly scheduled equal payment as a "balloon payment," as required by Section 226.8(b)(3) of Regulation Z.

14. Failing to disclose the sum of the payments scheduled to repay the indebtedness, and to describe the sum as the "total of payments" as required by Section 226.8(b)(3) of Regulation Z.
property held, or to be retained or acquired in connection with any extension of credit, or to describe or identify the property to which that security interest relates, as required by Section 226.8(b)(5) of Regulation Z.

16. Failing to identify the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation, or failing to state the amount or method of computation of any charge that may be deducted from the amount of any rebate of such finance charge that will be credited to the obligation or refunded to the customer, whether by failing to state that such charge will be deducted before or after computation of the unearned portion or otherwise, as required by Section 226.8(b)(7) of Regulation Z.

17. Stating, in any advertisement, the rate of any finance charge unless respondents state the rate of that charge expressed as an "annual percentage rate," as required by Section 226.10(d)(1) of Regulation Z.

18. Stating, in any advertisement, the amount of downpayment required or that no downpayment is required, the amount of any

installment payment, the number of installments or the period of repayment, or that there is no charge for credit, in connection with a consumer credit transaction, without also stating all of the following items, in the 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.

19. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with Section 226.4 and Section 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 the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

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 corporate respondents, such as dissolution, assignment or sale resulting in the emergence of a successor corporation or partnership, the creation or dissolution of subsidiaries, or other organizational change which may affect compliance obligations arising out of this 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 written report setting forth in detail the manner and form of their compliance with this order.

AMERICAN HOME PRODUCTS CORPORATION, ET AL.

Complaint

IN THE MATTER OF

AMERICAN HOME PRODUCTS CORPORATION, ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-2298. Complaint, Oct. 6, 1972—Decision, Oct. 6, 1972.

Consent order requiring a New York City seller and distributor of household products and its New York City advertising agency, among other things to cease advertising any consumer commodity by the use of or referral to a demonstration, test or experiment that appears or purports to prove superiority of such products over competitive products when such demonstration, test or experiment does not constitute proof thereof.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that American Home Products Corporation, a corporation, and Cunningham & Walsh, Inc., a corporation, hereinafter referred to as respondents, have violated the provisions of said 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 American Home Products Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its principal office and place of business located at 685 Third Avenue, in the city of New York, State of New York.

Respondent Cunningham & Walsh, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and place of business located at 260 Madison Avenue in the city of New York, State of New York.

PAR. 2. Respondent American Home Products Corporation now, and for some time last past, has been engaged in the sale and distribution of a household window cleaning product known as "Easy-Off Window Cleaner," a household spray starch product known as "Easy-On Speed Starch," a household floor wax known as "Aerowax," and an insecticide product known as "Black Flag Ant and Roach Killer with Baygon," which, when sold are shipped to purchasers located in various States of the United States. Respondent