

dent responsible for the advertising, promotion, distribution or sale of such products.

XII. *It is further ordered*, That the respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other changes in the corporation which may affect compliance obligations arising out of this order.

XIII. *It is further ordered*, That respondent corporation 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, except that such report shall in the case of Sections I.B., I.C., II.B., II.C., and III be filed within sixty (60) days after their becoming effective against respondent corporation.

IN THE MATTER OF

HERCULES, INCORPORATED

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

Docket C-2558. Complaint, Oct. 4, 1974—Decision, Oct. 4, 1974

Consent order requiring a Wilmington, Del., formulator and distributor of manufacturing grade insecticides, among other things to cease claiming that its agricultural insecticides are absolutely safe to use or absolutely safe to man or the environment. Further, respondent must place in all promotional material expressing or implying safety claims about agricultural insecticides, a statement reminding users that all pesticides are harmful if misused, and that they should only be used as directed.

Appearances

For the Commission: *Miriam A. Bender, Eric M. Rubin and Paul L. Chassy.*

For the respondent: *Charles S. Maddock, Wilmington, Del., and Burton Caine of Wolf, Block, Schorr & Solis-Cohen, Phila, Pa.*

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 Hercules Incorporated, a corporation, hereinafter referred to as respondent, has violated provi-

sions 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. For the purposes of this complaint and the order attached hereto, the following definitions of terms shall apply:

(1) "Pesticide" refers to (a) any substance or mixture of substances, including insecticides, intended for preventing, destroying, repelling or mitigating any pest, and (b) any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

(2) "Insecticide" refers to any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any insects which may be present in any environment whatsoever.

(3) "Non-persistent" refers to the property of certain toxic chemicals to dissipate or breakdown to non-toxic components rapidly in the environment.

(4) "Non-mobile" refers to the property of certain toxic chemicals to remain at their site of application.

(5) "Magnify" refers to the property of certain toxic chemicals to accumulate in exposed organisms at appreciably higher levels of concentration than in either their surrounding environment or in organisms beneath them in the food chain.

PAR. 2. Respondent, Hercules Incorporated, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at Hercules Tower, 910 Market Street, in the city of Wilmington, State of Delaware.

PAR. 3. Respondent is now, and for some time last past has been, engaged in the production, formulation, advertising, offering for sale, sale and distribution of manufacturing grade insecticides designated as "Toxaphene" and "Delnav" to national, regional and local insecticide formulators for resale to retailers and the public. Respondent is now, and for some time last past has been, also engaged in cooperative advertising with customers for products containing Toxaphene and Delnav in formulation with carriers and other pesticides for resale to retailers and the public.

PAR. 4. In the course and conduct of its business as aforesaid, respondent now causes, and for some time last past has caused the said products, when sold, to be transported from its place of business in one State of the United States to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has main-

tained, a substantial course of trade in said products in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. In the course and conduct of its said business, and for the purpose of inducing the purchase of its Toxaphene insecticide, respondent has made, and is now making numerous statements and representations in advertisements inserted in broadcast and print media and in other promotional materials concerning the physical and chemical characteristics of Toxaphene and its effects on human life and the environment.

PAR. 6. Typical and illustrative of the statements and representations in said advertising and promotional materials, disseminated as aforesaid, but not all inclusive thereof, are the following:

(a) Promotional Literature:

(1) Low dosages of Toxaphene effectively control a broad spectrum of insects with safety to humans and other warmblooded animals.

(b) Television Advertisements:

(1) If you're a cotton grower, you've just got to be confused about insect control this season. First, you hear that farm prices in general are too high—then you're told that cotton insecticides pollute the environment * * * Hercules toxaphene is not one of the problem insecticides.

(c) Magazine Advertisements: [See pp. 608-612 herein.]

PAR. 7. Through the use of said advertisements and promotional materials and others similar thereto not specifically set out herein, disseminated as aforesaid, respondent has represented and is now representing, directly or by implication, that:

(1) Toxaphene is a safe, non-toxic, hazard-free product with respect to humans and other warm-blooded animals, and will not harm one's children or neighbors.

(2) Use of Toxaphene will not pollute the environment because it is a "soft" pesticide, is non-persistent, is non-mobile, and will not magnify biologically.

(3) Past use of Toxaphene has caused no problems of environmental pollution.

PAR. 8. In truth and in fact:

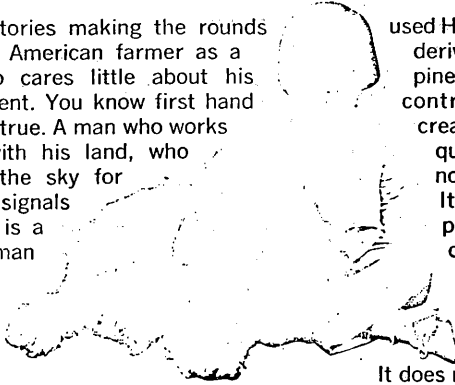
(1) Toxaphene is not a safe, non-toxic, hazard-free product with respect to humans and other warm-blooded animals, and can harm children or neighbors. Labeling affixed to respondent's Toxaphene products specifically warns users to keep it out of reach of children, that it may be fatal if taken internally, that it can be absorbed through the skin in dry or liquid form, that its vapors should not be breathed, and that it should be kept out of eyes and off clothing.

Complaint

84 F.T.C.

**Anyone who likes children
and dogs
and uses Hercules® toxaphene
can't be all bad.**

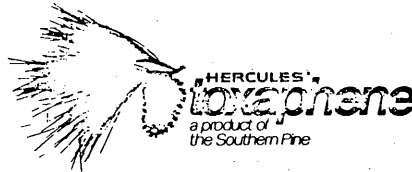
Certain stories making the rounds color the American farmer as a man who cares little about his environment. You know first hand that isn't true. A man who works closely with his land, who watches the sky for weather signals and who is a businessman in every meaning of the word, takes his stewardship very seriously. His livelihood depends on his skillful use of land, seed, equipment and modern agricultural chemicals – together with good conservation and farming practices. For over twenty years farmers have



used Hercules® toxaphene, a derivative of the southern pine tree, in insect pest control. Such control increases yield and protects quality. Toxaphene is not a "hard" pesticide. It is not biologically persistent, although it continues insect control 5 to 7 days after application. Toxaphene is non-mobile in the environment.

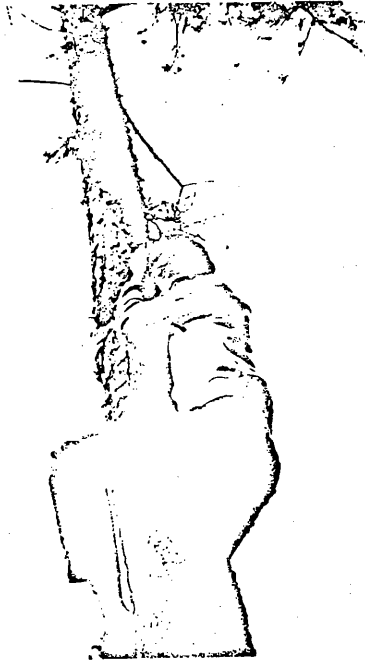
It does not have a high rate of biological magnification. It is a "good neighbor."

Farmers who use formulations based on Hercules® toxaphene are good neighbors also. They furnish food and fiber for America. They are concerned about the environment.



3a

Complaint

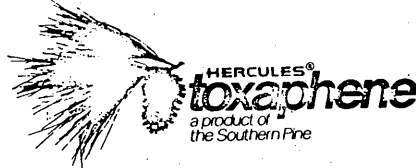


**A pine tree, a boy,
and Hercules® toxaphene...
what do they have in common?**

A great deal. From the southern pine tree comes Hercules® toxaphene, the insecticide that has been used over twenty years without causing problems of environmental pollution. And that means future generations will not find their natural resources lessened.

Toxaphene has played a major role in the control of insect pests

that reduce cotton yield and quality. Toxaphene is not a "hard" pesticide. It is non-mobile. It does not have a high rate of biological magnification. Toxaphene is not biologically persistent. Farmers and livestock growers both rely on formulations based on Hercules® toxaphene. They have found it to be a "good neighbor".



3b



He who plans wisely today, plans wisely for tomorrow.

Today's modern agriculturalist is concerned about his stewardship of the environment. He carefully selects his agricultural chemicals. For over twenty years, farmers have used formulations based on Hercules® toxaphene to control insect pests. Toxaphene is not a "hard" pesticide. It is not biologically persistent, does not have a high rate of biological magnification, and is non-mobile in the environment.

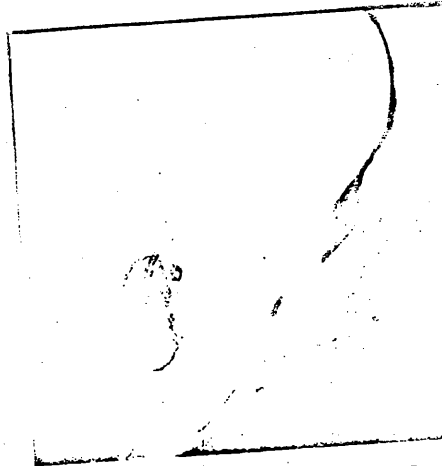
Ask Hercules

for agricultural chemicals that are good neighbors as well as top performers. Delnav® miticide-insecticide, Herban® selective herbicide, and Nitroform® fertilizer are only a few that indicate Hercules' capabilities.



3c

Complaint



The 'soft' insecticide that's hard on cotton insects...

Have no doubt about it, Hercules® toxaphene is plenty tough on cotton insect pests... boll weevils, bollworms, plant bugs, and other hard-to-kill insects.

But toxaphene stays active just long enough to do its work. Toxaphene-based formulations stay on the job between applications... 5 to 7 days. Hercules toxaphene is not biologically persistent like the "hard" pesticides you've been hearing so much about. Monitoring studies in areas where toxaphene applications have been made year after year show no residues in amounts of biological importance.

Hercules toxaphene has a clean bill of health on other points that make "hard" pesticides a controversial subject. Toxaphene has been used for over 20 years in the Cotton Belt, saving millions of dollars worth of cotton without creating problems of environmental pollution. So, if you want to call Hercules toxaphene a "soft" insecticide, go ahead. But it is hard on cotton insect pests... and that's really all you want from an insecticide, isn't it?



How the southern pine protects your cotton crop

The southern pine tree is the source for many products manufactured by Hercules. Rosins, turpentine, and pine oil are a few. One of these products, Hercules[®] toxaphene, has protected cotton from insect pests for more than 20 years. An insecticide has to do its job well to remain a best seller that long.

But the cotton grower has a lot more than dependable cotton insect control going for him when he uses toxaphene. With attention now focused on the "hard" pesticides that are suspected of environmental contamination, it is reassuring that toxaphene has such a good record.

Toxaphene is not biologically "persistent"

Hercules toxaphene is different from other insecticides in a lot of ways. For example, it is not biologically "persistent," although it continues to control cotton insect pests five to seven days after application.

And toxaphene does not have a high rate of biological magnification, the trait that causes some insecticides to accumulate in excessive concentrations in the food chain.

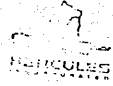
Toxaphene is non-mobile

Hercules toxaphene shows little inclination to have "mobility in the environment," or move away from the area of application. Toxaphene stays home, and is thus relatively non-mobile.

Some people might say the lack of such properties is a handicap. For instance, you will never find Hercules toxaphene recommended as a soil insecticide to kill such pests as termites or wireworms. Persistent insecticides are needed for such a task.

Toxaphene is effective

But toxaphene's ability to work hard for the five to seven day period makes it ideal for other jobs . . . such as cotton insect control. Or to combat insects that attack vegetables in fields that may be rotated to other crops. Or for use in areas where honeybees abound. Properly used, toxaphene offers very little hazard for beekeepers. Hercules toxaphene is also kind to many other beneficial insects that, in turn, help to keep destructive insects under control.

 Like Hercules, toxaphene strives to be a good neighbor.

(2) Toxaphene is not a "soft" pesticide, is not non-persistent, is not non-mobile, and can magnify biologically.

(3) Use of Toxaphene can and has caused problems of environmental pollution. Labeling affixed to Toxaphene products specifically warns users to protect fish and wildlife by not contaminating streams, lakes, or ponds with the material, and to avoid contamination of food and feed products.

Therefore, the statements and representations as set forth in Paragraph Six hereof were, and are deceptive.

PAR. 9. By advertising Toxaphene insecticide in a manner which substantially varies from and disregards instructions for use and warnings in labeling, respondent negates the import and purposes and detracts from the effectiveness of such instructions and warnings.

Therefore, the advertisements, other promotional materials, acts or practices referred to in Paragraph Nine above are unfair or deceptive.

PAR. 10. In the further course and conduct of its business as aforesaid, respondent has advertised Toxaphene and Delnav insecticides, alone and in formulation with other pesticides such as ethyl and methyl parathion, without disclosing in said advertising that such chemical products are hazardous to human health. Knowledge of the hazards associated with the use of such products would enable and encourage consumers to exercise the proper degree of care in using them. Thus, respondents have failed to disclose a material fact which, if known to consumers, would be likely to affect their consideration of whether or not to purchase, and how to properly use such products.

