

Complaint

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IN THE MATTER OF

BEAUTI-LOOM CARPET AND DRAPERY CO.,
INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
TRUTH IN LENDING AND THE FEDERAL TRADE COMMISSION ACTS*Docket C-1751. Complaint, June 23, 1970—Decision, June 23, 1970*

Consent order requiring a Kansas City, Mo., seller of carpets and draperies to cease misrepresenting its consumer credit arrangements by failing to state in terminology prescribed by Sec. 226.8 of Regulation Z of the Truth In Lending Act the cash price of the article offered for sale, the downpayment required, the number, amounts, and due dates of installment payments, the annual percentage rate of the finance charge, and the deferred payment charge.

COMPLAINT

Pursuant to the provisions of the Truth in Lending Act and the implementing regulation promulgated thereunder and the Federal Trade Commission Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Beauti-Loom Carpet and Drapery Co., Inc., a corporation, and Alfred Nadler and Henry Nadler, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and implementing regulation, 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 Beauti-Loom Carpet and Drapery Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business located at 4534 Troost Avenue, Kansas City, Missouri. Respondents Alfred Nadler and Henry Nadler are officers of the corporate respondent. They formulate, direct and control the acts and practices hereinafter set forth. Their address is the same as the corporate respondent.

PAR. 2. Respondents are now and for some time last past have been engaged in the sale of carpets and draperies to the public.

PAR. 3. In the ordinary course and conduct of their business, as aforesaid, respondents, in order to facilitate the sales of carpets and draperies, regularly extend or arrange for the extension of consumer credit as "consumer credit" is defined in Regulation Z, the imple-

menting regulation of the Truth in Lending Act duly promulgated by the Board of Governors of the Federal Reserve System.

PAR. 4. In order to promote the sale of their carpets and draperies, respondents have caused frequent advertisements to be placed in various media. Certain of these advertisements were published on October 19, 1969, and November 2, 1969, among numerous other dates, and the following are typical and illustrative but not necessarily all inclusive thereof.¹

PAR. 5. By and through the use of the advertisements set forth in Paragraph Four hereof, the respondents have represented in connection with an extension of consumer credit that no downpayment is necessary and that customers may repay the obligations in periods up to five years in length if the credit is extended, without disclosing, in the terminology prescribed by Section 226.8 of Regulation Z, the following additional items required by Section 226.10(d)(2) of Regulation Z:

1. The cash price;
2. The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;
3. The amount of the finance charge expressed as an annual percentage rate; and
4. The deferred payment price of the item advertised.

PAR. 6. In the course and conduct of their business aforesaid, respondents have consummated credit sale contracts with various customers, in many of which they have failed to provide disclosure of the deferred payment price as required by Section 226.8(c)(8) of Regulation Z.

PAR. 7. By causing to be placed for publication the advertisements referred to in Paragraphs Four and Five hereof, and by failing to make the disclosure referred to in Paragraph Six hereof, respondents failed to comply with the requirements of Regulation Z, the implementing regulation of 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

¹ Pictorial newspaper advertisements omitted in printing.

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hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices 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 thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Beauti-Loom Carpet and Drapery Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business located at 4534 Troost Avenue, Kansas City, Missouri. Respondents Alfred Nadler and Henry Nadler are officers of the corporate respondent. They formulate, direct and control the acts and practices hereinafter set forth. Their address is the same as the corporate respondent.

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 Beauti-Loom Carpet and Drapery Co., Inc., a corporation, and its officers, and Alfred Nadler and Henry Nadler, individually and as officers of said corporation, agents, representatives and employees, directly or through any corporate or other device, in connection with any advertisement or consumer credit sale of carpets and/or draperies or any other merchandise or service, as "credit sale" is defined in Regulation Z (12 CFR

226) of the Truth in Lending Act (P.L. 90-321, U.S.C. 1601 *et seq.*), do forthwith cease and desist from:

1. Representing, directly or by implication, in any advertisement as "advertisement" is defined in Regulation Z, the amount of the downpayment required or that no downpayment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless all of the following items are stated in terminology prescribed under Section 226.8 of Regulation Z:

- (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.

2. Causing to be published any consumer credit advertisement without making all disclosures that are required by Section 226.10 of Regulation Z, in the manner and form therein prescribed.

3. Failing to furnish to each consumer credit customer all of the applicable disclosures required by Section 226.8 of Regulation Z, in the manner and form therein prescribed.

4. Failing to deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in any aspect of preparation, creation, and placing of advertising of any of respondents' goods or services.

It is further ordered, That respondents 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 they have complied with the order to cease and desist contained herein.

It is further ordered, That respondents notify the Commission at least 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.

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IN THE MATTER OF

LENOX, INCORPORATED

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 8718. Complaint, Oct. 10, 1970—Decision, June 24, 1970*

Order modifying a cease and desist order dated April 9, 1968, 73 F.T.C. 578, pursuant to a decision of the Court of Appeals, Second Circuit, dated October 10, 1969, 417 F. 2d 126 (8 S.&D. 1037), which held that Commission could not forbid respondent from making resale price maintenance agreements in States where such agreements are lawful; and further modifying the order, pursuant to a new judgment upon rehearing by the Court, dated March 10, 1970, by allowing respondent to enter into resale price maintenance contracts and providing for the repeal of one section if at the end of 2 years respondent can show competition has been restored.

ORDER MODIFYING ORDER TO CEASE AND DESIST

Respondent having filed in the United States Court of Appeals for the Second Circuit a petition to review and set aside the order to cease and desist issued herein on April 9, 1968 [73 F.T.C. 578]; and the Court having entered its opinion and judgment modifying and, as modified, affirming and enforcing said order to cease and desist; and the Court on December 18, 1969, having granted respondent's petition for rehearing and on March 10, 1970, having issued a new judgment further modifying said order to cease and desist; and the time allowed for filing a petition for certiorari having expired and no such petition having been filed;

Now, therefore, it is hereby ordered, That the aforesaid order of the Commission to cease and desist be, and it hereby is, modified in accordance with the said final decree of the court of appeals to read as follows:

It is ordered, That respondent, Lenox, Incorporated, a corporation, and its officers, agents, representatives, employees, successors, and assigns, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of fine china dinnerware, giftware, and artware, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from hindering, suppressing, or eliminating competition or from attempting to hinder, suppress, or eliminate competition between or among dealers handling respondent's products by: