

report, in writing, setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF
COMMERCIAL AUTOMOTIVE SERVICE, INC., ETC., ET AL.
CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-2561. Complaint, Oct. 7, 1974—Decision, Oct. 7, 1974

Consent order requiring a Seattle, Wash., seller, lessor and distributor of new and used automobiles, automotive accessories and household appliances, among other things to cease making any claims as to the lifespan, maintenance costs, or fuel consumption of any vehicle without a competent and reliable basis, in the form of tests or surveys, substantiating such claims.

Appearances

For the Commission: *Gregory L. Colvin.*

For the respondents: *Richard M. Clinton, Bogle, Gates, Dobrin, Wakefield & Long, Seattle, Wash.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Commercial Automotive Service, Inc., a corporation doing business as Frank Hawkins Buick Co., and S. M. Rood, individually and as an officer of said corporation, hereinafter sometimes referred to as respondents, have violated the provisions of the Federal Trade Commission Act, and that a proceeding in respect thereof would be in the public interest, hereby issues this complaint:

PARAGRAPH 1. Commercial Automotive Service, Inc. is a Washington corporation, with its office and principal place of business located at Westlake and Denny Way, Seattle, Wash. Said corporation is now and has been doing business as Frank Hawkins Buick Co.

S. M. Rood is president of Commercial Automotive Service, Inc. He formulates, directs and controls the policies, acts and practices of the

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said corporation, including those hereinafter set forth. His business address is the same as that of Commercial Automotive Service, Inc.

PAR. 2. Respondents are now and have been engaged in the business of selling, leasing, and distributing new and used automobiles, automotive accessories, and household appliances. Allegations below of respondents' present acts or practices include past acts or practices.

PAR. 3. In the course of their business, respondents cause automobiles to be transported from outside the State of Washington to purchasers within the State of Washington and other States of the United States. Business correspondence, letters, contracts, monies, and other documents related to the distribution of automobiles, including materials used in the preparation of the advertisements described below, are transmitted between respondents' office, customers, and other business entities located in various different states of the United States. Furthermore, respondents advertise in media of interstate circulation and broadcast. Therefore, respondents are engaged in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course of their business, respondents have disseminated and caused to be disseminated certain advertisements concerning Buick automobiles. Typical and illustrative of such advertisements, but not all inclusive thereof, is the newspaper advertisement below, which appeared in December, 1973: [See p. 639 herein.]

PAR. 5. Through the use of such advertisements, and others not specifically set out herein, respondents have represented, directly or by implication, that:

1. The full-size Buick has a total useful life up to three or four times longer than most small cars.
2. The overall costs of maintenance and upkeep are considerably less for a full-size Buick than for most small cars.
3. The fuel economy of a full-size Buick compares favorably with small cars.
4. The average consumer can expect to obtain 18 or more miles per gallon of gasoline during a substantial portion of his or her customary or usual experience driving a full-size Buick.

PAR. 6. At the time the representations set forth in Paragraph Five were made, respondents had no reasonable basis from which to conclude that such representations were true.

Therefore, the advertisements and representations set forth in Paragraphs Four and Five were and are deceptive or unfair.

PAR. 7. Respondents failed to adequately disclose the following material facts in the advertisements referred to in Paragraphs Four and Five that:

Don't write off the full size car!



STAN ROOD

Despite all the conflicting reports there is still a place for the full size car and especially the full size Buick. Several advantages include: A longer life — according to our own records, the full size Buick will outlast most small cars up to three and in some cases four times longer.

The maintenance cost, including up-keep, tune-ups, etc., is considerably less. The safety and comfort the full size Buick affords a family, is immeasurable.

What about gas mileage? In November under the supervision of the U. S. Auto Club, two models of the full size Buick made a gas mileage test run from San Diego, Calif., to Washington, D. C., at 50 miles per hour. The LeSabre averaged 18.9 M.P.G. and the incomparable Electra averaged 18.3 M.P.G.

Now, considering all these outstanding features, we think a full size Buick from Frank Hawkins is still your best bargain . . . especially the 1973's in view of the removal of price controls on the 1974 models.

We are offering all our 1973 Buicks on a sealed bid basis to the public, please turn to our notice on page G5 and see how you just might become the owner of a new Buick.

Signed
Stan Rood
President
**FRANK HAWKINS
BUICK**
Westlake & Denny
624-3300

1. The lifespan and maintenance cost representations were based on comparisons between the full-size Buick and only one small car—the Opel.

2. The lifespan representations were based only on how far some original purchasers had driven their automobiles, not on average total useful life of the automobile.

3. The Buick gas mileage stated therein does not reflect the average consumer's customary or usual driving experience with the automobiles referred to.

Therefore, the advertisement and representations set forth in Paragraphs Four and Five were and are deceptive or unfair.