Therefore, the aforesaid advertisements, other promotional materials, acts or practices and the aforesaid failure to disclose material facts are deceptive or unfair.

PAR. 11. Respondent's advertising of safety claims regarding pesticides with precautionary labeling is in itself deceptive and has the capacity and tendency to mislead a substantial portion of pesticide users into the erroneous and mistaken belief that they are handling safe products.

Therefore, the aforesaid advertisements, other promotional materials, acts or practices are deceptive or unfair.

PAR. 12. In the course and conduct of its business as aforesaid and at all times mentioned herein, respondent has been in substantial competition, in commerce, with corporations, firms and individuals in the sale of insecticide products of the same general kind and nature.

PAR. 13. The use by respondent of the said deceptive or unfair advertisements, acts or practices has had, and now has, a tendency and capacity to mislead and deceive a substantial portion of the purchasing

public into the erroneous and mistaken belief that the said statements and representations were and are true and induce them into the purchase of substantial quantities of Toxaphene and Delnav insecticides by reason of said erroneous and mistaken belief.

PAR. 14. The aforesaid acts or practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public and of respondent's competitors, and constituted and now constitute unfair or deceptive acts or practices and unfair methods of competition in commerce in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereto with violation of 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 respondent 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 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 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, and having duly considered the comments filed thereafter pursuant to Section 2.34(b) of its rules, 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:

1. Respondent Hercules Incorporated is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at Hercules Tower, 910 Market Street, in the city of Wilmington, State of Delaware.
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. *It is ordered*, That respondent, Hercules Incorporated, a corporation, its successors and assigns and respondent's officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, or sale or distribution of any insecticide product with precautionary labeling which contains any active insecticidal ingredient(s) presently marketed by respondent or currently being field tested by respondent and which is intended for use by custom applicators and commercial growers to protect animals or food, forage, field or fiber crops by virtue of the capacity of its active ingredient(s) to kill insects (sometimes referred to hereinafter as "such products"), do forthwith cease and desist from:

A. Representing, directly or by implication, by print or broadcast advertising, by other promotional material, or by sales representatives' oral statements, that such products are absolutely or unqualifiedly safe, non-toxic or free of hazard for any use registered under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (hereinafter FIFRA) or any other approved use based upon evidence filed in connection with registration under FIFRA.

B. Representing, directly or by implication, by print or broadcast advertising or by other promotional material, that such products are qualifiedly safe, non-toxic or free of hazard for any use registered under FIFRA or any other approved use based upon evidence filed in connection with registration under FIFRA; *Provided However*, That factual statements about such products regarding any use registered under FIFRA, any other approved use based upon evidence filed under FIFRA, the level of hazard or toxicity to products or species treated in accordance with such use(s) or residues resulting from such use(s) shall not be prohibited if:

(1) respondent prominently and in close conjunction thereto, includes a statement (except in broadcast advertisements not more than 30 seconds in length) denoting the existence of any specific caution or category thereof, other than directions for use (e.g., "Do not apply within 7 days of harvest"), which (a) appears on respondent's label or labeling for such products; or, (b) in the absence of relevant cautions on respondent's product labels or labeling, regarding such factual statements, are identified by the Environmental Protection Agency in its "EPA Compendium of Registered Pesticides" or any published supplement thereto; including but not limited to limitations on

application due to regional or climatic variations; restrictions on subsequent use of treated crops, animals, or lands; and limitations due to consequent injury of specific species, *e.g.*, crop(s), animal(s), fish, bird(s), or beneficial insect(s); where such specific caution is relevant and material and without notice of which said factual statements would be untrue or misleading; and

(2) at the time of such representations, 1) such statements do not differ in substance from claims accepted in connection with registration under FIFRA, or 2) in the case of other statements not currently rejected as unsubstantiated in connection with registration under FIFRA, such other statements are substantiated by competent scientific tests or other objective materials which provide a reasonable basis for the representation(s) made, and the substantiation materials are either (i) available for public inspection or (ii) otherwise available to the FTC to determine compliance with this order; and

(3) such factual statements do not use the word "safe," or any form thereof.

C. Representing, directly or by implication, by print or broadcast advertising or by other promotional material, that such products are relatively or comparatively safe, less toxic or freer of hazard, for any use registered under FIFRA, or any other approved use based upon evidence filed in connection with registration under FIFRA; *Provided however*, That comparative factual statements about such products regarding any use registered under FIFRA, any other approved use based upon evidence filed under FIFRA, the level of hazard or toxicity to products or species treated in accordance with such use(s), or residues resulting from such use(s) shall not be prohibited if:

(1) such factual statements compare the promoted insecticide with a specifically identifiable insecticide product, product form, or product group; and

(2) respondent prominently and in close conjunction thereto, includes a statement (except in broadcast advertisements not more than 30 seconds in length) denoting the existence of any specific caution or category thereof, other than directions for use (*e.g.*, "Do not apply within 7 days of harvest"), which (a) appears on respondent's label or labeling for such products; or, (b) in the absence of relevant cautions on respondent's product labels or labeling, regarding such factual statements, are identified by the Environmental Protection Agency in its "EPA

Compendium of Registered Pesticides" or any published supplement thereto; including but not limited to limitations on application due to regional or climatic variations; restrictions on subsequent use of treated crops, animals, or lands; and limitations due to consequent injury of specific species, *e.g.*, crop(s), animal(s), fish, bird(s), or beneficial insect(s), where such specific caution is relevant and material and without notice of which said factual statements would be untrue or misleading; and

(3) at the time of such representations, 1) such statements do not differ in substance from claims accepted in connection with registration under FIFRA, or 2) in the case of other statements not currently rejected as unsubstantiated in connection with registration under FIFRA, such other statements are substantiated by competent scientific tests or other objective materials which provide a reasonable basis for the representation(s) made, and the substantiation materials are either (i) available for public inspection or (ii) otherwise available to the FTC to determine compliance with this order; and

(4) such factual statements do not use the word "safe," or any form thereof.

II. With respect to representations not covered by the provisions of Section I of this order, it is ordered that Hercules Incorporated, a corporation, its successors and assigns and respondent's officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, or sale or distribution of such products, do forthwith cease and desist from:

A. Representing, directly or by implication, by print or broadcast advertising, by other promotional material, or by sales representatives' oral statements, that such products are absolutely safe, non-toxic or free of hazard to human beings, warm-blooded animals, birds, fish, beneficial insects, or the environment.

B. Representing, directly or by implication, by print or broadcast advertising or by other promotional material, that such products are qualifiedly safe, non-toxic or free of hazard to human beings, warm-blooded animals, birds, fish, beneficial insects, or the environment; *Provided however*, That factual statements which (i) describe physical, chemical, biological or toxicological characteristics of the promoted insecticide, or (ii) discuss the aforesaid characteristics and their effects on the environment, human beings, warm-blooded animals, fish, birds, or beneficial insects shall not be prohibited if:

(1) the label or labeling for such product(s) contains no relevant and required general or specific warning or caution regarding such characteristics or any effect caused by such characteristics; *Provided*, nothing in this subsection shall prohibit:

(a) the dissemination of instructions for the proper use of such product(s), or

(b) factual statements which reproduce or discuss the substance of or reason(s) for any statement, warning or caution or direction for use found on the label or labeling of the promoted product(s) and are consistent with such statements, warnings, cautions, or directions for use, and

(2) such factual statements are true and not misleading under normal circumstances and conditions under which the product could be expected to be used, *Provided further*, if circumstances and conditions of normal use exist in which said factual statements are untrue or misleading, respondent must describe, prominently and in close conjunction with said factual statements, specific circumstances and conditions for use in which said factual statements are true and not misleading; and

(3) at the time of such representations, 1) such statements do not differ in substance from claims accepted in connection with registration under FIFRA, or 2) in the case of other statements not currently rejected as unsubstantiated in connection with registration under FIFRA, such other statements are substantiated by competent scientific tests or other objective materials which provide a reasonable basis for the representation(s) made, and the substantiation materials are either (i) available for public inspection or (ii) otherwise available to the FTC to determine compliance with this order; and

(4) respondent discloses, prominently and in close conjunction with any such factual statements concerning human safety (except in broadcast advertisements not more than 30 seconds in length), any toxicological characteristics relating to human safety which are relevant and material and without the disclosure of which said factual statements would be untrue or misleading; and

(5) respondent discloses, prominently and in close conjunction with any other such factual statements (except in broadcast advertisements not more than 30 seconds in length), any hazardous collateral effects which are relevant and material

and without the disclosure of which said factual statements would be untrue or misleading; and

(6) such factual statements do not use the word "safe," or any form thereof.

C. Representing, directly or by implication, by print or broadcast advertising or by other promotional material, that such products are relatively or comparatively more safe, less toxic or freer of hazard to human beings, warm-blooded animals, birds, fish, beneficial insects, or the environment than any other insecticide product(s); *Provided, however,* That comparative factual statements which (i) describe physical, chemical, biological or toxicological characteristics of the promoted insecticide or (ii) discuss the aforesaid characteristics and their effect on the environment, human beings, warm-blooded animals, fish, birds, or beneficial insects shall not be prohibited if:

(1) such factual statements compare the promoted insecticide with a specifically identifiable insecticide product, product form, or product group; and

(2) such factual statements are true and not misleading under normal circumstances and conditions under which the product could be expected to be used; *Provided further,* if circumstances and conditions of normal use exist in which said factual statements are untrue or misleading, respondent must describe, prominently and in close conjunction with said factual statements, specific circumstances and conditions of use in which said factual statements are true and not misleading; and

(3) at the time of such representations, 1) such statements do not differ in substance from claims accepted in connection with registration under FIFRA, or 2) in the case of other statements not currently rejected as unsubstantiated in connection with registration under FIFRA, such other statements are substantiated by competent scientific tests or other objective materials which provide a reasonable basis for the representation(s) made, and the substantiation materials are either (i) available for public inspection or (ii) otherwise available to the FTC to determine compliance with this Order; and

(4) respondent discloses, prominently and in close conjunction with any such factual statements concerning human safety (except in broadcast advertisements not more than 30 seconds in length), any toxicological characteristics relating to human safety in regard to which the promoted product is the more toxic and which are relevant and material and without the

disclosure of which said factual statements would be untrue or misleading; and

(5) respondent discloses, prominently and in close conjunction with any other such factual statement (except in broadcast advertisements not more than 30 seconds in length), any hazardous collateral effects in regard to which the promoted product is the more hazardous and which are relevant and material and without the disclosure of which said factual statements would be untrue or misleading; and

(6) such factual statements do not use the word "safe," or any form thereof.

D. Representing, directly or by implication, by print or broadcast advertising or by other promotional material, that Toxaphene insecticide, or any product containing Toxaphene insecticide:

(1) is "soft;" or

(2) is "non-persistent," "non-mobile" and/or will "not magnify biologically;" *Provided, however,* That the use of such terms shall not be prohibited if:

(a) accompanied by statements, which clearly and conspicuously and in close conjunction with such terms, fully and accurately explain such terms and the specific context within which such terms are used, and that context reflects a normal circumstance or condition in which the product could be expected to be used; and

(b) accompanied by statements which set forth all relevant and material adverse effects on the environment known to result from the uses of such product which are suggested by the claims for the product; and

(c) statements concerning such terms are substantiated by competent scientific tests or other objective material which provide a reasonable basis for the representations made, and the substantiation materials are either (i) available for public inspection, or (ii) otherwise available to the Federal Trade Commission to determine compliance with this order; and

(d) statements concerning such terms include no conclusory representations, either directly or indirectly or by implication, suggesting that the product is unqualifiedly safe, non-toxic or free of hazard.

III. *It is further ordered,* That respondent, Hercules Incorporated, a corporation, its successors and assigns and respondent's officers, representatives, agents, and employees, directly or through any corporation,

subsidiary, division or other device, in connection with the advertising, offering for sale, or sale or distribution of such products do forthwith cease and desist from making any representations, any representations, directly or by implication, orally or in writing, or omitting any representations, concerning any such product, which contradict, are inconsistent with, or detract from the effectiveness of any warning, caution or direction for use required to be set forth on the label or labeling of such product. If the representations, directly or by implication, made by respondent, or the omission of representations by respondent, are in accord with the provisions of Sections I, II, and IV of this order, they shall be considered as being in compliance with this Section of the order.

IV. *It is further ordered*, That respondent, Hercules Incorporated, a corporation, its successors and assigns and respondent's officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, or sale or distribution of such products do forthwith cease and desist from disseminating or causing the dissemination of:

A. Any print advertising or print promotional material which contains claims covered by Sections I or II for any such product unless it clearly and conspicuously includes in such print advertisement or print promotional material the following statement:

STOP! ALL PESTICIDES CAN BE HARMFUL TO HEALTH AND THE ENVIRONMENT IF MISUSED. READ THE LABEL CAREFULLY AND USE ONLY AS DIRECTED.

B. Any broadcast advertisement more than 30 seconds in length for any such product which contains claims covered by Sections I or II unless it clearly and conspicuously includes the following statement:

ALL PESTICIDES CAN BE HARMFUL TO HEALTH AND THE ENVIRONMENT IF MISUSED. READ THE LABEL CAREFULLY AND USE ONLY AS DIRECTED.

C. Any broadcast advertisement not more than 30 seconds in length for any such product which contains claims covered by Sections I or II unless it clearly and conspicuously includes the following statement:

ALL PESTICIDES CAN BE HARMFUL. READ THE LABEL. USE AS DIRECTED.

Provided, That in television advertisements not more than 10 seconds in length which contain no direction representations concerning product safety, the requirements of the term "clearly and conspicuously" shall in all cases be met by including the above statement in the video portion of the advertisement.

V. *It is further ordered*, That the provisions of this order shall apply to all advertising (or advertising claims) prepared by respondent, whether or not such advertising is placed or paid for by respondent alone, or by respondent in conjunction with another under a cooperative advertising plan, or otherwise; *Provided, however*, That Sections I, II, III and IV of this order shall not apply to any advertising prepared by the customers of respondent, whether or not respondent makes payment in whole or in part for such advertising under any cooperative advertising plan, or otherwise. Nothing in this Section V shall be construed to extend any provision of this order beyond the specific terms thereof.

Respondent shall, *Nevertheless*, condition all future payments to customers of insecticide products covered by this order, made in connection with any cooperative advertising plan in which respondent participates, upon said customers' certification to respondent that they have complied with the standards set forth in Section IV of this order.

VI. Nothing in this order shall be construed to apply to scientific articles published in recognized scientific or agricultural journals or government publications, or reprints thereof, or representations (other than print advertising or other promotional material) before public or governmental forums such as public hearings, scientific meetings, or to governmental agencies, agents, or employees responsible for the regulation or dissemination of information concerning insecticide products covered by this order.

VII. *It is further ordered*, That nothing in this order shall prohibit the dissemination of product labels (as defined by Section 2(p)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended), or productions thereof.

VIII. *It is further ordered*, That this order shall become effective as to broadcast and print advertisements and other promotional material upon service and as to oral representations by sales representatives two months thereafter, except that Sections I.B., I.C., II.B., II.C. and III of this order shall become effective at such time as and to the extent that a Trade Regulation Rule covering the advertising and promotion of products subject to this order, and containing terms at least as onerous as this order, becomes final and effective. *Provided*, That at all times subsequent to the date this order is served, claims which would be governed by Sections I.B., I.C., II.B., or II.C., if said sections were in effect, shall be deemed to be "claims covered by Sections I or II" for purposes of Section IV of this order.

IX. *It is further ordered*, That should the Federal Trade Commission promulgate a Trade Regulation Rule or Industry Guide governing the

Complaint

advertising or promotion of products subject to this order, then any pertinent less comprehensive or less restrictive provisions of such rule or guide shall automatically replace any comparable provisions set forth herein which are effective on the date that such rule or guide becomes effective.

X. *It is further ordered*, That the respondent forthwith distribute a copy of this order to each of its operating divisions engaged in the manufacture, sale, advertising, promotion or distribution of products subject to this order, and to all present and future employees of respondent responsible for the advertising, promotion, distribution or sale of such products, and to all parties participating in respondent's cooperative advertising programs for such products.

XI. *It is further ordered*, That the respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other changes in the corporation which may affect compliance obligations arising out of this order.

XII. *It is further ordered*, That respondent corporation 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, except that such report shall in the case of Sections I.B., I.C., II.B., II.C. and III be filed within sixty (60) days after their becoming effective against respondent corporation.

IN THE MATTER OF

BABBITT BROTHERS TRADING COMPANY, ET AL.

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

Docket C-2559. Complaint, Oct. 7, 1974—Decision, Oct. 7, 1974

Consent order requiring seven Arizona, pawnbrokers and general merchandise retailers, among other things to cease offering their customers unfair or deceptive inducements to purchase or deal; failing to make material disclosures on such items as pawn receipts; and failing to make disclosures required by Regulation Z of the Truth in Lending Act.

Appearances

For the Commission: *John F. Dugan and Paul R. Roark.*

For the respondents: *Robert B. Owens, Covington & Burling, Wash-
ington, D.C.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and of the Truth in Lending Act and the implementing regulation promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Babbitt Brothers Trading Company, a corporation, Warren Trading Post Company, a corporation, Cedar Ridge Trading Post Company, a corporation, Tuba City Trading Post Company, a corporation, Oraibi Trading Post Company, a corporation, Indian Wells Trading Post Company, a corporation, and Red Lake Trading Post Company, a corporation also doing business as Cow Springs 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. Respondent Babbitt Brothers Trading Company is a corporation 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 and Hopi Reservations by the Bureau of Indian Affairs, with its principal office and place of business located at Flagstaff, Ariz.

Respondent Warren Trading Post Company is a corporation 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 Kayenta, Ariz.

Respondent Cedar Ridge Trading Post Company is a corporation 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 Cedar Ridge, Ariz.

Respondent Tuba City Trading Post Company is a corporation 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 Tuba City, Ariz.

Respondent Oraibi Trading Post Company is a corporation 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 Hopi Reservation by the Bureau of Indian Affairs, with its principal office and place of business located at Oraibi, Ariz.

Respondent Indian Wells Trading Post Company is a corporation 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 Indian Wells, Ariz.

Respondent Red Lake Trading Post Company, also doing business as Cow Springs Trading Post is a corporation 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 Red Lake, Ariz.

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 and Hopi Reservations, 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. Typical of the acts and practices engaged in by respondents, 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 fail to place on the pawn receipt given to consumers:

- (a) The correct due date indicating the date the pledgor must effect redemption of a pawned item;

- (b) Any mutually agreed upon extension of such due date; or

- (c) The market or replacement value of the pawned item.

3. In many instances respondents sell items held as security in pawn transactions prior to the expiration of the statutory or mutually agreed to redemption period.

4. In many instances respondents unfairly bind consumers to their places of business by transporting, or causing to be transported, from post offices or other places of original delivery, or in other ways receiv-

ing or affecting delivery of government issued or other checks payable to consumers.

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 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 business 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 Governors 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 a credit sale. 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 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. 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:

1. Respondent Babbitt Brothers Trading Company is a corporation 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 Flagstaff, Ariz.

Respondent Warren Trading Post Company is a corporation 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 Kayenta, Ariz.

Respondent Cedar Ridge Trading Post Company is a corporation 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 Cedar Ridge, Ariz.

Respondent Tuba City Trading Post Company is a corporation 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 Tuba City, Ariz.

Respondent Oraibi Trading Post Company is a corporation 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 Oraibi, Ariz.

Respondent Indian Wells Trading Post Company is a corporation 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 Indian Wells, Ariz.

Respondent Red Lake Trading Post Company is a corporation 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 Red Lake, Ariz.

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

It is ordered, That respondents Babbitt Brothers Trading Company, a corporation, Warren Trading Post Company, a corporation, Cedar Ridge Trading Post Company, a corporation, Tuba City Trading Post Company, a corporation, Oraibi Trading Post Company, a corporation, Indian Wells Trading Post Company, a corporation, and Red Lake Trading Post Company, a corporation also doing business as Cow Springs Trading Post, their successors and assigns, and their officers, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device in connection with the offering for sale, sale or purchase to or from individual consumers within the exterior boundaries of the Navajo, Hopi, and all other Reservations, 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 respondents has expressly indicated his desire to receive trade slips, due bills or other form of purchase orders indicating a credit owed to the consumer, in partial or full payment, and unless the 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 clearly and conspicuously indicate on all pawn receipts given to consumers:

- (a) The correct due date indicating the date the pledgor must effect redemption of a pawned item;

- (b) Any mutually agreed upon extension of such due date; and

- (c) The market or replacement value of the pawned item as agreed upon between the consumer and respondents, provided however such value shall be a reasonable estimate of the price at which the pawned item could be sold at retail in the trade area.

3. Selling items held as security in pawn transactions prior to the expiration of the statutory or mutually agreed to redemption period, whichever is longer.

4. Transporting, or causing to be transported, from post offices or other places of original delivery, or in other ways interfering

with the delivery of government issued or other checks payable to consumers.

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, and permit the inspection and copying thereof by Commission representatives, 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 goods sold to the respondents.

II

It is further ordered, That respondents Babbitt Brothers Trading Company, Warren Trading Post Company, Cedar Ridge Trading Post Company, Tuba City Trading Post Company, Oraibi Trading Post Company, Indian Wells Trading Post Company, and Red Lake Trading Post Company, also doing business as Cow Springs Trading Post, their successors and assigns, and their officers, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device in connection with the extension to individual consumers within the exterior boundaries of the Navajo, Hopi, and all other Reservations, of "consumer credit" or arranging for "consumer credit" for such consumers as "consumer credit" is 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 the respondent corporations, their successors and assigns, shall forthwith distribute a copy of this order to each of their present and future managers.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in any corporate 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 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.

Complaint

84 F.T.C.

IN THE MATTER OF

TIMOTHY, LYNN, DANIEL, INC., ETC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION AND TRUTH IN LENDING ACTS*Docket C-2560. Complaint, Oct. 7, 1974—Decision, Oct. 7, 1974*

Consent order requiring a Houston, Tex., retailer of jewelry and other merchandise, 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, such information as required by Regulation Z of the said Act.

Appearances

For the Commission: *Richard H. Gateley.*

For the respondents: *Barrow, Bland, Rehmet & Lee, Houston, Tex.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and the Truth in Lending Act, and the implementing regulation promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Timothy, Lynn, Daniel, Inc., a corporation trading and doing business as Laufman's, and Timothy Gallagher, individually and as an officer of said corporation, 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. Respondent Timothy, Lynn, Daniel, Inc., is a corporation, trading and doing business as Laufman's, organized existing and doing business under and by virtue of the laws of the State of Texas with its main business office located at 5254A Palms Center, Houston, Texas.

Respondent Timothy Gallagher is an officer of the corporate respondent. He formulated, directed and controlled the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the offering for sale and retail sale of jewelry and other merchandise to the public.

PAR. 3. In ordinary course and conduct of their business as aforesaid, respondents regularly extend 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, respondents, in the ordinary course and conduct of their business and in connection with their credit sales, as "credit sale" is defined in Regulation Z, have caused to be delivered and are delivering to customers periodic statements, as "periodic statements" are described in Section 226.7 (b) and (c) of Regulation Z. By and through the use of the periodic statements respondents:

1. Fail to disclose the terms required by Section 226.7(b) and (c) clearly, conspicuously and in meaningful sequence in accordance with Section 226.6(a) of Regulation Z.

2. Fail to disclose the term "finance charge" more conspicuously than other required terminology, as required by Section 226.6(a) of Regulation Z.

3. Fail to disclose the term "annual percentage rate" more conspicuously than other required terminology as required by Section 226.6(a) of Regulation Z.

4. Fail to disclose the outstanding balance in the account at the beginning of the billing cycle, using the term "previous balance", as required by Section 226.7(b)(1) of Regulation Z.

5. Fail to employ the term "payments" to describe the amounts credited to the account during the billing cycle for payments, as required by Section 226.7(b)(3) of Regulation Z.

6. Fail to disclose the amount of any finance charge, using the term "finance charge", debited to the account during the billing cycle, as required by Section 226.7(b)(4) of Regulation Z.

7. Fail to disclose each periodic rate, using the term "periodic rate" (or "rates"), that may be used to compute the finance charge (whether or not applied during the billing cycle), as required by Section 226.7(b)(5) of Regulation Z.

8. When a finance charge is imposed during the billing cycle, fail to disclose the annual percentage rate or rates determined under Section 226.5(a) of Regulation Z using the term "annual percentage rate" (or "rates"), as required by Section 226.7(b)(5) of Regulation Z.

9. Fail to disclose the balance on which the finance charge was computed, and the statement of how that balance was determined, as required by Section 226.7(b)(8) of Regulation Z.

10. Fail to disclose the term "new balance" to describe the outstand-

ing balance in the account on the closing date of the billing cycle, as required by Section 226.7(b)(9) of Regulation Z.

11. Fail to employ a statement accompanying the term "new balance" indicating the date by which, or the period, if any, within which payment must be made to avoid additional finance charges, as required by Section 226.7(b)(9) of Regulation Z.

PAR. 5. By the aforesaid failure to make the disclosures in the periodic statement in the manner and form required by Regulation Z, as set forth in Paragraph Four hereof, respondents fail to comply with the requirements of Regulation Z of the Truth in Lending Act duly promulgated by the Board of Governors of the Federal Reserve System. Pursuant to Section 105 of that Act, such failure to comply constitutes a violation of the Truth in Lending Act and, pursuant to Section 108 thereof, respondents 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 respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Dallas 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 (60) days and now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint, making the following jurisdictional findings, and enters the following order:

1. Respondent Timothy, Lynn, Daniel, Inc. is a corporation trading and doing business as Laufman's, organized, existing and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business located at 5254A Palms Center, city of Houston, State of Texas.

Respondent Timothy Gallagher is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation, and his principal office and place of business is located at the above stated address.

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

It is ordered, That respondents Timothy, Lynn, Daniel, Inc., a corporation, trading and doing business as Laufman's, or under any other name or names, its successors and assigns, and its officers, and Timothy Gallagher, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporate, subsidiary, division or other device in connection with any extension of consumer credit as "consumer credit" is defined in Regulation Z (12 C.F.R. §226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 *et seq.*), do forthwith cease and desist from:

1. Failing to disclose the terms required by Section 226.7(b) and (c) clearly, conspicuously and in meaningful sequence in accordance with Section 226.6(a) of Regulation Z.

2. Failing to disclose the term "finance charge" more conspicuously than other required terminology, as required by Section 226.6(a) of Regulation Z.

3. Failing to disclose the term "annual percentage rate" more conspicuously than other required terminology as required by Section 226.6(a) of Regulation Z.

4. Failing to disclose the outstanding balance in the account at the beginning of the billing cycle, using the term "previous balance," as required by Section 226.7(b)(1) of Regulation Z.

5. Failing to employ the term "payments" to describe the amounts credited to the account during the billing cycle for payments, as required by Section 226.7(b)(3) of Regulation Z.

6. Failing to disclose the amount of any finance charge, using the term "finance charge," debited to the account during the billing cycle, as required by Section 226.7(b)(4) of Regulation Z.

7. Failing to disclose each periodic rate, using the term "periodic rate" (or "rates") that may be used to compute the finance charge (whether or not applied during the billing cycle), as required by Section 226.7(b)(5) of Regulation Z.

8. When a finance charge is imposed during the billing cycle, failing to disclose the annual percentage rate or rates determined under Section 226.5(a) of Regulation Z using the term "annual percentage rate" (or "rates"), as required by Section 226.7(b)(6) of Regulation Z.

9. Failing to disclose the balance on which the finance charge was computed, and the statement of how that balance was determined, as required by Section 226.7(b)(8) of Regulation Z.

10. Failing to disclose the term "new balance" to describe the outstanding balance in the account on the closing date of the billing cycle, as required by Section 226.7(b)(9) of Regulation Z.

11. Failing to employ a statement accompanying the term "new balance" indicating the date by which, or the period, if any, within which payment must be made to avoid additional finance charges, as required by Section 226.7(b)(9) of Regulation Z.

12. 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 amount required by Section 226.6, 226.7, 226.8 and 226.10 of Regulation Z.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit or in any aspect of preparation, creation, or placing of advertising and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the 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 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 respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents, such as dissolution, assignment, or sale resulting in the emer-

gence 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.

It is further order, 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.

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

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

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 Ford automobiles. Typical and illustrative of such advertisements, but not all inclusive thereof, is the following newspaper advertisement, published in Feb. 1974: [See p. 645 herein.]

PAR. 5. Through the use of such advertisements, and others not specifically set out herein, respondents have represented, directly or by implication, that the fuel cost of driving a family-size Ford:

- A. Is about 30 cents a day more than the fuel cost for a small car.
- B. Does not significantly exceed the fuel cost for a small car.

PAR. 6. At the time the representations set forth in Paragraph Five were made, respondents did not have a reasonable basis from which to conclude that such representations were true.

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

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

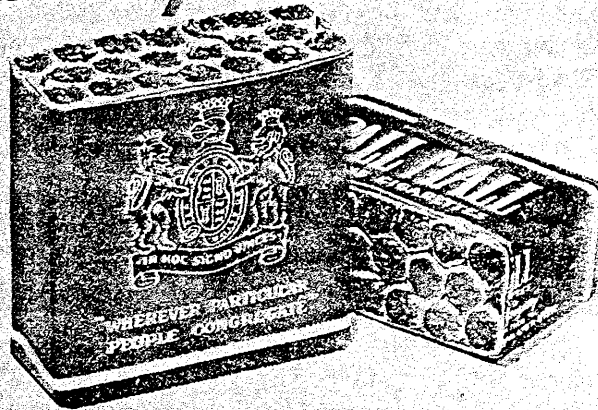
- A. The fuel cost representation was based on comparisons between the family-size Ford and only one small car—the Pinto.
- B. The fuel cost representation does not reflect the average consumer's customary or usual driving experience with the automobiles compared.

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

PAR. 8. 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. 9. Respondents' use of the aforesaid advertisements and representations has had, and now has, the tendency and capacity to induce members of the public to rely thereon and to purchase or lease substantial quantities of family-size Ford automobiles, thereby unfairly diverting substantial trade to respondents from their competitors.

For a little more than
half the cost of a pack
of cigarettes a day,
you could be driving a
family-size Ford.



It's a bargain.

Based on 10,000 miles a year, we figure the difference in fuel cost for a full-size car is about 30c a day. For the comfort, safety, room and performance, it has to be one of America's best bargains. Since the gas scare has driven prices to lows we may never see again, we also figure right now is a smart time for you to be looking. Come on out and see how much more your dollar will get you on today's market. We've got the stock!

PAR. 10. Respondents' aforesaid acts and practices were and 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:

1. Respondent McCollum Ford Sales, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Washington, with its office and principal place of business located at 8300 East Sprague, Spokane, Wash.

Respondents H. D. Richardson and Robert D. Sackmaster are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation, and their business address is the same as that of said corporation.

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. *It is ordered*, That respondents McCollum Ford Sales, Inc., a corporation, its successors and assigns, and its officers, and H. D. Richardson and Robert D. Sackmaster, individually and as officers 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, directly or by implication, as to the fuel consumption or economy of operation or ownership 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 tests or surveys using statistically valid methodology, 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. the year, make, and model of each vehicle or type of vehicle referred to or used as a basis of comparison, and

2. where and how the test or survey results and methodology may be obtained; 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.

Complaint

84 F.T.C.

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 this order.

IV. *It is further ordered*, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment, and of their affiliation with a new business or employment, in the event of such discontinuance or affiliation. Such notice shall include their current business address and a statement as to the nature of the business or employment in which they are engaged, as well as a description of their duties and responsibilities.

V. *It is further ordered*, That the respondents shall within sixty 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

CAMP CHEVROLET, INC., ET AL.

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

Docket C-2563, 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 respondent: *Allan Toole, Spokane, Wash.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Camp Chevrolet, Inc., a corporation, and Jerry W. Camp, individually and as an officer of said corporation, hereinafter sometimes referred to as respon-

dents, 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. Camp Chevrolet, Inc., is a Washington corporation with its office and principal place of business located at 101 East Montgomery, Spokane, Wash.

Jerry W. Camp is an officer of Camp Chevrolet, Inc. He formulates, directs and controls the policies, acts and practices of Camp Chevrolet, Inc., including those hereinafter set forth. His business address is the same as that of Camp Chevrolet, 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 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 Chevrolet automobiles. Typical and illustrative of such advertisements, but not all inclusive thereof, is the following portion of a newspaper advertisement published in Mar. 1974: [See p. 650 herein.]

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

A. The average consumer can obtain 47.18 miles per gallon driving a Chevrolet Vega.

B. The average consumer can obtain 31.45 miles per gallon driving a Chevrolet Nova.

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 referred to in Paragraphs Four and Five were and are deceptive and unfair.

590—Automobiles—For Sale 590—Automobiles—For Sale 590—Automobiles—For Sale 590—Automobiles—For Sale
Continued Continued Continued Continued

CAMP

CAMP CHEV WINS ECONOMY RUN!

VEGA NO. 1 **NOVA NO. 2**
47.18 M.P.G. **31.45 M.P.G.**

**TOP CAR:
47 Miles a Gallon**

A Chevrolet Vega won the first Inland Empire Economy Run Saturday, averaging more than 47 miles per gallon.

Twenty cars were entered in the event which was sponsored by the Sports Car Club of Spokane.

The 103-mile course over which the cars traveled was from Spokane to Coeur d'Alene, Idaho, and back, including both in-town driving and freeway driving. One-third of the course was over two-lane, country roads.

Some of the drivers were highly experienced in coaxing good gas mileage out of their cars, while others were just the average driver who wanted to know what type of mileage the old family sedan or station

wagon gets, Jack Deno, a spokesman for the club, said.

Eight of the cars were sponsored by local car dealers, including the winner.

"Some of the cars were prepared specially for the run, and some of the drivers really knew how to nurse them along.

"The test simply shows what the average person is able to do if he is really conscious of gas mileage and how he can improve it," Deno said.

The drivers were required to stop at four checkpoints along the way within a certain amount of time, thus prohibiting them from traveling at ridiculously slow speeds. Most cars finished within three hours.

Each car was entered in a specific class, based on engine size, and over-all winners were selected on a complicated formula which figured the mileage in relationship to the auto's weight.

Deno called it "ton-miles-per-gallon." The Vegas, which had the best mile-per-gallon (mpg) record also had the top ton-mile-per-gallon score, averaging 62.28.

A Chevrolet Nova, which averaged 31.45 miles per gallon, placed second in ton-miles-per-gallon with a 57.24 total. A Ford Galaxie achieved 56.67 ton-miles-per-gallon, averaging 25.95 mpg.

Printed in The Spokesman-Review, Sunday, March 10, 1974.

The Chev Vega won against such competition: Ford Pinto, Toyota Corona, Ford Galaxie 500, as Yamaha Motorcycle, Datsun B210 Sedan, Pontiac Catalina, Plymouth Wagon, and Subaru GL Coupe, Honda Civic, Opel Rallye, Pontiac Grand Prix.

"BEATS THEM ALL"

PAR. 7. 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. 8. Respondents' use of the aforesaid deceptive and unfair advertisements and representations has had, and now has, the tendency and capacity to induce members of the public to rely thereon and to purchase or lease substantial quantities of Chevrolet Vega and Chevrolet Nova automobiles, thereby unfairly diverting substantial trade to respondents from their competitors.

PAR. 9. Respondents' aforesaid acts and practices were and 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:

1. Respondent Camp Chevrolet, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Washington, with its office and principal place of business located at 101 East Montgomery, Spokane, Wash.

Respondent Jerry W. Camp 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.

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. *It is ordered*, That respondents Camp Chevrolet, Inc., a corporation, its successors and assigns, and its officers, and Jerry W. Camp, 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, directly or by implication, as to the fuel consumption or economy of operation or ownership 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 tests or surveys using statistically valid methodology, 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. the year, make, and model of each vehicle or type of vehicle referred to or used as a basis of comparison, and

2. where and how the test or survey results and methodology may be obtained; and

D. Respondents retain copies of all sales promotional materials which contain such representations, including newspaper advertise-

ments 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 this order.

IV. *It is further ordered*, That the 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, in the event of such discontinuance or affiliation. Such notice shall include his 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 the respondents herein shall within sixty 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

GENERAL MOTORS CORPORATION

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

Docket C-2564. Complaint, Oct. 7, 1974—Decision, Oct. 7, 1974

Consent order requiring a Detroit, Mich., automobile manufacturer, among other things to cease misrepresenting the superiority of the fuel economy of its automobile performance; disparaging competing products; and furnishing means and/or instrumentalities of misrepresentation or deception to its dealers.

Appearances

For the Commission: *H. Robert Field* and *Carleton C. Eastlake*.

For the respondent: *James P. Melican, Jr.* Detroit, Mich.

Complaint

84 F.T.C.

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 General Motors Corp., a corporation, hereinafter 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:

For the purposes of this complaint the following definitions shall apply:

1. "EPA test" shall mean the test of air pollution control, containing fuel economy data, conducted by the Environmental Protection Agency, the results of which were published in the Federal Register of Monday, Nov. 5, 1973.

2. "In Commerce" shall mean commerce as commerce is defined in the Federal Trade Commission Act.

3. "Advertisements" shall mean advertisements actually disseminated to the public as well as proposed advertisements or promotional materials.

4. "Data cars" shall mean the actual automobiles tested by the Environmental Protection Agency in the EPA test.

PARAGRAPH 1. Respondent General Motors Corp., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 3044 W. Grand Boulevard, Detroit, Mich.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the manufacture, distribution, sale, and advertising of various products including automobiles.

PAR. 3. Respondent causes the said products, when sold, to be transported from its place of business in various States of the United States to purchasers located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said products in commerce. The volume of business in such commerce has been and is substantial.

PAR. 4. In the course of its business respondent has furnished and caused to be furnished to its dealers located in various states certain advertisements including but not limited to the advertisements described below with the knowledge and expectation that these advertisements and/or advertisements based thereon and substantially similar

thereto would be disseminated directly or indirectly by at least some of said dealers to the general public.

PAR. 5. Among the advertisements so disseminated by respondent to its dealers is the advertisement attached as Exhibit A.

PAR. 6. At least some of said dealers did in fact disseminate in commerce an advertisement substantially identical to the advertisement attached as Exhibit A.

PAR. 7. Exhibit B is an example of an advertisement disseminated by one of said dealers, and is substantially similar to Exhibit A.

PAR. 8. Said Exhibits A and B and others substantially similar thereto contain one or more false, deceptive and misleading representations and fail to disclose facts which are material in light of the representations contained therein. Therefore, the representations contained in said advertisements were, and are, deceptive or unfair.

PAR. 9. Said Exhibits A and B and others substantially similar thereto (hereinafter referred to as said advertisements) represent *inter alia* that the Environmental Protection Agency (hereinafter EPA) had conducted a test of gasoline economy (hereinafter EPA test) and in that test had found the Eldorado model of Cadillac to be superior in terms of gasoline mileage to the other automobile models listed in said advertisements.

PAR. 10. In truth and in fact the Eldorado model of the Cadillac automobile was not shown in the EPA test to be superior in terms of gasoline mileage to all of the other models of automobiles listed in those advertisements. Therefore, the representations contained in the said advertisements were, and are, deceptive or unfair.

PAR. 11. Respondent failed to disclose in said advertisements that many of the other models of automobiles listed in said advertisements were represented by more than one data car in the EPA test and that in several cases one or more or even a majority of the data cars representing the models of automobiles listed were found to be superior in terms of gasoline mileage in the EPA tests to both data cars of the Cadillac Eldorado. For example, the American Motors Wagoneer, listed sixth on Exhibit A, was represented by three data cars, two of which were superior in terms of gasoline mileage to both data cars of the Cadillac Eldorado.

PAR. 12. Respondent failed to disclose in said advertisements that there were two Cadillac Eldorado data cars tested in the EPA test, and that in many cases, one of these two Eldorado data cars was inferior in terms of gasoline mileage to some or even to all of the data cars representing the other models of automobiles listed in those advertisements. For example, one of the two Eldorado data cars was inferior in

terms of gasoline mileage to both of the data cars representing the Mercedes MB-116, listed third on Exhibit A.

PAR. 13. The facts set forth in Paragraphs Eleven through Twelve are each material in light of the representation contained in said advertisements and their omission makes these advertisements misleading in a material respect. Therefore, the said advertisements were, and are, deceptive or unfair.

PAR. 14. The facts set forth in Paragraphs Nine through Twelve constitute, with regard to gasoline mileage, a false comparison by respondent of the Cadillac Eldorado with the other makes and models listed. Therefore, respondent has, through the use of the aforesaid acts and practices, disparaged other makes and models listed.

PAR. 15. In the course and conduct of its aforesaid business, and at all times mentioned herein, respondent General Motors Corporation has been and now is in substantial competition in commerce with corporations, firms and individuals engaged in the sale and distribution of automobiles of the same general kind and nature as that sold by respondent.

PAR. 16. The use by respondent of the aforesaid unfair or deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the consuming public into the purchase of substantial quantities of automobiles manufactured by General Motors. As a result thereof, substantial trade is being unfairly diverted to respondent from its competitors.

PAR. 17. The aforesaid acts and practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public and of respondent's competitors and constituted, and now constitute, unfair or deceptive acts or practices in commerce and unfair methods of competition in commerce in violation of Section 5 of the Federal Trade Commission Act.

EXHIBIT A

* * * * *

A CADILLAC ELDORADO
BEAT THESE OTHER CARS IN THE
EPA'S OFFICIAL MILEAGE TEST!

- | | |
|---------------------------------------|---------------------------------------|
| 1. Toyo Kogyo Mazda RX4 Coupe | 38. Chrysler |
| 2. Oldsmobile Cutlass Salon | 39. Ford Ranchero |
| 3. Mercedes Benz MB-116 | 40. Oldsmobile Delta 88 Royal |
| 4. Ford Torino Station Wagon | 41. Pontiac GTO |
| 5. Plymouth Intermediate | 42. Buick Regal |
| 6. American Motors Wagoneer | 43. Buick Century 350 |
| 7. Buick Century | 44. Pontiac Grand Am |
| 8. Chevrolet Impala Custom | 45. Chevrolet C-10 Suburban |
| 9. Ferrari Dino 246 GT | 46. Chevrolet Caprice Station Wagon |
| 10. American Motors Matador | 47. Oldsmobile Vista Cruiser |
| 11. Ford F-100 | 48. Pontiac Trans Am |
| 12. Ford Galaxie | 49. Pontiac LeMans Safari |
| 13. Buick LeSabre | 50. Chevrolet G-10 Beauville |
| 14. Chevrolet Impala Station Wagon | 51. Pontiac Stageway Coach |
| 15. Pontiac Ventura | 52. Pontiac Grand Prix SJ |
| 16. Ford Torino | 53. Pontiac Grand Safari |
| 17. Chevrolet Malibu Classic | 54. Ford Torino Station Wagon |
| 18. Pontiac LeMans | 55. Buick Electra 225 |
| 19. Plymouth Full Size | 56. Oldsmobile Toronado |
| 20. Mercury Montego | 57. Pontiac Catalina Safari |
| 21. American Motors Universal | 58. Dodge Full Size |
| 22. Jaguar E Type Series III | 59. Dodge GE Full Size Station Wagon |
| 23. Toyota Land Cruiser Station Wagon | 60. Pontiac Grand Ville |
| 24. Buick Century Station Wagon | 61. Buick Estate Station Wagon |
| 25. Ford E-200 | 62. Mercury |
| 26. Dodge Station Wagon | 63. Plymouth Full Size Station Wagon |
| 27. Buick Estate Station Wagon | 64. Mercury Station Wagon |
| 28. Chevrolet Caprice | 65. Lincoln |
| 29. Oldsmobile Cutlass | 66. Pontiac Bonneville |
| 30. Ford Station Wagon | 67. Chevrolet Laguna |
| 31. Oldsmobile Cutlass Supreme | 68. Oldsmobile Delta 88 |
| 32. Mercury Cougar | 69. Lamborghini Jarama 400 GT |
| 33. Buick Estate | 70. Lamborghini Espada 411 GT |
| 34. Plymouth Intermediate | 71. Chevrolet C-20 Suburban |
| 35. Pontiac LeMans Sport | 72. Oldsmobile Delta 88 Station Wagon |
| 36. Pontiac Catalina | 73. Ferrari 365 GTB-4 |
| 37. Buick Gran Sport | |

Hometown Cadillac, Inc. (Picture of Cadillac)
(trademark symbol)

* * * * *

(Depiction of exhibit made in the interest of economy)

Complaint

84 F.T.C.

Exhibit B

* * * * *

(PICTURE OF AUTOMOBILE)

A CADILLAC ELDORADO

(With Cadillac's Largest Engine)

BEAT THESE OTHER CARS IN THE
ENVIRONMENTAL PROTECTION AGENCY
OFFICIAL MILEAGE TEST!

- | | |
|---------------------------------------|---------------------------------------|
| 1. Toyo Kogyo Mazda RX 4 Coupe | 36. Chrysler |
| 2. Oldsmobile Cutlass | 37. Ford Ranchero |
| 3. Mercedes Benz MB-116 | 38. Oldsmobile Delta 88 Royal |
| 4. Ford Torino Station Wagon | 39. Pontiac GTO |
| 5. Plymouth Intermediate | 40. Buick Regal |
| 6. American Motors Wagoneer | 41. Buick Century 350 |
| 7. Buick Century | 42. Pontiac Grand Am |
| 8. Chevrolet Impala Custom | 43. Chevrolet C-10 Suburban |
| 9. Ferrari Dino 246 GT | 44. Chevrolet Caprice Station Wagon |
| 10. American Motors Matador | 45. Oldsmobile Vista Cruiser |
| 11. Ford F-100 | 46. Pontiac LeMans Safari |
| 12. Ford Galaxie | 47. Pontiac Trans AM |
| 13. Buck LeSabre | 48. Chevrolet [sic] G-10 Beauville |
| 14. Chevrolet Impala Station Wagon | 49. Pontiac Stageway Coach |
| 15. Pontiac Ventura | 50. Pontiac Grand Prix SJ |
| 16. Ford Torino | 51. Pontiac Grand Safari |
| 17. Chevrolet Malibu Classic | 52. Buick Electra 225 |
| 18. Pontiac LeMans | 53. Oldsmobile Toronado |
| 19. Plymouth Full Size | 54. Pontiac Catalina Safari |
| 20. Mercury Montego | 55. Dodge Full Size |
| 21. American Motors Universal | 56. Dodge GE Full Size Station Wagon |
| 22. Jaguar E Type Series III | 57. Pontiac Grandville |
| 23. Toyota Land Cruiser Station Wagon | 58. Mercury |
| 24. Buick Century Station Wagon | 59. Plymouth Full Size Station Wagon |
| 25. Ford E-200 | 60. Mercury Station Wagon |
| 26. Dodge Station Wagon | 61. Lincoln |
| 27. Buick Estate Station Wagon | 62. Pontiac Bonneville |
| 28. Chevrolet Caprice | 63. Ce[Sic]vrolet Laguna |
| 29. Ford Station Wagon | 64. Oldsmobile Delta 88 |
| 30. Oldsmobile Cutlass Supreme | 65. Lamborghini Jarama 400 GT |
| 31. Mercury Cougar | 66. Lamborghini Espada 411 GT |
| 32. Buick Estate | 67. Chevrolet C-20 Suburban |
| 33. Pontiac LeMans Sport | 68. Oldsmobile Delta 88 Station Wagon |
| 34. Pontiac Catalina | 69. Ferrari 365 GTB-4 |
| 35. Buick Gran Sport | |

You don't have to sacrifice room, ride and safety for economy . . .

Kelly Cadillac

(picture of Cadillac trademark symbol)

(with Kelly Cadillac inserted)

"Choose the car you've always wanted"

900 Riverfront Parkway Phone 267-1104

* * * * *

(Depiction of exhibit made in the interest of economy.)

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 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 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 (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 General Motors Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 3044 West Grand Boulevard, Detroit, Mich.

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

It is ordered, That respondent General Motors Corporation and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of automobiles, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, by reference to a test or tests, that any of respondent's automobiles is superior with regard to fuel economy to any other automobiles, whether manufactured by respondent or others, unless:

(a) such superiority has been demonstrated, as to the model(s) for which it is claimed, by such test or tests with respect to each sample, or the valid average of all identical samples, of each model represented to have been tested; or

(b) the valid test results for each sample, or the valid average of all identical samples, of each model so compared, including the advertised model as well as such makes and models to which the advertised model is compared, are clearly and conspicuously disclosed.

For the purpose of this order "sample" shall mean an actual automobile tested. *It is provided, however,* That nothing contained in this paragraph is intended to conflict with any guidelines, rules or regulations with respect to fuel economy testing or advertising that may hereafter from time to time be promulgated by any agency of the United States Government, and, if such conflict does occur, the guidelines, rules or regulations shall govern.

2. Misrepresenting in any manner the fuel economy of any automobiles or the superiority of any automobile over competing products in terms of fuel economy.

3. Representing, directly or by implication, by reference to a test or tests, that the performance of any automobile has been tested either alone or in comparison with other automobiles unless such representation(s) accurately reflect the test results and unless the tests themselves are so devised and conducted as to substantiate each such representation concerning the featured tests.

4. Misrepresenting in any manner the purpose, contents or conclusion of any test, report or study relating to the performance of its automobile.

For purposes of Paragraphs 3 and 4 of this order, "test" shall include demonstrations which are claimed to be proof of the representations made.

5. Disparaging the quality or properties of any competing product or products through the use of false or misleading comparisons relative to fuel economy.

6. Placing in the hands of dealers for any of the products of the company an advertisement which contains any of the representations prohibited by Paragraphs 1-5 above.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondent notify the Commission at least Thirty (30) days prior to any proposed change in the corporate 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.

It is further ordered, That the respondent 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.

IN THE MATTER OF

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-

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-

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 Greaswood 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.

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, such information as required by Regulation Z of the said Act.

Complaint

Appearances

For the Commission: *Paul R. Roark.*
 For the respondents: *Austin E. Roberts of Tansey, Rosebrough,
 Roberts & Gerding, P.C. Farmington, N. M.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and of the Truth in Lending Act and the implementing regulation promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission having reason to believe that Four-S, Inc., a corporation doing business as White Horse Lake Trading Post, and as Lybrook Trading Post, and Roland P. Spicer, individually and as an officer of said corporation, 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. Respondent Four-S, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Mexico, with its principal office and place of business located at Route 4, Cuba, N.M.

Respondent Roland P. Spicer is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

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 regular course and conduct of their business as aforesaid respondents regularly arrange for the extension of consumer credit or offer to extend or arrange for the extension of consumer credit "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, in the ordinary course and conduct of their business as aforesaid, respondents arrange for the extension of loans which are not a credit sale. In these transactions, respondents:

1. Fail to make the disclosures required by Section 226.8 of Regula-

tion 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 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. 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. 5. 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:

1. Respondent Four-S, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Mexico, with its office and principal place of business located at Route 4, in the city of Cuba, State of New Mexico.

Respondent Roland P. Spicer is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation, and his address is the same as that of said corporation.

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

It is ordered, That respondent Four-S, Inc., a corporation doing business as White Horse Lake Trading Post, and as Lybrook Trading Post, its successors and assigns, and its officers, and Roland P. Spicer, 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 exten-

sion 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) 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 Section 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 the 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 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 corporation, its successors and assigns, shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate 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 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.

IN THE MATTER OF

STOKIES, INCORPORATED, ET AL.

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

Docket C-2567. Complaint, Oct. 8, 1974—Decision, Oct. 8, 1974

Consent order requiring a Tonolea, Ariz., general merchandise retailer, 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, such information as required by Regulation Z of the said Act.

Appearances

For the Commission: *Paul R. Roark.*

For the Respondents: *Austin E. Roberts, Tansey, Rosebrough, Roberts & Gerding, P. C., Farmington, N.M.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and of the Truth in Lending Act and the implementing regulation promulgated thereunder, and by virtue of the authority vested in it by said

Acts, the Federal Trade Commission having reason to believe that Stokies, Incorporated, a corporation doing business as Inscription House Trading Post, and Orange J. Carson, individually and as an officer of said corporation, 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. Respondent Stokies, Incorporated is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Mexico 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 Tonolea, Ariz.

Respondent Orange J. Carson is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. His address is P.O. Box 207, 507 East 16th Street, Farmington, N.M.

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 good, wares, merchandise and articles of trade with consumers and in pawn broking and money lending.

PAR. 3. In the regular course and conduct of their business 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 Governors of the Federal Reserve System.

PAR. 4. 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 a credit sale. 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 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. 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. 5. 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:

1. Respondent Stokies, Incorporated is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Mexico, with its office and principal place of business located at Tonolea, Ariz.

Respondent Orange J. Carson is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation, and his address is the same as that of said corporation.

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

It is ordered, That respondent Stokies, Incorporated, a corporation, its successors and assigns, and its officers, and Orange J. Carson, 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 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 the 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 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 corporation, its successors and assigns, shall forthwith distribute a copy of this order to each of its operating divisions.

Complaint

84 F.T.C.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate 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 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.

IN THE MATTER OF

BRUCE M. BARNARD COMPANY OF SHIPROCK, INC.,
ET AL.

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

Docket C-2568. Complaint, Oct. 8, 1974—Decision, Oct. 8, 1974

Consent order requiring a Shiprock, N. M., general merchandise retailer, pawnbroker and money lender, among other things to cease failing to make immediate restitution for pawned items held as security in the event the item cannot be found at the time redemption is requested, and failing to make all disclosures required by Regulation Z of the Truth in Lending Act.

Appearances

For the Commission: *Paul R. Roark.*

For the respondent: *Pro se.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and of the Truth in Lending Act and the implementing regulation promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Bruce M. Barnard Company of Shiprock, Inc., a corporation doing business as Bruce M. Barnard Trading Post, and Bruce M. Barnard III, individually and as an officer of said corporation, 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. Respondent Bruce M. Barnard Company of Shiprock, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Mexico 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 Shiprock, N.M.

Respondent Bruce M. Barnard III is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

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 business respondents have operated a trading post 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 business respondents have engaged, and are now engaging in numerous acts and practices. Typical of these acts and practices, but not all inclusive thereof, are the following:

1. 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 effect redemption and the respondents are unable or unwilling to present the pledged item.

2. In many instances respondents have failed to clearly and conspicuously indicate on the receipt given to the consumer the market or replacement value of the item held by respondents as security in a pawn transaction.

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 business 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 Governors of the Federal Reserve System.

PAR. 9. Subsequent to July 1, 1969, in the ordinary course and conduct of their business and in connection with their credit sales, as "credit sale" is defined in Regulation Z, and in connection with disclosures required before consummation, respondents:

1. Fail to make the required disclosures clearly, conspicuously, and in a meaningful sequence, as prescribed by Section 226.6(a) of Regulation Z.
2. Fail to disclose the conditions under which the finance charge may be imposed, including an explanation of the time period, if any, within which any credit extended may be paid without incurring a finance charge, as prescribed by Section 226.7(a)(1) of Regulation Z.
3. Fail to disclose the method of determining the balance upon which a finance charge may be imposed, as prescribed by Section 226.7(a)(2) of Regulation Z.
4. Fail to disclose the minimum periodic payment required, as prescribed by Section 226.7(a)(8) of Regulation Z.

PAR. 10. Subsequent to July 1, 1969, in the ordinary course and conduct of their business as aforesaid and in connection with their credit sales, as "credit sale" is defined in Regulation Z and in connection with the mailing or delivery of a periodic statement, respondents:

1. Fail to make the required disclosures clearly, conspicuously, and in a meaningful sequence, as prescribed by Section 226.6(a) of Regulation Z.
2. Fail to set forth the outstanding balance in the account at the beginning of the billing cycle, using the term "previous balance," as prescribed by Section 226.7(b)(1) of Regulation Z.
3. Fail to set forth the amount credited to the account during the billing cycle for payments, using the term "payments," and for other credits including returns, rebates of finance charges, and adjustments,

Complaint

680

using the term "credit," as prescribed by Section 226.7(b)(3) of Regulation Z.

4. Fail to set forth the amount of any finance charge, using the term "finance charge," debited to the account during the billing cycle, itemized and identified to show the amount, if any, due to the application of periodic rates and the amount of any other charge included in the finance charge such as a minimum, fixed, check service, transaction, activity, or similar charge, using appropriate descriptive terminology, as prescribed by Section 226.7(b)(4) of Regulation Z.

5. Fail to set forth the balance upon which the finance charge was computed, and a statement of how that balance was determined, as prescribed by Section 226.7(b)(8) of Regulation Z.

6. Fail to set forth a closing date of the billing cycle and the outstanding balance in the account on that date, using the term "new balance", accompanied by the statement of the date by which, or the period, if any, within which payment must be made to avoid additional finance charges, as prescribed by Section 226.7(b)(9) of Regulation Z.

7. Fail to disclose on the face of the periodic statement the annual percentage rate and the amount of the balance to which each rate is applicable, as prescribed by Section 226.7(c)(1) of Regulation Z.

8. Fail to make a reference to the balance on which the finance charge was computed, in conjunction with the disclosures of the periodic rate and the annual percentage rate, either together on the face or reverse side of the periodic statement, or on the face of a single supplemental statement accompanying the periodic statement, as prescribed by Section 226.7(c)(2) of Regulation Z.

9. Fail to disclose periodic rates, the annual percentage rate, the statement of how the balance on which the finance charge was computed was determined, and the statement of the period within which payment must be made to avoid additional finance charges, on the reverse side of the periodic statement without incorporating verbatim on the face thereof the following notice: "NOTICE: See reverse side for important information," as prescribed by Section 226.7(c)(3) of Regulation Z.

PAR. 11. 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 a credit sale. 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 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. 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. 12. 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:

1. Respondent Bruce M. Barnard Company of Shiprock, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Mexico, with its office and principal place of business located at Shiprock, N.M.

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

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

It is ordered, That respondents Bruce M. Barnard Company of Shiprock, Inc., a corporation doing business as Bruce M. Barnard Trading Post, its successors and assigns, and its officers, and Bruce M. Barnard III, 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 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. 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.
2. Failing to clearly and conspicuously indicate on the receipt given to the consumer the market or replacement value of the item held by respondents as security in pawn transactions.

II

It is further ordered, That respondents Bruce M. Barnard Company of Shiprock, Inc., a corporation, its successors and assigns, and its officers, and Bruce M. Barnard III, 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 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 226.7 of Regulation Z clearly, conspicuously and in a meaningful sequence, as prescribed by Section 226.6(a) of Regulation Z.
2. Failing to disclose the conditions under which the finance charge may be imposed, including an explanation of the time period, if any, within which any credit extended may be paid without incurring a finance charge, as prescribed by Section 226.7(a)(1) of Regulation Z.
3. Failing to disclose the method of determining the balance upon which a finance charge may be imposed, as prescribed by Section 226.7(a)(2) of Regulation Z.
4. Failing to disclose the minimum periodic payment required, as prescribed by Section 226.7(a)(8) of Regulation Z.
5. Failing to set forth the outstanding balance in the account at the beginning of the billing cycle, using the term "previous balance," as prescribed by Section 226.7(b)(1).
6. Failing to set forth the amount credited to the account during the billing cycle for payments, using the term "payments," and for other credits including returns, rebates of finance charges, and adjustments, using the term "credits," as prescribed by Section 226.7(b)(3).
7. Failing to set forth the amount of any finance charge, using the term "finance charge," debited to the account during the billing cycle, itemized and identified to show the amount, if any, due to the

application of periodic rates and the amount of any other charge included in the finance charge such as a minimum, fixed, check service, transaction, activity or similar charge, using appropriate descriptive terminology, as prescribed by Section 226.7(b)(4) of Regulation Z.

8. Failing to set forth the balance upon which the finance charge was computed, and a statement of how that balance was determined, as prescribed by Section 226.7(b)(8) of Regulation Z.

9. Failing to set forth a closing date of the billing cycle and the outstanding balance in the account on that date, using the term "new balance," accompanied by the statement of the date by which, or the period, if any, within which payment must be made to avoid additional charges, as prescribed by Section 226.7(b)(9) of Regulation Z.

10. Failing to disclose on the face of the periodic statement the annual percentage rate and the amount of the balance to which each rate is applicable, as prescribed by Section 226.7(c)(1) of Regulation Z.

11. Failing to make a reference to the balance on which the finance charge was computed, in conjunction with the disclosures of the periodic rate and the annual percentage rate, either together on the face or reverse side of the periodic statement, or on the face of a single supplemental statement accompanying the periodic statement, as prescribed by Section 226.7(c)(2) of Regulation Z.

12. Failing to disclose periodic rates, the annual percentage rate, the statement of how the balance on which the finance charge was computed was determined, and the statement of the period within which payment must be made to avoid additional finance charges, on the reverse side of the periodic statement without incorporating verbatim on the face thereof the following notice: "NOTICE: See reverse side for important information," as prescribed by Section 226.7(c)(3) of Regulation Z.

It is further ordered, That respondents, their successors and assigns, in connection with the extension of credit other than open end, as defined in Section 226.8 of Regulation Z, 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.

It is further ordered, That respondents, their successors and assigns, shall cease and desist from 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 the 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 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 corporation, its successors and assigns, shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate 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 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.

IN THE MATTER OF

McGEE TRADERS INC. t/a PINON MERCANTILE TRADING
COMPANY, ETC., ET AL.

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

Docket C-2569. Complaint, Oct. 8, 1974—Decision, Oct. 8, 1974

Consent order requiring a Keams Canyon, Ariz., retailer of general merchandise and pawnbroker, among other things to cease offering unfair inducements to purchase or deal; delaying actions owed; securing signatures in a wrongful manner; and failing, in connection with the extension of consumer credit, to disclose to consumers all information as required by Regulation Z of the Truth in Lending Act.

Appearances

For the Commission: *Paul R. Roark*.

For the respondents: *Raleigh W. Johnson, Arline & Johnson*, Holbrook, Ariz.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and of the Truth in Lending Act and the implementing regulation promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that McGee Traders Incorporated, a corporation doing business as Pinon Mercantile Trading Company, Keams Canyon Trading Company and Polacca Trading Post, and Clifton Ferron McGee, William Bruce McGee, Clifton Ferron McGee, Jr., Johnny Lynn Kay and Leland Noel, individually and as officers of said corporation, 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. Respondent McGee Traders, Incorporated is a corporation 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 and Hopi Reservations by the Bureau of Indian Affairs, with its principal office and place of business located at Keams Canyon, Ariz.

Respondents Clifton Ferron McGee, William Bruce McGee, Clifton Ferron McGee, Jr., Johnny Lynn Kay and Leland Noel, are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

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 and Hopi Reservations 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 engaging in numerous acts and practices. Typical of these acts and practices, but not all inclusive thereof, are the following:

1. In many instances respondents have misled consumers as to the actual purchase price of certain merchandise by failing to plainly and conspicuously mark or indicate the price at which all their merchandise is offered for sale.

2. In many instances respondents have tied consumers to their places of business by refusing to cash government issued or other checks in lawful United States currency. In lieu of said currency respondents give 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.

3. 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.

4. In many instances respondents have placed the burden of proof of a credit owed to a consumer on the consumer by failing to record on their books, or in any other way memorialize, trade slips, due bills or other form of purchase orders indicating a credit owed to a consumer.

5. In many instances respondents have misled and deceived consumers as to the true amount owed to respondents on purchases made by consumers by failing to present, or offering to present, itemized statements of purchases.

6. In many instances respondents have offered to present or have presented itemized statements of purchases only to selected consumers, such as Bureau of Indian Affairs employees.

7. In many instances respondents require, as a condition of doing business, that all credit or charge accounts held by consumers be paid in full prior to allowing the redemption of any item held in pawn by the respondents, regardless of the fact that credit or charge accounts are in no way connected to or dependent on pawn transactions; nor is the pawn held by respondents held as security for said credit or charge accounts.

8. 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 effect redemption and the respondents are unable or unwilling to present the pledged item.

9. In many instances respondents have induced consumers by deception to sign change of address cards or forms, or in other ways effect the delivery of government issued or other checks to the respondents' places of business and thus unfairly bind the consumer to the respondents' places of business.

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 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.

Complaint

84 F.T.C.

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 the business 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 Governors of the Federal Reserve System.

PAR. 9. Subsequent to July 1969, in the ordinary course and conduct of their business as aforesaid, and in connection with credit sales, as "credit sale" is defined in Regulation Z, respondents:

1. Fail to determine the finance charge as the sum of all charges, payable directly or indirectly by the customer, and imposed directly or indirectly by the creditor as an incident to or as a condition of the extension of credit, as prescribed by Section 226.4(a) of Regulation Z.

