

LOWER SUNRISE TRADING POST, ETC., ET AL.

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

*Docket C-2565. Complaint, Oct. 8, 1974—Decision, Oct. 8, 1974.*

Consent order requiring five Arizona trading posts, dealing in all classes of goods, wares, merchandise and articles of trade and in pawn broking and money lending, among other things to cease offering improper, unfair and deceptive inducements to deal and failing to make certain disclosures as required by Regulation Z of the Truth in Lending Act.

*Appearances*

For the Commission: *Paul R. Roark.*

For the respondents: *Charles E. Barnhart of Hannett, Cornish & Barnhart, Albuquerque, N. M.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and of the Truth in Lending Act and the implementing regulations promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Lower Sunrise Trading Post, a partnership, and Sunrise Ganado Trading Post, a partnership, and Dilkon Trading Post, a partnership and White Cone Trading Post, a partnership, and Lower Greasewood Trad-

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ing Post, a partnership, and Harold Springer, individually and as a co-partner trading and doing business as Lower Sunrise Trading Post, as Sunrise Ganado Trading Post, as Dilkon Trading Post, as White Cone Trading Post, and as Lower Greasewood Trading Post, and Clarence A. Wheeler, individually, and as a co-partner trading and doing business as Sunrise Ganado Trading Post, as White Cone Trading Post, and as Lower Greasewood Trading Post, and Francis Powell, individually, and as a co-partner trading and doing business as Lower Sunrise Trading Post and as Dilkon Trading Post, and Rubin Rinker, individually and as a co-partner trading and doing business as Lower Sunrise Trading Post, hereinafter sometimes referred to as respondents, have violated the provisions of said Acts and the implementing regulation promulgated under the Truth in Lending Act, 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. Lower Sunrise Trading Post is a partnership organized, existing and doing business under and by virtue of the laws of the State of Arizona and is licensed to conduct business on the Navajo Reservation by the Bureau of Indian Affairs, with its principal office and place of business located at Leupp, Ariz.

Respondent Sunrise Ganado Trading Post is a partnership organized, existing and doing business under and by virtue of the laws of the State of Arizona and is licensed to conduct business on the Navajo Reservation by the Bureau of Indian Affairs, with its principal office and place of business located at Ganado, Ariz.

Respondent Dilkon Trading Post is a partnership organized, existing and doing business under and by virtue of the laws of the State of Arizona and is licensed to conduct business on the Navajo Reservation by the Bureau of Indian Affairs, with its principal office and place of business located at Dilkon, Ariz.

Respondent White Cone Trading Post is a partnership organized, existing and doing business under and by virtue of the laws of the State of Arizona and is licensed to conduct business on the Navajo Reservation by the Bureau of Indian Affairs, with its principal office and place of business located at White Cone, Ariz.

Respondent Lower Greasewood Trading Post is a partnership organized, existing and doing business under and by virtue of the laws of the State of Arizona and is licensed to conduct business on the Navajo Reservation by the Bureau of Indian Affairs, with its principal office and place of business located at Lower Greasewood, Ariz.

Respondents Harold Springer, Francis Powell and Rubin Rinker are individuals and co-partners trading and doing business as Lower Sun-

rise Trading Post. They formulate, direct and control the policies, acts and practices of the said partnership and their address is the same as that of the said partnership.

Respondents Harold Springer and Clarence Wheeler are individuals and co-partners trading and doing business as Sunrise Ganado Trading Post. They formulate, direct and control the policies, acts and practices of the said partnership and their address is the same as that of the said partnership.

Respondents Harold Springer and Francis Powell are individuals and co-partners trading and doing business as Dilkon Trading Post. They formulate, direct and control the policies, acts and practices of the said partnership and their address is the same as that of the said partnership.

Respondents Harold Springer and Francis Powell are individuals and co-partners trading and doing business as Dilkon Trading Post. They formulate, direct and control the policies, acts and practices of the said partnership and their address is the same as that of the said partnership.

Respondents Harold Springer and Clarence Wheeler are individuals and co-partners trading and doing business as White Cone Trading Post. They formulate, direct and control the policies, acts and practices of the said partnership and their address is the same as that of the said partnership.

