

Complaint

111 F.T.C.

IN THE MATTER OF

ALAMO RENT-A-CAR, INC.

CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3251. Complaint, Apr. 28, 1989—Decision, Apr. 28, 1989*

This consent order requires, among other things, the Fort Lauderdale, Fla. rental company to disclose charges, terms and conditions that are mandatory or are not reasonably avoidable, to every consumer who inquires about the prices.

Appearances

For the Commission: *Maria C. Gambale and Ronald L. Waldman.*

For the respondent: *Robert A. Blair, Anderson, Hibey, Nauheim & Blair, Washington, D.C. William J. Baer, Arnold & Porter, Washington, D.C. and Howard L. Conklin, Tripp, Scott, Conklin & Smith, Ft. Lauderdale, Fla.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Alamo Rent-A-Car, Inc., a corporation, hereinafter sometimes referred to as respondent, has violated the provisions of said 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. Respondent Alamo Rent-A-Car, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Florida, with its headquarters located at 110 South East Sixth Street, Fort Lauderdale, Florida.

Par. 2. Respondent, at all times mentioned herein, has maintained a substantial course of business, including the acts and practices as hereinafter set forth, which are in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

Par. 3. Respondent advertises, offers for rental, and rents to consumers throughout the United States. rental vehicles that are

made available to consumers at its numerous rental offices nationwide. Many of respondent's rental offices are located at off-airport sites; an airport surcharge or fee may be imposed at these locations when consumers use an airport shuttle van for transportation to these sites.

Par. 4. In the course and conduct of its business, and for the purpose of inducing the rental of its rental vehicles, respondent has disseminated and caused the dissemination of promotional information. Such information includes written advertisement which state applicable fuel charges and disclose that airport surcharges or fees may apply to certain rentals. Respondent's advertisements typically invite consumers to reserve through their travel agents or to call respondent's toll-free "800" number to receive further information from respondent's agents and to make reservations.

Par. 5. Information imparted to consumers by respondents's agents in answer to consumer inquiries contains, among other things, statements and representations as to the price of contemplated rentals of respondent's vehicles.

Par. 6. In oral presentations in response to consumers' telephone inquiries to respondent's "800" number, respondent's agents have, in numerous instances, stated prices for respondent's car rental services without disclosing:

- (A) The existence and amount of a mandatory fuel charge; and
- (B) The existence and amount of a mandatory airport surcharge or fee that is imposed on consumers who travel from certain airport locations to one of respondent's rental stations in one of the respondent's shuttle vehicles.

The existence and amounts of these charges and fees would be material to consumers. The failure to disclose these facts, in light of respondent's representation of a price for a vehicle rental in connection with a discussion or inquiry, is an unfair or deceptive act or practice.

Par. 7. The acts and practices of respondent, as herein alleged, constituted, and now constitute, unfair and deceptive acts or practices in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act. The acts and practices of respondent, as herein alleged, may continue or recur in the absence of the relief herein requested.

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 New York 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, its attorneys, 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, and having duly considered the comments filed thereafter by interested persons pursuant to Section 2.34 of its Rules, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, making the following jurisdictional findings, and enters the following order:

(1) Respondent Alamo Rent-A-Car, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Florida, with its headquarters located at 110 South East Sixth Street, Fort Lauderdale, Florida.

(2) The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and the respondent, and the proceeding is in the public interest.

ORDER

I.

For the purposes of this order, all required disclosures shall be made in a clear and conspicuous manner.

It is ordered, That respondent Alamo Rent-A-Car, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or any other device, in connection with the promotion, offering for rental or rental of any vehicle, in or affecting commerce, as commerce is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

A. Failing to disclose to consumers, in connection with any discussion or inquiry relating to the price of a contemplated rental, all airport surcharges or fees that are applicable to the contemplated rental or are not reasonably avoidable by consumers.

B. Failing to disclose to consumers, in connection with any discussion or inquiry relating to the price of a contemplated rental, all fuel charges that are applicable to the contemplated rental and are not reasonably avoidable by consumers.

C. Failing to disclose to consumers, in connection with any discussion or inquiry relating to the price of a contemplated rental, any other charges sought to be imposed in connection with a contemplated rental which are mandatory or which are not reasonably avoidable by consumers.

II.

It is further ordered, That respondent shall for a period of three (3) years distribute, or cause to be distributed, a copy of this order to all present and future operating divisions, subsidiaries, franchisees, dealers, and managerial employees.

III.

It is further ordered, That, for a period of ten years, respondent shall notify the Commission at least thirty (30) days prior to any proposed change in its corporate status that may affect compliance obligations arising out of this order, such as dissolution, assignment of its business, or the emergence of a successor corporation.

IV.

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

IN THE MATTER OF

DETROIT AUTO DEALERS ASSOCIATION, INC., ET AL.

Docket 9189. Interlocutory Order, May 8, 1989

ORDER

Counsel for the General Motors respondents have moved that the complaint against three respondents in this matter be dismissed, and that their names be removed from the Final Order of the Commission. The three respondents are Mr. Porterfield Wilson, Jim Carney Buick Co., and Bill Greig Buick-Opel, Inc. Counsel have advised that Mr. Wilson is deceased, and that the two dealerships named are no longer in business. Complaint counsel do not oppose the motion.

The Commission has considered the motion and determined to grant it. Therefore,

It is ordered, That the complaint against Mr. Porterfield Wilson, Jim Carney Buick Co., and Bill Greig Buick-Opel, Inc. be, and it hereby is, dismissed.

It is further ordered, That the Final Order of the Commission be, and it hereby is, modified to remove their names therefrom.

Commissioner Machol not participating.