
IN THE MATTER OF
FRANCIS FORD, INC., ET AL.

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

Docket C-2409. Complaint, May 29, 1973—Decision, May 29, 1973.

Consent order requiring a Portland, Oregon automobile dealership, among other
things to cease representing that its lifetime warranty is free;

misrepresenting their guarantees; misrepresenting used motor vehicles as new; misrepresenting the particular accessories, equipment or features available on sale priced new motor vehicles; failing to refund deposits; and preparing final contracts in different terms than agreed to by the customer.

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 Francis Ford, Inc., a corporation, and William T. Murphree and C. Edwin Francis, individually and as officers of said 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 Francis Ford, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Oregon with its principal office and place of business located at 509 S.E. Hawthorne Boulevard, Portland, Oregon.

Respondents William T. Murphree and C. Edwin Francis are individuals and are officers, directors and shareholders of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices herein described. Their 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, sale and distribution of automobiles, pickup trucks and other motor vehicles to the public.

PAR. 3. In the course and conduct of their business, respondents now cause and for some time last past have caused, their automobiles to be sold to individuals and corporate citizens of states other than the State of Oregon. 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 automobiles, 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 automobiles, respondents are now causing and for some time last past have caused numerous

statements and representations to be disseminated in newspapers of interstate circulation and in television and radio broadcasts of interstate transmission, with respect to the number, description, condition and cost of their automobiles and their lifetime warranty program.

By and through the use of such statements and representations, respondents have represented and are now representing, directly or by implication:

1. That customers who ask about respondents' lifetime warranty will receive it at no extra cost;
2. That respondents' lifetime warranty is unconditional and has no conditions or limitations;
3. That a motor vehicle available for sale at a specified price is new and not used;
4. That a new motor vehicle for sale at a specified price possesses particular accessories, equipment, or features;
5. That several motor vehicles of a particular type or description are available for sale at a specified price.

PAR. 5. In truth and in fact:

1. Not all customers who ask about respondents' lifetime warranty receive it at no extra cost;
2. Respondents' lifetime warranty is not unconditional and has conditions or limitations;
3. In some instances motor vehicles represented to be new and available for sale at a specified price were used;
4. In some instances said motor vehicles did not possess the particular accessories, equipment, or features, as represented;
5. In some instances only one of said motor vehicles was available for sale at the specified price.

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

PAR. 6. In the course and conduct of their business, respondents and their salesmen required customers to tender a deposit consisting of a small amount of money such as twelve dollars. Respondents and their salesmen have orally represented that said deposit will be returned to the customer in the event he decides not to purchase an automobile from respondents. In some instances where the customer has decided not to purchase an automobile from respondents, respondents and their salesmen have failed to immediately return said deposit to the customer.

Therefore, the acts and practices set forth herein were and are unfair and false, misleading and deceptive.

PAR. 7. In the further course and conduct of their business and for the purpose of furthering their sales program and inducing customers to purchase their automobiles, respondents and their salesmen have prepared the final retail installment contract of a customer in terms different from those previously agreed to by the customer without disclosing to the customer that the change in terms will result in a higher price or lower trade-in allowance, and misrepresented the amount of the sale price, trade-in allowance or finance charge.

Therefore, the acts and practices as set forth in Paragraph Seven hereof were and are unfair and false, misleading and deceptive acts and practices.

PAR. 8. 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. 9. The use by respondents of the aforesaid unfair and false, misleading and deceptive statements, representations, acts 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 payment of monies which they might otherwise not have done.

PAR. 10. 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.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; 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 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, and having duly considered the comments filed thereafter pursuant to Section 2.34(b) of its Rules, 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 Francis Ford, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Oregon with its principal place of business located at 509 S.E. Hawthorne Boulevard, Portland, Oregon.

Respondents William T. Murphree and C. Edwin Francis are individuals and are officers of Francis Ford, Inc. They formulate, direct and control the policies, acts and practices of said corporation. 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 respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Francis Ford, Inc., a corporation, its successors and assigns, and its officers, and William T. Murphree and C. Edwin Francis, individually and as officers, 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 automobiles, pickup trucks or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and

desist, orally or in any other manner, directly or by implication, from:

1. Representing that respondents' lifetime warranty or any other new car warranty offered in addition to the manufacturer's warranty is free;

2. Representing that any of respondents' motor vehicles 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; *Provided*, That this inhibition shall not apply to advertisements which merely advise the availability of a manufacturer's new car warranty;

3. Failing to clearly and conspicuously disclose that a used motor vehicle available for sale at a specified price is not new; representing that a used motor vehicle is new;

4. Representing that a new motor vehicle available for sale at a specified price possesses particular accessories, equipment, or features for the specified price when such motor vehicle is not so equipped for the specified price;

5. Failing to clearly and conspicuously disclose that a new motor vehicle of a particular type or description advertised for sale at a specified price is a one-of-a-kind item; failing to disclose respondents' inventory stock number for such motor vehicle;

It is further ordered, That respondents forthwith cease and desist from:

1. Failing to return the prospective customer's deposit immediately upon his request, if requested prior to consummation of the sale;

2. Failing to provide a prospective customer with a receipt or written notice at the time he makes a deposit. The following statement shall be included on the face of said receipt or written notice in clear and conspicuous terms:

NOTICE

This deposit does not consummate a sale or obligate you to purchase an automobile from Francis Ford. In the event you decide not to purchase from Francis Ford, you are entitled to an immediate refund of your deposit.

It is further ordered, That respondents forthwith cease and desist from preparing the final retail installment contract in terms different from those previously agreed to by the customer; or misrepresenting, in any manner, either before or after the

consummation of the sale, the amount of the sale price or trade-in allowance or the amount of finance charge to be imposed in a related credit transaction.

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 product, 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 this order.

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment, *Provided*, That with respect to C. Edwin Francis, notification shall only be required if he becomes affiliated with a new automobile dealership or other seller of automobiles. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which they are engaged as well as a description of their duties and responsibilities.

It is further ordered, That 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.