Respondents Harold Springer and Clarence Wheeler are individuals and co-partners trading and doing business as Lower Greasewood Trading Post. They formulate, direct and control the policies, acts and practices of the said partnership and their address is the same as that of the said partnership.

PAR. 2. Respondents are now, and for some time last past have been engaged in buying, selling, ordering and exchanging and dealing generally in all classes of goods, wares, merchandise and articles of trade with consumers and in pawn broking and money lending.

PAR. 3. In the course and conduct of their businesses respondents have operated several trading posts on the Navajo Reservation and maintain, and at all times mentioned herein have maintained, a substantial course of trade in commerce, as "commerce" is defined in the Federal Trade Commission Act.

#### COUNT I

PAR. 4. In the further course and conduct of their businesses respondents have engaged, and are now engaged in numerous acts and prac-

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tices. Typical of these acts and practices, but not all inclusive thereof are the following:

1. In many instances respondents have tied consumers to their places of business by giving trade slips, due bills or other form of purchase orders indicating a credit owed to a consumer which can be redeemed only at respondents' places of business in return for rugs, blankets, jewelry or other forms of handicraft or livestock purchased from consumers by respondents.

2. In many instances respondents have failed to give consumers a receipt, with all disclosures required by law, for item pawned with the respondents.

3. In many instances respondents have refused to make restitution to consumers for the value of items pawned by consumers with respondents at the time the consumer wishes to affect redemption and the respondents are unable or unwilling to present pledged item.

PAR. 5. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and are now, in substantial competition, in commerce, with corporations, firms and individuals, in the furnishing of services of the same general kind and nature as those furnished by respondents.

PAR. 6. The aforesaid acts and practices of the respondents, as herein alleged, were, and are, all to the prejudice of the public and of the respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

## COUNT II

PAR. 7. The allegations of Paragraphs One through Three hereof are incorporated by reference herein as if set forth verbatim.

PAR. 8. In the ordinary course and conduct of their businesses as aforesaid respondents regularly arrange for the extension of consumer credit or offer to extend or arrange for the extension of such credit, as "consumer credit" is defined in Regulation Z, the implementing regulation of the Truth in Lending Act, duly promulgated by the Board of Directors of the Federal Reserve System.

PAR. 9. Subsequent to July 1, 1969, in the ordinary course and conduct of their business as aforesaid, respondents arrange for the extension of loans which are not credit sales. In these transactions, respondents:

1. Fail to make the disclosures required by Section 226.8 of Regulation Z clearly, conspicuously and in a meaningful sequence, as prescribed by Section 226.6(a) of Regulation Z.

2. Fail to print the terms "annual percentage rate" and "finance charge" more conspicuously than other required terminology, as prescribed by Section 226.6(a) of Regulation Z.

3. Fail to disclose the finance charge expressed as an annual percentage rate, using the term "annual percentage rate," as prescribed by Section 226.8(b)(2) of Regulation Z.

4. Fail to disclose the number, amount, and due dates or periods of payments scheduled to repay the indebtedness and the sum of such payments using the term "total of payments," as prescribed by Section 226.8(b)(3) of Regulation Z.

5. Fail to disclose a description or identification of the type of any security interest held or to be retain or acquired by the creditor in connection with the extension of credit, and a clear identification of the property to which the security interest relates, as prescribed by Section 226.8(b)(5) of Regulation Z.

6. Fail to disclose identification of the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation and a statement of the amount or method of computation of any charge that may be deducted from the amount of any rebate of such unearned finance charge that will be credited to the obligation or refunded to the customer, as prescribed by Section 226.8(b)(7) of Regulation Z.

7. Fail to disclose the amount of credit which will be paid to the customer including all charges, individually itemized, which are included in the amount of credit extended but which are not part of the finance charge, using the term "amount financed," as prescribed by Section 226.8(d)(1) of Regulation Z.

8. Fail to disclose the total amount of the finance charge, with description of each amount included, using the term "finance charge," as prescribed by Section 226.8 (d)(3) of Regulation Z.

PAR. 10. By the aforesaid failure to make disclosures, respondents have failed to comply with the requirements of Regulation Z, the implementing regulation of the Truth in Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System. Pursuant to Section 103 (q) of the Truth in Lending Act, respondents' aforesaid failure to comply with Regulation Z constitutes violations of that Act and, pursuant to Section 108 thereof, respondents have thereby violated the Federal Trade Commission Act.

#### DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereto with violation of

the Truth in Lending Act and the implementing regulation promulgated thereunder, and the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; 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 complaint to issue herein, 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 considered the agreement and having provisionally accepted same, and the agreement containing consent order having thereupon been placed 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 in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

Respondent Lower Sunrise Trading Post is a partnership organized, existing and doing business under and by virtue of the laws of the State of Arizona, with its office and principal place of business located at Leupp, Ariz.

Respondent Sunrise Ganado Trading Post is a partnership organized, existing and doing business under and by virtue of the laws of the State of Arizona, with its office and principal place of business located at Ganado, Ariz.

Respondent Dilkon Trading Post is a partnership organized, existing and doing business under and by virtue of the laws of the State of Arizona, with its office and principal place of business located at Dilkon, Ariz.

Respondent White Cone Trading Post is a partnership organized, existing and doing business under and by virtue of the laws of the State of Arizona, with its office and principal place of business located at White Cone, Ariz.

Respondent Lower Greasewood Trading Post is a partnership organized, existing and doing business under and by virtue of the laws of the State of Arizona, with its office and principal place of business located at Lower Greasewood, Ariz.

Respondents Harold Springer, Francis Powell and Rubin Rinker are individuals and co-partners trading and doing business as Lower Sun-

rise Trading Post. They formulate, direct and control the policies, acts and practices of the said partnership and their address is the same as that of the said partnership.

Respondents Harold Springer and Clarence Wheeler are individuals and co-partners trading and doing business as Sunrise Ganado Trading Post. They formulate, direct and control the policies, acts and practices of the said partnership and their address is the same as that of the said partnership.

Respondents Harold Springer and Francis Powell are individuals and co-partners trading and doing business as Dilkon Trading Post. They formulate, direct and control the policies, acts and practices of the said partnership and their address is the same as that of the said partnership.

Respondents Harold Springer and Clarence Wheeler are individuals and co-partners trading and doing business as White Cone Trading Post. They formulate, direct and control the policies, acts and practices of the said partnership and their address is the same as that of the said partnership.

Respondents Harold Springer and Clarence Wheeler are individuals and co-partners trading and doing business as Lower Greasewood Trading Post. They formulate, direct and control the policies, acts and practices of the said partnership and their address is the same as that of the said partnership.

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 Lower Sunrise Trading Post, a partnership, and Sunrise Ganado Trading Post, a partnership, and Dilkon Trading Post, a partnership, and White Cone Trading Post, a partnership, and Lower Greasewood Trading Post, a partnership, and Harold Springer, individually and as a co-partner trading and doing business as Lower Sunrise Trading Post, as Sunrise Ganado Trading Post, as Dilkon Trading Post, as White Cone Trading Post, as Lower Greasewood Trading Post, or under any other name or names, and Clarence A. Wheeler, individually, and as a co-partner trading and doing business as Sunrise Ganado Trading Post, as White Cone Trading Post, as Lower Greasewood Trading Post, or under any other name or names, and Francis Powell, individually, and as a co-partner trading and doing business as Lower Sunrise Trading Post, their successors and assigns,

and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the offer for sale, sale or purchase of all classes of goods, wares, merchandise and articles of trade in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Purchasing rugs, blankets, jewelry or other forms of handicraft or livestock from consumers for other than lawful United States currency unless the consumer offering to sell the goods to the respondent has expressly indicated his desire to receive trade slips, due bills or other form of purchase orders indicating a credit owed the consumer, in partial or full payment, and unless respondents have advised the consumer orally in the language in which the consumer is most fluent, and in writing, of his right to receive the purchase price in lawful United States currency.

2. Failing to present to each consumer pawning an item with respondents a receipt therefore with all disclosures required by law.

