

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.

IN THE MATTER OF

ECCLES MOTOR COMPANY, ET AL.

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

Docket C-2479. Complaint, Dec. 3, 1973—Decision, Dec. 3, 1973

Consent order requiring a Klamath Falls, Oreg., retailer of new and used motor vehicles, 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: *Stephen A. Kikuchi* and *Thornton P. Percival*.

For the respondents: *Richard C. Beesley*, Klamath Falls, Oreg.

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 Eccles Motor Company, a corporation and Julian W. Eccles, individually and as an officer of said corporation, hereinafter sometimes referred to as respondents, have 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 Eccles Motor Company 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 606 South Sixth Street, Klamath Falls, Oreg.

Respondent Julian W. Eccles is an individual and 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

ECCLES MOTOR CO., ET AL.

Complaint

engaged in the offering for sale, and retail sale of new and used motor vehicles 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 their credit sales, as "credit sale" is defined in Regulation Z, have caused and are causing their customers to execute a binding order, hereinafter referred to as the "Order Contract." Respondents do not provide these customers with any other consumer credit cost disclosures before the transaction is consummated, except in those instances noted in Paragraph Five below, when respondents furnish a retail installment contract.

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

1. Fail in some instances to use the term "cash price," as defined in Section 226.2(i) of Regulation Z, to describe the purchase price of the vehicle, as required by Section 226.8(c)(1) of Regulation Z.

2. Fail to use the term "cash downpayment" to describe the downpayment in money made in connection with the credit sale, as required by Section 226.8(c)(2) of Regulation Z.

3. Fail to use the term "unpaid balance of cash price" to describe the difference between the cash price and the total downpayment as required by Section 226.8(c)(3) of Regulation Z.

4. Fail to use the term "amount financed" to describe the amount of credit extended, as required by Section 226.8(c)(7) of Regulation Z.

5. Fail to disclose the sum of all charges required by Section 226.4 of Regulation Z to be included therein, and to describe that sum as the "finance charge," as required by Section 226.8(c)(8)(i) of Regulation Z.

6. Fail to disclose the annual percentage rate, computed in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.

7. Fail 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, and to describe that sum as the "deferred payment price," as required by Section 226.8(c)(8)(ii) of Regulation Z.

8. Fail in some instances to disclose the number, amounts and due dates or periods of payments scheduled to repay the indebtedness, and the sum of such payments, and to describe that sum as the "total of payments," as required by Section 226.8(b)(3) of Regulation Z.

9. Fail to identify the amount or the method of computing the amount

Decision and Order

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.

10. Fail to describe the type of any security interest held or to be retained or acquired by the creditor in connection with the extension of credit, as required by Section 226.8 (b) (5) of Regulation Z.

11. Fail to identify the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation, as required by Section 226.8 (b) (7) of Regulation Z.

12. Fail to furnish customers with a duplicate of the instrument or a statement on which the disclosures prescribed by Sections 226.8 of Regulation Z are made, as required by Section 226.8 (a) of Regulation Z.

PAR. 5. Subsequent to July 1, 1969, respondents, in the ordinary course of business, and in connection with their credit sales, as "credit sale" is defined in Regulation Z, have caused and are causing customers to execute, in addition to said order contract, a retail installment contract, hereinafter referred to as the "Installment Contract." In some instances, respondents furnish the customer with a copy of the installment contract before the transaction is consummated but do not make any other consumer credit cost disclosures, with the exception of those set forth in the order contract.

By and through such use of the installment contract, respondents: 1. Fail in some instances to obtain specific dated and separately signed affirmative written indication of the customer's desire for credit life and disability insurance, as required by Section 226.4 (a) (5) (ii) of Regulation Z.

2. Fail in some instances to furnish to the customer before the transaction is consummated, a duplicate of the instrument or a statement on which the disclosures prescribed by Section 226.8 of Regulation Z are made, as required by Section 226.8 of Regulation Z.

PAR. 6. 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

ECCLES MOTOR CO., ET AL.
Decision and Order

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;

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. Respondent Eccles Motor Company 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 606 South Sixth Street, Klamath Falls, Oreg.
2. Respondent Julian W. Eccles is an individual and an officer of the said corporation. He formulates, directs and controls the policies, acts and practices of the corporation, and his address is the same as that of the corporation.
3. 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 Eccles Motor Company, a corporation, and its officers, and Julian W. Eccles, individually and as an officer of said corporation, and respondents' successors, assigns, agents, representatives and employees, 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 and desist from:

1. Failing to use the term "cash price," as defined in Section 226.2(i) of Regulation Z, to describe the purchase price of the vehicle, as required by Section 226.8(c)(1) of Regulation Z.

Decision and Order

2. Failing to use the term "cash downpayment" to describe the downpayment in money made in connection with the credit sale, as required by Section 226.8(c)(2) of Regulation Z.
3. Failing to use the term "unpaid balance of cash price" to describe the difference between the cash price and the total downpayment, as required by Section 226.8(c)(3) of Regulation Z.
4. Failing to use the term "amount financed" to describe the amount of credit extended as required by Section 226.8(c)(7) of Regulation Z.
5. Failing to disclose the sum of all charges required by Section 226.4 of Regulation Z to be included therein, and to describe that sum as the "finance charge," as required by Section 226.8(c)(8)(i) of Regulation Z.
6. Failing to disclose the annual percentage rate, computed in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.
7. 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, and to describe that sum as the "deferred payment price," as required by Section 226.8(c)(8)(ii) of Regulation Z.
8. Failing to disclose the number, amounts and due dates or periods of payments scheduled to repay the indebtedness, and the sum of such payments, and to describe said sum as the "total of payments," as required by Section 226.8(b)(3) of Regulation Z.
9. Failing to identify the amount or the 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.
10. Failing to describe the type of any security interest held or to be retained or acquired by the creditor in connection with the extension of credit, as required by Section 226.8(b)(5) of Regulation Z.
11. Failing to identify the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation, as required by Section 226.8(b)(7) of Regulation Z.
12. Failing to obtain specific dated and separately signed affirmative written indication of the customer's desire to have insurance coverage, after furnishing to him a clear written disclosure of the cost of such insurance as provided in Section 226.4(a)(5)(ii).
13. Failing to furnish to the customer, before the transaction is consummated, a duplicate of the instrument or a statement on

which the disclosures prescribed by Section 226.8 of Regulation Z are made, as required by Section 226.8(a) of Regulation Z.

14. Failing, in any consumer credit transaction or advertisement, 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, 226.7, 226.8 and 226.10 of Regulation Z.

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 the preparation, creation or placing of advertising, and that respondent secure from each person a signed statement acknowledging receipt of said order.

It is further ordered, That respondents prominently display no less than two signs on the premises which will clearly and conspicuously state that a customer must receive a complete copy of the consumer credit cost disclosures, as required by the Truth in Lending Act, in any transaction which is financed, before the transaction is consummated.

It is further ordered, That the individual respondent named herein 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 respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation or corporations, 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 respondents 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
BERKEY PHOTO, INC.

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

Docket C-2480. Complaint, Dec. 5, 1973—Decision, Dec. 5, 1973

Consent order requiring a New York City seller of film and photo processing services,