

Consent order requiring a Klamath Falls, Oreg., new and used automobile dealer, among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of credit, such information as required by Regulation Z of the said Act.

Appearances

For the Commission: *Michael A. Katz, Stephen A. Kikuchi and Thornton P. Percival.*

For the respondent: *Robert D. Boivin*, Klamath Falls, Oreg.

Complaint

84 F.T.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 in it by said Acts, the Federal Trade Commission, having reason to believe that George V. Dugan, an individual trading and doing business as George Dugan Chevrolet, hereinafter sometimes referred to as respondent, 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 George V. Dugan is an individual trading and doing business as George Dugan Chevrolet, with his principal office and place of business located at 677 South Seventh Street, Klamath Falls, Ore.

Par. 2. Respondent is now and for some time last past has been 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 the business as aforesaid, 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 order, hereinafter referred to as the "Order Contract." In some instances, respondent has caused and is causing customers to execute blank retail installment contracts. Respondent does not provide customers with any other consumer credit cost disclosures before the transaction is consummated, except in those instances noted in Paragraph Five below, when respondent furnishes a completed retail installment contract.

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

1. Fails 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.

2. Fails 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.

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

4. Fails 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.

5. Fails in some instances to disclose the number, amounts and due dates or periods of payments scheduled to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.

6. Fails to disclose the sum of the payments scheduled to repay the indebtedness, and to describe that sum as the "total of payments," as required by Section 226.8(b)(3) of Regulation Z.

7. Fails 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.

8. Fails to describe or identify the type of 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.

9. Fails to identify the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation, and to state the amount or method of computation of any charge deductible from any rebate of unearned finance charge which may be credited to the obligation or refunded to the customer, as required by Section 226.8(b)(7) of Regulation Z.

10. Fails to furnish to the customer a duplicate of the instrument or other statement containing the disclosures prescribed by Section 226.8 of Regulation Z, as required by Section 226.8(a) of Regulation Z.

Par. 5. Subsequent to July 1, 1969, respondent, in the ordinary course of business, and in connection with his credit sales, as "credit sale" is defined in Regulation Z, has caused and is causing customers to execute, in addition to said order contract, a retail installment contract, hereinafter referred to as the "Installment Contract." In some instances, respondent furnishes the customer with a completed copy of the installment contract before the transaction is consummated but does 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, respondent has failed to include in the finance charge certain charges or premiums for credit life and/or disability insurance when a specific dated and separately signed affirmative written indication of the customer's desire for

such insurance was not obtained as prescribed by Section 226.4(a)(5)(ii) of Regulation Z. Respondent has thereby failed to determine and disclose the finance charge accurately as required by Sections 226.4 and 226.8(c)(8)(i) of Regulation Z, and to compute and disclose the annual percentage rate accurately to the nearest quarter of one percent, as required by Sections 226.5(b) and 226.8(b)(2) of Regulation Z.

Par. 6. 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, 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 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 respondent with violation of 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 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 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 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 sixty (60) 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 George V. Dugan is an individual trading and doing business as George Dugan Chevrolet with his principal office and place of business located at 677 South Seventh Street, Klamath Falls, Oreg.
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 George V. Dugan, an individual trading and doing business as George Dugan Chevrolet, or under any other name or names, and respondent's 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 an 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 amount of credit extended, and to describe that amount as the "amount financed," as required by Section 226.8(c)(7) of Regulation Z.

2. 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.

3. 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.

4. Failing to compute and disclose the annual percentage rate accurately to the nearest quarter of one percent, as required by Sections 226.5(b) and 226.8(b)(2) of Regulation Z.

5. 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 that sum as the "total of payments," as required by Section 226.8(b)(3) of Regulation Z.

6. 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.

7. Failing to describe or identify 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.

8. Failing to identify the method of computing any unearned

portion of the finance charge in the event of prepayment of the obligation, and to state the amount or method of computation of any charge deductible from any rebate of unearned finance charge which may be credited to the obligation or refunded to the customer, as required by Section 226.8(b)(7) of Regulation Z.

9. Failing to furnish to the customer, before the transaction is consummated, a duplicate of the instrument or other statement containing the disclosures required by Section 226.8 of Regulation Z, as required by Section 226.8(a) of Regulation Z.

10. Failing to itemize and include in the finance charge, for purposes of disclosure of the finance charge and computation of the annual percentage rate, any and all charges or premiums for credit life or disability insurance unless respondent has obtained a specific dated and separately signed affirmative written indication of the customer's desire for such insurance coverage as prescribed by Section 226.4(a)(5)(ii) of Regulation Z.

11. 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 amounts required by Sections 226.6, 226.7, 226.8 and 226.10 of Regulation Z.

It is further ordered, That 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 consumer credit or in any aspect of the preparation, creation or placing of advertising, and that respondent secure from each such person a signed statement acknowledging receipt of said order.

It is further ordered, That respondent prominently display the following notice in two or more locations in that portion of respondent's business premises most frequented by prospective customers, and in each location where customers normally sign consumer credit documents or other binding instruments. Such notices shall be considered prominently displayed only if so positioned as to be easily observed and read by the intended individuals:

NOTICE TO CREDIT CUSTOMERS

IF THE DEALER IS FINANCING OR ARRANGING THE FINANCING OF YOUR PURCHASE, YOU ARE ENTITLED TO CONSUMER CREDIT COST DISCLOSURES AS REQUIRED BY THE FEDERAL TRUTH IN LENDING ACT. THESE MUST BE PROVIDED TO YOU IN WRITING BEFORE YOU ARE ASKED TO SIGN ANY DOCUMENT OR OTHER PAPERS WHICH WOULD BIND YOU TO SUCH A PURCHASE.

This notice required by order of the Federal Trade Commission.

It is further ordered, That the 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 the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a written report setting forth in detail the manner and form of its compliance with this order.

IN THE MATTER OF

FROZEN FOOD FORUM, INC., ET AL.