3. Failing to make immediate restitution for the market value of a pawned item held as security by the respondents in the event the respondents are unable to locate and deliver said item to the pledgor at the time the pledgor wishes to effect redemption.

*It is further ordered*, That respondents, their successors and assigns, maintain adequate records for a period of two years from the date of each transaction evidencing a consumer's desire to receive trade slips, due bills or other form of purchase orders indicating a credit owed to a consumer in return for any product or good sold to the respondent and to permit the inspection and copying of such records by the Federal Trade Commission.

## II

*It is further ordered*, That respondents Lower Sunrise Trading Post, a partnership, and Sunrise Ganado Trading Post, a partnership, and Dilkon Trading Post, a partnership, and White Cone Trading Post, a partnership, and Lower Greasewood Trading Post, a partnership, and Harold Springer, individually, and as a co-partner trading and doing business as Lower Sunrise Trading Post, as Sunrise Ganado Trading Post, as Dilkon Trading Post, as White Cone Trading Post, as Lower Greasewood Trading Post, or under any other name or names, and Clarence A. Wheeler, individually, and as a co-partner trading and doing business as Sunrise Ganado Trading Post, as White Cone Trading Post, as Lower Greasewood Trading Post, or under any other name or names,

and Francis Powell, individually, and as a co-partner trading and doing business as Lower Sunrise Trading Post, as Dilkon Trading Post, or under any other name or names, and Rubin Rinker, individually, and as a co-partner trading and doing business as Lower Sunrise Trading Post, or under any other name or names, their successors and assigns, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the extension of "consumer credit" or arranging for "consumer credit" as 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 make disclosures required by Section 226.8 of Regulation Z clearly, conspicuously and in a meaningful sequence, as prescribed by Section 226.6(a) of Regulation Z.
2. Failing to print the terms "annual percentage rate" and "finance charge" more conspicuously than other required terminology, as prescribed by Section 226.6(a) of Regulation Z.
3. Failing to disclose the finance charge expressed as an annual percentage rate, using the term "annual percentage rate," as prescribed by Section 226.8(b)(2) of Regulation Z.
4. Failing to disclose the number, amount, and due dates or periods of payments scheduled to repay the indebtedness and the sum of such payments using the term "total of payments," as prescribed by Section 226.8(b)(3) of Regulation Z.
5. Failing to disclose a description or identification of the type of any security interest held or to be retained or acquired by the creditor in connection with the extension of credit, and a clear identification of the property to which the security interest relates, as prescribed by Section 226.8(b)(5) of Regulation Z.
6. Failing to disclose identification of the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation and a statement of the amount or method of computation of any charge that may be deducted from the amount of any rebate of such unearned finance charge that will be credited to the obligation or refunded to the customer, as prescribed by Section 226.8(b)(7) of Regulation Z.
7. Failing to disclose the amount of credit which will be paid to the customer including all charges, individually itemized which are included in the amount of credit extended but which are not part of the finance charge, using the term "amount financed," as prescribed by Section 226.8(d)(1) of Regulation Z.

8. Failing to disclose the total amount of the finance charge, with description of each amount included, using the term "finance charge," as prescribed by Section 226.8(d)(3) of Regulation Z.

9. Failing in any consumer credit transaction 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, and 226.8 of Regulation Z.

*It is further ordered,* That each 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 respondents' 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 partnerships, their successors and assigns, shall forthwith distribute a copy of this order to each of their operating divisions.

*It is further ordered,* That respondents notify the Commission at least thirty (30) days prior to any proposed change in the form of business organization such as dissolution, assignment or sale resulting in the emergence of a successor, individual proprietorship, partnership or corporation, the creation or dissolution of subsidiaries or any other change in the form of business organization which may affect compliance obligations arising out of this 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 in which they have complied with this order.

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IN THE MATTER OF

FOUR-S, INC., t/a WHITE HORSE LAKE TRADING POST, ETC.,  
ET AL.

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

*Docket C-2566. Complaint, Oct. 8, 1974—Decision, Oct. 8, 1974*

Consent order requiring a Cuba, N. M., retailer of general merchandise, pawnbroker and money lender 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,