

used cars, among other things to cease violating the Truth in Lending Act

by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

Appearances

For the Commission: *James Tangires, Bernard Rowitz and Michael Vitale.*

For the respondents: *Paul L. Pascal, Wash., D.C.*

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 it by said Acts, the Federal Trade Commission, having reason to believe that Auto Brokers Corporation, a corporation, trading and doing business as Auto Broker Corporation, and Earl M. McGee, individually and as an officer of said corporation, hereinafter sometimes referred to as respondents, have violated the provisions of said Acts 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 Auto Brokers Corporation, trading and doing business as Auto Broker Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia, with its principal office and place of business located at 6298 Arlington Boulevard, Falls Church, Virginia.

Respondent Earl M. McGee is an officer of the corporate respondent. He formulates, directs and controls the policies, acts and practices of the corporation, 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 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 the credit sales, as "credit sale" is defined in Regulation Z, have caused and are causing customers to execute a binding Used Car Order Contract, hereinafter

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referred to as the "Order Contract." 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, in some instances, to disclose the annual percentage rate with an accuracy at least 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.
2. 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.
3. Fail, in some instances, to disclose the sum of the payments scheduled to repay the indebtedness, using the term "total of payments," as required by Section 226.8(b)(3) of Regulation Z.
4. Fail, in some instances, to identify the amount or method of computing the amount of any default, delinquency or similar charge payable in the event of late payments, as required by Section 226.8(b)(4) of Regulation Z.
5. Fail, in some instances, to disclose the downpayment in property using the term "trade-in," as required by Section 226.8(c)(2) of Regulation Z.
6. Fail, in some instances, to disclose the sum of the "cash downpayment" and the "trade-in" using the term "total downpayment," as required by Section 226.8(c)(2) of Regulation Z.
7. Fail, in some instances, to disclose the difference between the cash price and the total downpayment using the term "unpaid balance of cash price," as required by Section 226.8(c)(3) of Regulation Z.
8. Fail, in some instances, to disclose the amount of credit extended using the term "amount financed," as required by Section 226.8(c)(7) of Regulation Z.
9. Fail, in some instances, 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, describing that sum as the "deferred payment price," as required by Section 226.8(c)(8)(ii) of Regulation Z.

PAR. 5. Pursuant to Section 103(q) of the Truth in Lending Act, respondents' aforesaid failures to comply with 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 a copy of a draft of complaint which the Washington, D.C. 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 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 its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Auto Brokers Corporation, trading and doing business as Auto Broker Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia, with its principal office and place of business located 6298 Arlington Boulevard, Falls Church, Virginia.

Respondent Earl M. McGee is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation. 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.

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ORDER

It is ordered, That respondents Auto Brokers Corporation, a corporation, trading and doing business as Auto Broker Corporation, or under any other name or names, its successors and assigns, and its officers, and Earl M. McGee, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension of consumer credit or any advertisements to aid, promote, or assist, directly or indirectly, any extension of consumer credit, as "consumer credit" and "advertisement" 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 annual percentage rate with an accuracy at least 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.
2. Failing to disclose the number of payments scheduled to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.
3. Failing to disclose the sum of the payments scheduled to repay the indebtedness, using the term "total of payments," as required by Section 226.8(b)(3) of Regulation Z.
4. Failing to identify the amount or method of computing the amount of any default, delinquency or similar charge payable in the event of late payments, as required by Section 226.8(b)(4) of Regulation Z.
5. Failing to disclose the downpayment in property using the term "trade-in," as required by Section 226.8(c)(2) of Regulation Z.
6. Failing to disclose the sum of the "cash downpayment" and the "trade-in" using the term "total downpayment," as required by Section 226.8(c)(2) of Regulation Z.
7. Failing to disclose the difference between the cash price and the total downpayment using the term "unpaid balance of cash price," as required by Section 226.8(c)(3) of Regulation Z.
8. Failing to disclose the amount of credit extended using the term "amount financed," as required by Section 226.8(c)(7) of Regulation Z.

9. 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, describing that sum as the "deferred payment price," as required by Section 226.8(c)(8)(ii) of Regulation Z.

10. 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 the 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 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 notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents, 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 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 with which they have complied with the order to cease and desist contained therein.

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IN THE MATTER OF

FRANKLIN D. LEWARK TRADING AS AUTO BUYING
SERVICECONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF THE FEDERAL
TRADE COMMISSION AND THE TRUTH IN LENDING ACTS*Docket C-2441. Complaint, Sept. 11, 1973—Decision, Sept. 11, 1973.*

Consent order requiring a Fairfax, Virginia, retailer and distributor of used cars, among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

*Appearances*For the Commission: *Bernard Rowitz.*For the respondent: *pro se.*

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 Franklin D. Lewark, an individual, trading and doing business as Auto Buying Service, has 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 Franklin D. Lewark, is an individual, trading and doing business as Auto Buying Service, with its principal office and place of business located at 9854 Lee Highway, Fairfax, Virginia.

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

PAR. 3. In the ordinary course and conduct of his business as aforesaid, the respondent regularly extends 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.