

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

Docket C-1801. Complaint, Sept. 24, 1970—Decision, Sept. 24, 1970

Consent order requiring a Rochester, N.Y., jewelry store to cease violating the Truth in Lending Act in its retail installment contracts by failing to state in terminology prescribed by Regulation Z the cash price of jewelry and other merchandise, the number, amount, and due date of scheduled payments, the annual percentage rate of the finance charge, and the deferred payment price.

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 Harmin's Jewelers, Inc., a corporation, and Edwin H.

Cohen, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and 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 Harmin's Jewelers, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 172 East Main Street, Rochester, New York.

Edwin H. Cohen is the vice president of the corporate respondent. He formulates, directs and controls its policies, acts and practices, including the acts and practices hereinafter set forth.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the offering for sale, sale and distribution of jewelry and other merchandise to the public through their retail store located at 172 East Main Street, Rochester, New York.

PAR. 3. In the ordinary 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. 4. Subsequent to July 1, 1969, respondents, in the ordinary course of their business as aforesaid, and in connection with their credit sales, as "credit sale" is defined in the Regulation Z, have caused and are causing customers to execute retail installment conditional sales contracts, hereinafter referred to as "the contract." Respondents make no other credit cost disclosures to their customers.

By and through the use of the contract, respondents:

1. Fail to use the term "cash price" to describe the cash price of the goods sold by them, as required by Section 226.8(c)(1) of Regulation Z.

2. Fail to use the term "cash downpayment" to describe any downpayment in money, as required by Section 226.8(c)(2) of Regulation Z.

3. In combining the amount of the "trade-in" with the amount of "other credits," fail to accurately disclose the amount of the trade-in portion of the downpayment, as required by Section 226.8(c)(2) of Regulation Z.

4. Fail to use the term "total downpayment" to describe the sum of the cash downpayment and the trade-in, as required by Section 226.8(c)(2).

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5. Fail to use the term "unpaid balance of cash price" to describe the difference between the "cash price" and the "total downpayment," as required by Section 226.8(c)(3) of Regulation Z.

6. Fail to use the term "amount financed" to describe the amount financed, as required by Section 226.8(c)(7) of Regulation Z.

7. Fail to disclose the finance charge in the manner and form prescribed by Sections 226.6(a) and 226.8(c)(8)(i) of Regulation Z.

8. Fail to disclose the annual percentage rate in the manner and form required by Sections 226.5, 226.6(a) and 226.8(b)(2) of Regulation Z.

9. Fail to disclose the sum of the cash price, all other charges which are included in the amount financed but which are not part of the finance charge, and the finance charge, and to describe that sum as the "deferred payment price," as required by Section 226.8(c)(8)(ii) of Regulation Z.

10. Fail to disclose the "total of payments," using that term, as required by Section 226.8(b)(3) of Regulation Z.

11. Fail to disclose, prior to consummation of the credit sale, the due dates or periods of payments scheduled to repay the indebtedness, as required by Sections 226.8(a) and 226.8(b)(3) of Regulation Z.

PAR. 5. Pursuant to Section 105 of the Truth in Lending Act, respondents' aforesaid failures to comply with Regulation Z constitute a violation of that Act and, pursuant to Section 108 thereof, respondents thereby violated the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging respondents named in the caption hereof with violation of the Federal Trade Commission Act, the Truth in Lending Act and the implementing Regulation promulgated thereunder, and 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

Respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by 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 com-

plaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having considered the agreement and having accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of thirty (30) 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. Proposed respondent Harmin's Jewelers, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 172 Main Street, Rochester, New York.

Proposed respondent Edwin H. Cohen 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 proceedings is in the public interest.

ORDER

It is ordered, That respondents Harmin's Jewelers, Inc., a corporation, and Edwin H. Cohen, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or indirectly or through any corporate or other device, in connection with any consumer credit sale of jewelry or any other merchandise or services, as "credit sale" is defined in Regulation Z (12 CFR Part 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 use the term "cash price" to describe the cash price of goods or services sold by them, as required by Section 226.8(c)(1) of Regulation Z.

2. Failing to use the term "cash downpayment" to describe any downpayment in money, as required by Section 226.8(c)(2) of Regulation Z.

3. Failing to accurately disclose the amount of the trade-in portion of the downpayment, using the term "trade-in," as required by Section 226.8(c)(2) of Regulation Z.

4. Failing to use the term "total downpayment" to describe the sum of the "cash downpayment" and the "trade-in," as required by Section 226.8(c)(2) of Regulation Z.

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5. Failing to use the term "unpaid balance of cash price" to describe the difference between the "cash price" and the "total downpayment," as required by Section 226.8(c)(3) of Regulation Z.

6. Failing to use the term "amount financed" to describe the amount financed, as required by Section 226.8(c)(7) of Regulation Z.

7. Failing to use the term "finance charge" to describe the total amount of the finance charge, in the amount, manner and form required by Sections 226.4, 226.6(a) and 226.8(c)(8)(i) of Regulation Z.

8. Failing to disclose the "annual percentage rate," using that term, in the manner and form required by Sections 226.5, 226.6(a) and 226.8(b)(2) of Regulation Z.

9. Failing to disclose the sum of the cash price, all other charges which are included in the amount financed but which are not part of the finance charge, and the finance charge, using the term "deferred payment price," as required by Section 226.8(c)(8)(ii) of Regulation Z.

10. Failing to use the term "total of payments" to describe the sum of the payments scheduled to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.

11. Failing to disclose the due date of the first payment, or otherwise failing to disclose the number, amount and due dates or periods of payments scheduled to repay the indebtedness, prior to the consummation of the transaction, as required by Section 226.8(b)(3) of Regulation Z.

12. Engaging in any consumer credit transaction within the meaning of Regulation Z without making all disclosures that are required thereby in the amount, manner and form specified in Section 226.8 of Regulation Z.

13. Failing to deliver forthwith a copy of this order to each present and future employee or other person engaged in the sale of respondents' products or services.

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

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

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emergence of a successor corporation, the creation or dissolution of
subsidiaries or any other change in the corporation which may affect