2. 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.

3. 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.

4. Fail to make the required disclosures together in any one of the following two ways, as prescribed by Section 226.8(a) of Regulation Z:

- (a) On the note or other instrument evidencing the obligation on the same side of the page and above or adjacent to the place for the customer's signature;

- (b) On one side of a separate statement which identifies the transaction.

5. 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.

6. Fail to disclose the cash price of the property purchased, using the term "cash price," as prescribed by Section 226.8(c)(1) of Regulation Z.

7. Fail to disclose the amount financed, using the term "amount financed" as prescribed by Section 226.8(c)(7) of Regulation Z.

PAR. 10. 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 a credit sale. 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 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. 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. 11. 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:

1. Respondent McGee Traders Inc. is a corporation 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 Keams Canyon, Ariz.

Respondents Clifton Ferron McGee, William Bruce McGee, Clifton Ferron McGee, Jr., Johnny Lynn Kay, and Leland Noel are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation, and their address is the same as that of said corporation.

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

It is ordered, That respondents McGee Traders Inc., a corporation doing business as Pinon Mercantile Trading Company, Keams Canyon Trading Company and Polacca Trading Post, its successors and assigns, and its officers, and Clifton Ferron McGee, William Bruce McGee,

Clifton Ferron McGee, Jr., Johnny Lynn Kay and Leland Noel, individually and as officers of said corporation, 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. Failing to plainly and conspicuously mark or indicate the price at which all merchandise is offered for sale.

2. Cashing government issued or other checks in other than lawful United States currency unless the consumer presenting the check has expressly indicated his desire to receive trade slips, due bills or other form of purchase orders indicating a credit owed to the consumer, and unless the 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 full value of the check tendered in lawful United States currency.

3. Purchasing rugs, blankets, jewelry or other forms of handi-craft or livestock from consumers for other than lawful United States currency unless the consumer offering to sell the goods to the respondents has expressly indicated his desire to receive trade slips, due bills or other form of purchase orders indicating a credit owed to the consumer, in partial or full payment, and unless the 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.

4. Issuing trade slips, due bills or other form of purchase orders indicating a credit owed to a consumer without recording, in a permanent fashion in the books of the respondents at the particular place of business where the trade slips, due bills or other form of purchase orders were issued, in such a manner as to indicate the date of issuance, the name and address of the consumer to whom issued, the amount of the credit, and the reason for the issuance of the credit.

5. Failing to present each consumer with an itemized statement showing the price of each item purchased, the correct total of all purchases made and the date of the transaction.

6. Requiring consumers to pay in full any credit account or other indebtedness to the respondent at the time the consumer attempts to effect redemption of a pawn item held by respondent.

7. 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 the deliver said item to the pledgor at the time the pledgor wishes to effect redemption.

8. Inducing consumers by deception or any other means to sign change of address cards for the receipt of government or other checks; or in any other way to interfere with delivery of said checks from the method desired by the consumer.

It is further ordered, That respondents, their successors and assigns:

1. Maintain adequate records for a period of two years from the date of each transaction:

(a) 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 place of lawful United States currency in return for government issued or other checks;

(b) 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 goods sold to the respondents; and

(c) which disclose the issuance of trade slips, due bills or other form of purchase orders indicating a credit owed to a consumer for purchases made from a consumer or checks cashed for a consumer.

2. Permit the inspection and copying of such records by Federal Trade Commission representatives.

II

It is further ordered, That respondents McGee Traders Inc., a corporation doing business as Pinon Mercantile Trading Company, Keams Canyon Trading Company, and Polacca Trading Post, its successors and assigns, and its officers, and Clifton Ferron McGee, William Bruce McGee, Clifton Ferron McGee, Jr., Johnny Lynn Kay, and Leland Noel, individually and as officers of said corporation 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 determine the finance charge as the sum of all charges, payable directly or indirectly by the customer, and imposed directly or indirectly by the creditor as an incident to or as a condition of the extension of credit, as prescribed by Section 226.4(a) of Regulation Z.

2. 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.

3. 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.

4. Failing to make the required disclosures in either of the two ways prescribed by Section 226.8(a) of Regulation Z.

5. 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.

6. Failing to disclose the cash price of the property or service purchased, using the term "cash price," as prescribed by Section 226.8(c)(1) of Regulation Z.

7. Failing to disclose the amount financed, using the term "amount financed," as prescribed by Section 226.8(c)(7) of Regulation Z.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

Complaint

84 F.T.C.

13. 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 the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with any new business or employment which is located within the boundaries of the Navajo or Hopi Reservations or which involves the extension of or arranging for the extension of "consumer credit" as defined in Regulation Z. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which they are engaged as well as a description of their duties and responsibilities.

It is further ordered, That the respondent corporation, its successors and assigns, shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate 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 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.

IN THE MATTER OF

TURKEY MOUNTAIN ESTATES, INC., ET AL.

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

Docket C-2570. Complaint, Oct. 8, 1974—Decision, Oct. 8, 1974

Consent order requiring four affiliated Shell Knob, Mo., developers of recreational or retirement home sites, among other things to cease using bait advertising and other deceptive selling practices, and violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

698

Complaint

Appearances

For the Commission: *Michael L. DeBacker.*

For the respondents: *Robert Stemmons, Stemmons & Hager, Mount Vernon, Mo.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and the Truth in Lending Act and the implementing regulation promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Turkey Mountain Estates, Inc., a corporation; Central Crossing Developers, Inc., a corporation; Lakeside Investment Company, Inc., a corporation; Tomahawk Developers, Inc., a corporation; and E. C. Shafer, individually and as an officer of said corporations; and J. B. Gum, individually and as an officer of said corporations, with the exception of Central Crossing Developers, Inc., 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. Respondent Turkey Mountain Estates, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at Highway 39, Shell Knob, Mo.

Respondent Central Crossing Developers, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at Highway 39, Shell Knob, Mo.

Respondent Lakeside Investment Company, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at Highway 39, Shell Knob, Mo.

Respondent Tomahawk Developers, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at Highway 39, Shell Knob, Mo.

Respondents E.C. Shafer and J.B. Gum are officers of the corporate respondents. They formulate, direct, and control the acts and practices of the corporate respondents including the acts and practices hereinaf-

ter set forth. Their address is the same as that of the corporate respondent.

Respondent E.C. Shafer is president of Tomahawk Developers, Inc., secretary and treasurer of Lakeside Investment Company, Inc., Turkey Mountain Estates, Inc., and Central Crossing Developers, Inc., and is on the board of directors of all the corporate respondents.

Respondent J.B. Gum is president of Lakeside Investment Company, Inc., and an officer of Tomahawk Developers, Inc., and Turkey Mountain Estates, Inc., and is on the board of directors of these three corporations.

Respondents Shafer and Gum together control 65 percent of the stock of Lakeside Investment Company, Inc., and 1/3 interest in Turkey Mountain Estates, Inc. Respondents each own 1/4 interest in Central Crossing Developers, Inc.

PAR. 2. Respondents are now, and for some time last past have been engaged in the advertising, offering for sale, sale and development of recreational or retirement home sites.

PAR. 3. In the course and conduct of their aforesaid business, respondents now cause, and for some time last past have caused, a substantial volume of direct mail advertising to be mailed to prospective purchasers located in various States of the United States; and finance home site sales and collect payments from purchasers located in various States of the United States.

Accordingly, all of said respondents have maintained, and do now maintain, a course and conduct of business in commerce, as "commerce" is defined in the Federal Trade Commission Act.

COUNT I

Alleging violations of the Truth in Lending Act and the implementing regulations promulgated thereunder, and of the Federal Trade Commission Act, the allegations of Paragraphs One and Two hereof are incorporated by reference in Count I as if fully set forth verbatim.

PAR. 4. In the course and conduct of their business as aforesaid, respondents regularly extend, and for some time last past have regularly extended, 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. 5. Subsequent to July 1, 1969, respondents, in the ordinary course and conduct of their business and in connection with credit sales as "credit sale" is defined in Section 226.2(n) of Regulation Z, have caused and are causing their customers to execute installment contracts, or contracts for deed and Regulation Z disclosure forms.

PAR. 6. By and through the use of these contracts and forms, respondents, in a number of instances:

1. Have failed to disclose the date on which the finance charge begins to accrue if different from the date of the transaction, as required by Section 226.8(b)(1) of Regulation Z.

2. Have failed to state the due dates or period of payments scheduled to repay the indebtedness, and the sum of such payments, using the term, "total of payments," as required by Section 226.8(b)(3) of Regulation Z.

3. Have failed to use the term, "cash downpayment" and "total downpayment," and "unpaid balance of cash price," and have failed to give the corresponding disclosures with those terms, as required by Sections 226.8(c)(1), 226.8(c)(2), and 226.8(c)(3) of Regulation Z.

4. Have failed to use the term, "deferred payment price," and to give the corresponding disclosure with that term, as required by Section 226.8(c)(8)(ii) of Regulation Z.

5. Have failed to disclose the "Finance Charge," as required by Section 226.8(c)(8)(i) of Regulation Z.

6. Have failed to disclose the amount of any "balloon payment," and have failed to use the term "balloon payment," as required by Section 226.8(b)(3) of Regulation Z.

7. Have failed to disclose the identity of the creditor as required by Section 226.8(a) of Regulation Z.

8. Have failed, on certain periodic statements to make the disclosures, and in the form required by Section 226.8(n) of Regulation Z.

9. Have failed to disclose discount for prompt payment and related disclosures, as required by Section 226.8(o) of Regulation Z.

PAR. 7. By and through the use of a contract for deed, respondents retain, create, or acquire a security interest, as "Security interest" is defined in Section 226.2(z) of Regulation Z, in real property which is expected or may be expected to be used as the principal residence of the purchaser. Respondents' retention or acquisition of a security interest in said real property gives their customers, who are extended consumer credit, as "consumer credit" is defined in Section 226.2(k) of Regulation Z, the right to rescind the transaction until midnight of the third business day following the date of consummation of the transaction or the date of delivery of all the disclosures required by Regulation Z, whichever is later.

By and through the use of the aforementioned contract for deed, respondents in all instances since July 1, 1969:

1. Have failed to provide the "Notice of Opportunity to Rescind" to the customer on one side of a separate statement which identifies the

Complaint

84 F.T.C.

transaction to which it relates, as required by Section 226.9(b) of Regulation Z.

2. Have failed to set out the "Effect of Rescission," Section 226.9(d) of Regulation Z in the manner and form required by Section 226.9(b) of Regulation Z.

PAR. 8. In the ordinary course of their business as aforesaid, respondents cause to be published advertisements of their home sites, as the term "advertisement" is defined in Regulation Z. These advertisements aid, promote, or assist directly or indirectly extensions of consumer credit in connection with the sale of these home sites. By and through the use of the advertisements, respondents:

State the amount of monthly installment payments which can be arranged in connection with a consumer credit transaction, without also stating all of the following items, in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) thereof:

- (i) The cash price;
- (ii) The amount of the downpayment required or that no downpayment is required, as applicable;
- (iii) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;
- (iv) The amount of the finance charge expressed as an annual percentage rate; and
- (v) The deferred payment price.

PAR. 9. Pursuant to Section 103(q) of the Truth in Lending Act, respondents' aforesaid failures to comply with the provisions of Regulation Z constitute violations of that Act, and, pursuant to Section 108(c) thereof, respondents thereby violated the Federal Trade Commission Act.

COUNT II

Alleging violations of Section 5 of the Federal Trade Commission Act, the allegations of Paragraphs One, Two, and Three hereof are incorporated by reference in Count II as if fully set forth verbatim.

PAR. 10. In the course and conduct of their business as aforesaid, and for the purpose of inducing the purchase of retirement and recreational home sites and inducing prospective purchasers to view such land, respondents have made and are now making numerous statements and representations in direct mail advertising, with respect to the price of said home sites and the benefits and facilities available for those who purchase the home sites.

Typical and illustrative of said statements and advertising representations, but not all inclusive thereof, are the following:

You can purchase beautiful site valued at \$550.00 for a total of only \$50.00.

A valuable piece of property in Turkey Mountain Estates can now be yours for a total cost to you of only \$50.00 by using the enclosed \$500.00 voucher.

We are making this offer only to selected families.

Water to Lots.

Paved Roads.

Electricity.

Air Conditioned Club House.

Upon inspection of the property, we must ask you to either accept or reject this offer so that our advertising budget can be adjusted.

PAR. 11. By and through the use of said advertisements, and others of similar import and meaning, but not expressly set out herein, respondents have represented and are now representing directly or by implication that:

1. They are making bona fide offers to sell retirement and recreational home sites "valued at \$550.00 for a total of only \$50.00."
2. The prices of home sites which are being offered are discount prices available for a limited period of time or to a selected number of people.
3. All home sites which are being offered include paved roads, water and electricity to lot boundaries and use of club house facilities.

PAR. 12. In truth and in fact:

1. The advertised home sites for "A total of only \$50.00," are not bona fide offers to sell the home sites at the advertised price, but are advertised for the purpose of inducing prospective purchasers to journey to the area to inspect the land. After inducing prospective purchasers to respondents' sale location, respondents' sales personnel disparage the advertised \$50 lots by acts or words, or both, and attempt to sell or do sell different and more expensive home sites.

