

Complaint

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IN THE MATTER OF

FRANKLIN D. LEWARK TRADING AS AUTO BUYING
SERVICE

CONSENT 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.

PAR. 4. Subsequent to July 1, 1969, respondent, in the ordinary course of business as aforesaid, and in connection with his credit sales, as "credit sale" is defined in Regulation Z, has caused and is causing customers to execute a binding Used Car Order Contract, hereinafter referred to as the "Order Contract." Respondent does not provide these customers with any other customer credit cost disclosures.

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

1. Fails to disclose, in some instances, the cash price of the property or service purchased, using the term "cash price," as required by Section 226.8(c)(1) of Regulation Z.

2. Fails to disclose the sum of payments scheduled to repay the indebtedness, using the term, "Total of Payments," as required by Section 226.8(b)(3) of Regulation Z.

3. Fails to disclose the downpayment in money, using the term "cash downpayment," the downpayment in property, using the term "trade in," and sum of these downpayments using the term "total downpayment," as required by Section 226.8(c)(2) of Regulation Z.

4. Fails to disclose the amount of credit extended, using the term "amount financed," as required by Section 226.8(c)(7) of Regulation Z.

5. Fails 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.

6. Fails 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.

PAR. 5. Pursuant to Section 103(q) of the Truth in Lending Act, respondent's aforesaid failures to comply with the provisions of Regulation Z constitute violations of that Act and, pursuant to Section 108 thereof, the respondent has 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 respondent named in the caption hereof, and the respondent 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 respondent with violation

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of the Truth in Lending Act and the implementing regulation promulgated thereunder, and the Federal Trade Commission Act; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent 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 respondent 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 respondent has 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 Franklin D. Lewark is an individual, trading and doing business as Auto Buying Service, with his office and place of business located at 9854 Lee Highway, Fairfax, Virginia.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent Franklin D. Lewark, an individual, trading and doing business as Auto Buying Service, or under any other names or names, and respondent's agents, representatives, and employees, successors and assigns, directly or through any corporation, subsidiary, division or other device, in connection with any extension of consumer credit or any 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 C.F.R. § 226) of the Truth in Lending Act (Pub. L. 90-321, 15 U.S.C. 1601 *et seq.*), do forthwith cease desist from:

1. Failing to disclose the cash price of the property or service purchased, using the term "cash price," as required by Section 226.8(c)(1) of Regulation Z.
2. Failing to disclose the sum of payments scheduled to repay

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the indebtedness using the term "total of payments," as required by Section 226.8(b)(3) of Regulation Z.

3. Failing to disclose the downpayment in money, using the term "cash downpayment," the downpayment in property, using the term "trade-in," and the sum of these downpayments using the term "total downpayment," as required by Section 226.8(c)(2) of Regulation Z.

4. Failing to disclose in the amount of credit extended, using the term "amount financed," as required by Section 226.8(c)(7) of Regulation Z.

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

6. 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.

7. 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 respondent deliver a copy of this order to cease and desist to all present and future personnel of respondent engaged in the consummation of any extension of re-credit or in any aspect of preparation, creation, or placing of advertising, and that respondent secure a signed statement acknowledging the 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 respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report, in writing, setting forth, in detail, the manner and form with which he has complied with this order.

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IN THE MATTER OF

RALPH K. CHRISNER TRADING AS CAR CITY USED CARS

CONSENT ORDER IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL
TRADE COMMISSION AND THE TRUTH IN LENDING ACTS*Docket C-2442. 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* and *Michael F. Vitale*.

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 Ralph K. Chrisner, an individual, trading and doing business as Car City Used Cars, 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 Ralph K. Chrisner, is an individual, trading and doing business as Car City Used Cars, with his principal office and place of business located at 10450 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.