

Complaint

84 F.T.C.

IN THE MATTER OF

KIRBY OF NORTH PROVIDENCE, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND TRUTH IN LENDING ACTS*Docket C-2590. Complaint, Nov. 1, 1974 — Decision, Nov. 1, 1974*

Consent order requiring a North Providence, R.I., retailer of vacuum cleaners and related products, devices, parts and attachments, among other things to cease using misrepresentations to sell its products and violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of credit, such information as required by Regulation Z of said Act.

*Appearances*For the Commission: *Lois M. Woocher.*For the respondents: *William C. Hillman, Strauss, Factor, Chernick & Hillman, Providence, R.I.*

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 Kirby of North Providence, Inc., a corporation, and Emanuel Toro, 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 Kirby of North Providence, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Rhode Island and Providence Plantations, with its principal office and place of business located at 1883 Mineral Spring Avenue, North Providence, R.I.

Respondent Emanuel Toro 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.

The aforementioned respondents cooperate and act together in carrying out the acts and practices hereinafter set forth.

PAR. 2. Respondents are now, and for some time last past have been engaged in the advertising, offering for sale, sale and distribution of vacuum cleaners and related products, devices, parts and attachments to the general public.

COUNT I

Alleging violations of Section 5 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. 3. In the course and conduct of their business, as aforesaid, respondents now cause, and for some time last past have caused, their said products when sold, to be transported from their place of business in the State of Rhode Island and Providence Plantations to purchasers thereof located in various other States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid business and for the purpose of inducing the purchase of their products, respondents have made and are now making, numerous statements and representations through oral statements made by their salesmen and representatives with respect to the nature of their offer, their prices, time limitations, and performance characteristics of their products.

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

I'll give you a special deal and reduce the price to \$350.00
 I'm in a contest to win a car and because I need to make a sale, I'll give you a special low price on the Kirby
 The price of the Kirby will never be this low again
 This special offer is good only tonight
 If you don't purchase the vacuum tonight, the price will be higher when another Kirby salesman comes
 I'll take \$40.00 off the price if you will fill out 10 referral letters like the one you received.

PAR. 5. By and through the use of the aforesaid statements and representations, and others of similar import and meaning, but not expressly set out herein, separately and in connection with the oral statements and representations of their salesmen and representatives, the respondents have represented, and are now representing, directly or by implication that:

1. Respondents' vacuum cleaners and related products are being offered for sale at special or reduced prices and that purchasers are

