

Complaint

111 F.T.C.

IN THE MATTER OF

GENERAL RENT-A-CAR SYSTEMS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3255. Complaint, June 13, 1989—Decision, June 13, 1989*

This consent order requires, among other things, the Miami, Fla. national car rental company to disclose charges that are mandatory or are not reasonably avoidable to every consumer that inquires about the prices and also to disclose to consumers the car models they are to receive under the car size classification that each consumer selects.

Appearances

For the Commission: *Michael R. MacPhail* and *Joel C. Winston*.

For the respondents: *Donald L. Peusner*, Miami, 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 respondents General Rent-A-Car Systems, Inc., a corporation, and General Rent-A-Car, Inc., a corporation, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it would be in the public interest, hereby issues its complaint stating its charges as follows:

PARAGRAPH 1. Respondent General Rent-A-Car Systems, Inc. is a corporation organized, existing, and doing business under and by virtue of the law of the State of Florida. Respondent General Rent-A-Car, Inc. is a corporation organized, existing, and doing business under and by virtue of the law of the State of Delaware. Respondents' offices and principal places of business are located at 2741 North 29th Avenue, Hollywood, Florida. Respondent General Rent-A-Car, Inc. is a wholly-owned subsidiary of respondent General Rent-a-Car Systems, Inc.

PAR. 2. Respondents, at all times mentioned herein, have maintained a substantial course of business, including the acts and

practices hereinafter set forth, which are in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. Respondents advertise, offer for rental, and rent to consumers throughout the United States, rental vehicles made available to consumers at numerous rental offices nationwide. Many of respondents' rental offices are located at off-airport sites; an airport surcharge or fee is imposed at certain of these locations when consumers use an airport shuttle van for transportation to these sites.

PAR. 4. In the course and conduct of their business, in order to induce the rental of their automobiles, respondents have disseminated or caused the dissemination of promotional information, including written advertisements stating that fuel charges will be assessed, and that airport fees may be assessed at certain locations. Respondents' advertisements typically invite consumers to call a toll-free "800" number to receive further information from their agents and to make reservations.

PAR. 5. In response to consumer inquiries to their toll-free number, respondents' agents make statements and representations regarding, among other things, the price of contemplated rentals of their vehicles, and their classification by size, *e.g.*, "subcompact," "compact," and "intermediate."

PAR. 6. In oral presentations in response to consumer inquiries, respondents' agents have, in numerous instances, stated prices for respondents' 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" imposed on consumers who travel in one of respondents' shuttle vehicles from certain airport locations to one of respondents' rental offices.

The existence and amounts of these charges and fees would be material to consumers. The failure to disclose these facts, in light of respondents' oral price representations, is an unfair or deceptive act or practice.

PAR. 7. Under respondents' vehicle classification system, certain automobile models classified by the federal government, automobile manufacturers, and other vehicle rental companies as "subcompacts" or "compacts" are classified by respondents as "compacts" and "intermediates," respectively. In oral presentations in response to consumer inquiries, respondents' agents have, in numerous instances, stated prices and accepted reservations for specific vehicle classifica-

tions without disclosing what model of automobile consumers will receive. Because of the vehicle classification system used by respondents, information on the particular model being received would be material to consumers. The failure to disclose this information, in light of respondents' vehicle classification representations, is an unfair or deceptive act or practice.

PAR. 8. The acts and practices of respondents, as herein alleged, have constituted, and now constitute unfair or deceptive acts or practices in or affecting 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 the complaint which the Bureau of Consumer Protection 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 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 (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent General Rent-A-Car Systems, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Florida. Respondent General Rent-A-Car, Inc. is a

corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware. Respondents' offices and principal places of business are located at 2741 North 29th Avenue, Hollywood, Florida. Respondent General Rent-A-Car, Inc. is a wholly-owned subsidiary of respondent General Rent-a-Car Systems, Inc.

2. 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.

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

It is ordered, That respondents General Rent-A-Car Systems, Inc., a corporation, and General Rent-A-Car, Inc., a corporation, their successors and assigns, and their 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 or 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 that are mandatory or that are not reasonably avoidable by consumers.

D. Failing to disclose to consumers, in connection with any discussion or inquiry in which an automobile reservation is made, the automobile model or models that they may receive under the classification rented.

II.

It is further ordered, That respondents 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 respondents shall notify the Commission at least thirty (30) days prior to any proposed change in either corporation such as a 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 that may affect compliance obligations under this order. Respondents shall require, as a condition precedent to the closing of any sale or other disposition of all or a substantial part of their assets, that the acquiring party file with the Commission, prior to the closing of such sale or other disposition, a written agreement to be bound by the provisions of the order.

IV.

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

UJENA, INC.

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

Docket C-3254. Complaint, June 14, 1989—Decision, June 14, 1989

This consent order prohibits, among other things, the Mountain View, Ca. corporation from misrepresenting the terms and conditions of a money-back guarantee, from failing to provide a full refund of the amount stated in the money-back guarantee within the time specified in the offer, and from failing to transmit a credit statement to the consumer's credit card issuer within seven business days of accepting the return of merchandise.

Appearances

For the Commission: *Janet M. Grady* and *Jerome M. Steiner, Jr.*

For the respondent: *John Anderson, President*, Mountain View, Ca. and *Peter B. Gelblum, Mitchell, Silberberg & Knupp*, Los Angeles, Ca.

COMPLAINT

The Federal Trade Commission, having reason to believe that Ujena, Inc., a corporation ("respondent"), has violated the provisions of the Federal Trade Commission Act, and the Truth in Lending Act, and the implementing Regulation Z 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, alleges:

PARAGRAPH 1. Ujena, Inc. is a Delaware corporation, with its principal office or place of business at 1400 Shoreline Boulevard, Mountain View, California.

PAR. 2. Respondent has advertised, offered for sale, sold and distributed swimwear and related products.

PAR. 3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce.

PAR. 4. In the course and conduct of its business, and for the purpose of inducing the purchase of respondent's products, respondent