2. The prices at which home sites are sold are not reduced by the \$500 advertising voucher for only a limited period of time or to a selected number of persons. The \$500 advertising discount has been offered in the usual and customary operation of the respondents' business, and purchasers have been allowed to utilize the \$500 discount later than the day of the sales presentation.

3. The \$50 home sites do not include paved roads, water and electricity to lot boundaries, or use of club house facilities.

Therefore, the statements and representations as set forth in Paragraphs Ten and Eleven were, and are false, misleading and deceptive.

PAR. 13. In the ordinary course and conduct of their aforesaid business, and for the purpose of obtaining a declaration from customers of an intention not to reside permanently on land purchased, so as to avoid the requirements of Section 226.9 of Regulation Z, respondents have inserted the following provision in their land sale contracts:

Buyers (DO) (DO NOT) intend permanent residence.

Respondents have made certain deceptive and misleading statements concerning the aforementioned contract provision, in an attempt to circumvent customer's right to a notice to rescind, as required by Section 226.9 of Regulation Z.

PAR. 14. The acts and practices of the respondents as set forth above, were, and are, all to the prejudice and injury of the public 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.

DECISION AND ORDER

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

1. Respondent Turkey Mountain Estates, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at Highway 39, Shell Knob, Mo.

Respondent Central Crossing Developers, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at Highway 39, Shell Knob, Mo.

Respondent Lakeside Investment Company, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at Highway 39, Shell Knob, Mo.

Respondent Tomahawk Developers, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at Highway 39, Shell Knob, Mo.

Respondent E. C. Shafer is an officer of the corporate respondents. Respondent J. B. Gum is an officer of the corporate respondents, with the exception of Central Crossing Developers, Inc. They formulate, direct and control the policies, acts and practices of said corporations, and their principal office and place of business is located at the above stated address.

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

It is ordered, That respondents Turkey Mountain Estates, Inc., a corporation; Central Crossing Developers, Inc., a corporation; Lakeside Investment Company, Inc., a corporation; and Tomahawk Developers, Inc., a corporation; and their successors and assigns and their officers

and E. C. Shafer, individually and as an officer of said corporations; and J. B. Gum, individually and as an officer of said corporations, with the exception of Central Crossing Developers, Inc., respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device in connection with the extension of consumer credit or advertisements to aid, promote or assist, directly or indirectly, in the 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 (15 U.S.C. 1601, *et seq.*), do forthwith cease and desist from:

1. Failing to accurately disclose the date on which the finance charge begins to accrue, as required by Section 226.8(b)(1) of Regulation Z.
2. Failing to disclose the "total of payments," as required by Section 226.8(b)(3) of Regulation Z.
3. Failing to accurately disclose the number, amount and due dates or periods of payment scheduled to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.
4. Failing to state the "cash price," and failing to state the "cash downpayment," and failing to state the "unpaid balance of cash price," as required by Sections 226.8(c)(1), 226.8(c)(2) and 226.8(c)(3) of Regulation Z.
5. Failing to use the term "unpaid balance of cash price" to describe the difference between cash price and the total downpayment, and failing to use the terms "cash price" and "cash downpayment," as required by Sections 226.8(c)(1), 226.8(c)(2) and 226.8(c)(3).
6. Failing to disclose the "finance charge," as required by Section 226.8(c)(8)(i) of Regulation Z.
7. Failing to disclose the "deferred payment price," as required by Section 226.8(c)(8)(ii) of Regulation Z.
8. Failing to use the term "deferred payment price," as required by Section 226.8(c)(8)(ii) of Regulation Z.
9. Failing, in any transaction arising in the future in which a customer has the right to rescind, as provided in Section 226.9 of Regulation Z, to provide the customer with the notice of right to rescind, in the form and manner provided in that Section prior to consummation of the transaction, and in connection therewith to provide a question seeking a statement in writing, on a separate form, designating whether or not said customer expects to use the lot as his principal place of residence, at that time or in the future.

Decision and Order

10. Failing to describe the amount of any "balloon payment" and failing to use the term "balloon payment," as required by Section 226.8(b)(3) of Regulation Z.

11. Failing to disclose the identity of the creditor on the instrument or statement on which required disclosures are made, as required by Section 226.8(a) of Regulation Z.

12. Failing to disclose the annual percentage rate and the period in which payment must be made to avoid late charges on any periodic statement and failing to transmit such a statement in a form which the customer may retain, as required by Section 226.8(n) of Regulation Z.

13. Failing to disclose discount for prompt payment and related disclosures, as required by Section 226.8(o) of Regulation Z.

14. Failing in any consumer credit transaction or advertising 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, 226.8, 226.9 and 226.10 of Regulation Z.

15. Stating in any advertisement the amount of monthly installment payments which can be arranged in connection with a consumer credit transaction, without also stating all of the following items, in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) thereof:

- (i) The cash price;
- (ii) The amount of the downpayment required or that no downpayment is required, as applicable;
- (iii) The number, amount and due dates or periods of payments scheduled to repay the indebtedness if the credit is extended;
- (iv) The amount of the finance charge expressed as an annual percentage rate; and
- (v) The deferred payment price.

II

It is ordered, That respondents Turkey Mountain Estates, Inc., a corporation; Central Crossing Developers, Inc., a corporation; Lakeside Investment Company, Inc., a corporation; and Tomahawk Developers, Inc., a corporation, and their successors and assigns and their officers and E. C. Shafer, individually and as an officer of said corporations; and J. B. Gum, individually and as an officer of said corporations, with the exception of Central Crossing Developers, Inc., respondents' agents, representatives and employees, directly or through any corporation,

subsidiary, division or other device in connection with the advertising, offering for sale, sale or distribution of recreational or retirement home sites or any other product in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using any advertising, sales plan or procedure involving the use of false, deceptive or misleading statements or representations designed to obtain leads or prospects for the sale of other real property.
2. Discouraging the purchase of, disparaging in any manner or refusing to sell, any real property advertised by respondents.
3. Advertising or offering any property or products for sale for the purpose of obtaining leads or prospects for the sale of different property or products unless the respondents maintain an adequate and readily available stock of said property or products.
4. Representing, directly or indirectly, that any real property or services are offered for sale when such is not a bona fide offer to sell said real property or services.
5. Representing, directly or indirectly, that an advertising allowance voucher or discount is offered on the purchase of any real property unless such an allowance is actually a reduction in the advertising cost of the respondents.
6. Representing, directly or indirectly, or by implication, in any form of advertisement that a prospective purchaser may purchase an "advertising lot," or other section of land at a discounted or reduced price, unless in immediate connection with such representations respondents clearly and conspicuously disclose the improvements or benefits included in the price of such lots, or the lack thereof, if such improvements or benefits differ in any respect with the improvements or benefits which are advertised in connection with the remainder of the lots in the land developments.
7. Misrepresenting, directly or indirectly, or by implication, the purpose or effect of any provision in the contract for sale, or other forms, completed at the time of sale or thereafter, whereby the purchasers are required to declare their intention as to establishing a permanent or principal place of residence on the land.

It is further ordered, That respondents deliver a copy of this order to cease and desist to each operating division and to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit or sale of any real property, or any aspect of preparation, creation or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents 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 corporations which may affect compliance obligations arising out of the order.

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their 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 they are engaged as well as a description of their duties and responsibilities.

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.

IN THE MATTER OF

NORTHWEST MARINE INDUSTRIES, INC.

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

Docket C-2571. Complaint, Oct. 8, 1974—Decision, Oct. 8, 1974

Consent order requiring a Seattle, Wash., trade association promoting the interests of member firms in the marine industry, including manufacturers and distributors of boats, marine engines, marine accessories, etc., among other things to cease misrepresenting the availability of fuel for recreational boating without substantiating material providing a reasonable basis for such claims.

Appearances

For the Commission: *Arnold E. Howard.*

For the respondent: *Jon M. Johnson, Seattle, Wash.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Northwest Marine Industries, Inc., a corporation, hereinafter sometimes referred to as respondent, has violated the provisions of Section 5 of the Federal Trade Commission Act, and it appearing to the Commission

that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint stating its charges as follows:

PARAGRAPH 1. Respondent Northwest Marine Industries, Inc. is a trade association organized, existing and doing business as a non-profit corporation under and by virtue of the laws of the State of Washington, with its office and principal place of business located at 1910 Fairview East, Seattle, Wash.

PAR. 2. Respondent was organized and is maintained for the purpose of promoting, fostering and advancing the interests of its members who consist of firms engaged in businesses relating to the marine industry, including but not limited to manufacturers, distributors, and retailers of boats, marine engines, marine accessories, etc. Respondent has been and is now engaged in a wide range of activities of mutual interest to its members, including but not limited to the dissemination, publishing, and distribution of advertisements designed to promote the sale of aforesaid marine products.

PAR. 3. In the course and conduct of its business, respondent causes various documents, communications and promotional materials to be transmitted by the United States mail and other interstate mechanisms, to and from respondent's office and respondent's members located in six states of the United States. Respondent also causes promotional advertisements to be published in media of interstate circulation.

Respondent maintains, and at all times mentioned herein has maintained, a substantial course of trade in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of its business, respondent has made representations concerning the availability of fuel for recreational boating in newspapers of interstate circulation. Typical and illustrative of the representations in said advertisements, but not all inclusive thereof, are the following which appeared on December 17, 1973:

While no one can deny that the fuel shortage will have an effect on recreational boating, current estimates are that there will be only a 15 percent reduction in the amount of fuel available this year versus last year.

There will be enough fuel to go around.

PAR. 5. By and through the use of the aforesaid representations, respondent has represented, directly or by implication, that at the time the aforesaid statements and representations were made, respondent had a reasonable basis from which to conclude that:

1. Recreational boaters will have access to fuel equal to 85 percent of the amount of fuel available in 1972.
2. There will be sufficient fuel available for recreational boating to

Decision and Order

supply everyone without significant changes from recreational boating usage patterns of prior years.

PAR. 6. In truth and in fact, at the time the aforesaid representations were made, respondent had no reasonable basis to conclude that they were true.

Therefore, the representations in Paragraphs Four and Five were, and are, misleading, deceptive and unfair.

PAR. 7. The use by respondent of the aforesaid misleading, deceptive and unfair representations has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said representations were and are true and into the purchase of substantial quantities of said products by reason of said erroneous and mistaken belief.

PAR. 9. The aforesaid acts or practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public and constituted, and now constitute, unfair or deceptive acts or practices 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 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 days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its com-

plaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Northwest Marine Industries, Inc. is a trade association organized, existing and doing business as a non-profit corporation under and by virtue of the laws of the State of Washington, with its office and principal place of business located at 1910 Fairview East, Seattle, Wash.

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 Northwest Marine Industries, Inc., its successors and assigns, officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of marine equipment, including but not limited to power boats, boat trailers, marine engines, marine hardware and accessories, etc., in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing orally, in writing, visually or otherwise, directly or by implication, that any general or specific quantity of fuel for recreational boating is, or will be, available, unless at the time of such representation said respondent has a reasonable basis for such representation which shall consist of quantitative data based on a statistically valid sample, or competent scientific or economic data or other appropriate substantiating material.

It is further ordered, That respondent shall, at all times subsequent to the effective date of this order, maintain complete records relative to the manner and form of its compliance with this order during the immediately preceding two-year period. Such records shall include all advertising, promotional literature, the basis for all applicable advertising claims, correspondence with persons who formulate or place advertising, and other pertinent documents, and shall be made available for inspection and photocopying by authorized representatives of the Federal Trade Commission upon reasonable notice at respondent's place of business or other properly designated location.

It is further ordered, That respondent shall forthwith distribute a copy of this order to each operating division, to all present and future personnel of respondent engaged in the preparation, creation or placing of advertising, and to all present and future agencies engaged in the preparation, creation or placing of advertising on behalf of respondent;

and that respondent secure from each such person and agency a signed statement acknowledging receipt of said order.

It is further ordered, That respondent notify the Commission at least thirty days prior to any proposed change in the corporate respondent such as dissolution, assignment or the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent shall, within sixty 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
TRAILER COACH ASSOCIATION, ET AL.

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

Docket C-2572. Complaint, Oct. 8, 1974—Decision, Oct. 8, 1974

Consent order requiring an Anaheim, Calif., trade association representing manufacturers, component suppliers, and dealers of mobile homes and recreational vehicles, among other things to cease making representations as to energy use or energy-saving characteristics of their recreational vehicles or as to the supply or availability of gasoline without having a reasonable basis for such claim.

Appearances

For the Commission: *Gregory L. Colvin.*

For the respondents: *James P. Watson, Voegelin & Barton,* Los Angeles, Calif.

COMPLAINT

The Federal Trade Commission, having reason to believe that Trailer Coach Association, a corporation, and Louis C. Bell, individually and as president 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. Trailer Coach Association is a trade association organized, existing and doing business as a nonprofit corporation under the laws of the State of California, with its office and principal place of business at 3855 East La Palma Avenue, Anaheim, Calif.