PAR. 8. The respondents' use of the aforesaid deceptive or unfair advertisements and representations has the capacity and tendency to induce members of the public to rely thereupon and to purchase or lease substantial quantities of Buick automobiles, thereby unfairly diverting substantial trade to respondents from their competitors.

PAR. 9. In the course of their business, respondents are in substantial competition in commerce with corporations, firms and individuals engaged in the sale, lease, and distribution of new and used automobiles of the same general type as those sold by respondents.

PAR. 10. Respondents' aforesaid acts and practices are all to the prejudice and injury of the public and of respondents' competitors and constitute unfair and deceptive acts and practices in commerce and unfair methods of competition in commerce in violation of Section 5 of 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

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 sixty 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:

A. Respondent Commercial Automotive Service, Inc. is a Washington corporation with its office and principal place of business located at Westlake and Denny Way, Seattle, Wash. Said corporation is now and in the past has been doing business as Frank Hawkins Buick Co.

Respondent S. M. Rood is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation and his business address is the same as that of said corporation.

B. 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

I. *It is ordered*, That respondents Commercial Automotive Service, Inc., a corporation doing business as Frank Hawkins Buick Co., or under any other name, its successors and assigns, and its officers, and S. M. Rood, 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 the advertising, offering for sale or lease, sale, lease, or distribution of motor vehicles, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, in writing, orally, visually, or in any other manner, directly or by implication, which refers to the lifespan, maintenance cost, or fuel consumption of any vehicle or type of vehicle, unless:

A. The representation reflects the average consumer's customary or usual driving experience with the vehicles referred to;

B. At the time the representation is made, respondents:

1. have a reasonable basis for such representation, consisting of competent and reliable tests or surveys which substantiate the representation, and

2. have made available to the general public, at the point of retail sale, copies of a brief but comprehensive statement of

the results and methodology of such tests or surveys, in terms understandable to the average consumer;

C. In immediate conjunction with the representation, respondents clearly and conspicuously disclose:

1. where and how the test or survey results and methodology may be obtained,
2. the year, make, and model of each vehicle or type of vehicle referred to or used as a basis of comparison, and
3. if any lifespan representation is made, exactly how the term "life," or any similar term, is defined; and

D. Respondents retain copies of all sales promotional materials which contain such representations, including newspaper advertisements and radio and television scripts, for a period of three years after use of such materials; and retain for a like period all records made pursuant to this order.

II. *It is further ordered*, That the corporate respondent shall forthwith distribute a copy of this order to each of its officers, agents, representatives or employees who are engaged in the preparation or placement of advertisements.

III. *It is further ordered*, That the corporate respondent notify the Commission at least thirty days prior to any proposed change in said 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 the order.

IV. *It is further ordered*, That the individual respondent named herein promptly notify the Commission if he discontinues his present business or employment and affiliates with another business or employment engaged in the sale, lease or distribution of motor vehicles. 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.

V. *It is further ordered*, That respondents shall, within sixty days after service upon them of this order, file with the Commission a written report setting forth in detail the manner and form of their compliance with this order.

IN THE MATTER OF

McCOLLUM FORD SALES, INC., ET AL.

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

Docket C-2562. Complaint, Oct 7, 1974—Decision, Oct. 7, 1974

Consent order requiring a Spokane, Wash., seller, lessor and distributor of new and used automobiles and automotive accessories, among other things to cease making any claims as to the fuel consumption or economy of operation or ownership of any vehicle without a reasonable basis for such claim consisting of tests or surveys using statistically valid methodology and having such results available at places of retail sales in a language understandable to the average consumer.

Appearances

For the Commission: *David R. Pender*
For the respondents: *Pro se.*

COMPLAINT

The Federal Trade Commission, having reason to believe that McCollum Ford Sales, Inc., a corporation, and H. D. Richardson and Robert D. Sackmaster, individually and as officers of said corporation, hereinafter sometimes referred to as respondents, have violated the provisions of Section 5 of the Federal Trade Commission Act, and that a proceeding in respect thereof would be in the public interest, hereby issues this complaint stating, its charges as follows:

PARAGRAPH 1. McCollum Ford Sales, Inc., is a Washington corporation with its office and principal place of business located at 8300 East Sprague, Spokane, Wash.

H. D. Richardson and Robert D. Sackmaster are officers of McCollum Ford Sales, Inc. They formulate, direct and control the policies, acts and practices of McCollum Ford Sales, Inc., including those hereinafter set forth. Their business address is the same as that of McCollum Ford Sales, Inc.

PAR. 2. Respondents are now and have been engaged in the business of selling, leasing and distributing new and used automobiles and automotive accessories.

PAR. 3. In the course and conduct of their business, respondents cause automobiles to be transported from outside the State of Washington to purchasers within the State of Washington and other States of the United States. Business correspondence, contracts, monies, and