

IN THE MATTER OF
HENRY GOLD TRADING AS QUALITY CRAFTS OF
ARLINGTON

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

Docket C-1807. Complaint, Oct. 7, 1970—Decision, Oct. 7, 1970

Consent order requiring an individual of Alexandria, Va., seller of crystal, flatware, china, and other merchandise at retail, to cease violating the Truth in Lending Act by failing to use on installment contracts the terms "cash price," "cash downpayment," "unpaid balance of cash price," "amount financed," "finance charge," "total payments," and "deferred payment price" as prescribed by Regulation Z of the Act; inducing customers to sign blank or partially completed promissory notes and failing to furnish a copy of the executed notes; failing to disclose to customers the right-to-cancel the sale within 3 days, on sales made in the home; and preserving credit customers' rights or defenses if their notes are turned over to third parties.

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 Henry Gold, an individual trading as Quality Crafts of Arlington, hereinafter referred to as respondent, has 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:

Complaint

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PARAGRAPH 1. Respondent Henry Gold is an individual trading as Quality Crafts of Arlington, with his office and principal place of business located at 5513 Vine Street, Alexandria, Virginia.

PAR. 2. Respondent is now and for sometime last past has been engaged in the offering for sale, sale and distribution of crystal, flatware, china and other articles of merchandise at retail to the public.

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. 3. Since July 1, 1969, in the ordinary course and conduct of his business as aforesaid, respondent has 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, respondent, in the ordinary course and conduct of his business and in connection with his credit sales as "credit sale" is defined in Regulation Z, has caused and is causing customers to execute retail installment contracts, hereinafter referred to as "the contract." Respondent makes no other written disclosures in order to comply with the Truth in Lending Act.

By and through the use of the contract, respondent:

1. Fails to use the term "cash price," as defined in Section 226.2(i) of Regulation Z, to describe the price of the merchandise or services purchased, as required by Section 226.8(c)(1) of Regulation Z.

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

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

4. Fails to use the term "amount financed" to describe the amount of credit extended to the customer, as required by Section 226.8(c)(7) of Regulation Z.

5. Fails to use the term "finance charge" to describe the total cost of credit, determined in accordance with Section 226.4 of Regulation Z, as required by Section 226.8(c)(8)(i) of Regulation Z.

6. In a number of instances fails to disclose the finance charge expressed as an annual percentage rate, as required by Section 226.8(b)(2) of Regulation Z.

7. Fails to disclose the terms "finance charge" and "annual percentage rate" more conspicuously than other required terminology, as required by Section 226.6(a) of Regulation Z.

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

9. Fails to use the term "deferred payment price" to describe the sum of the cash price, other charges, and the finance charge, as required by Section 226.8(c)(8)(ii) of Regulation Z.

10. Fails to identify the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation, as required by Section 226.8(b)(7) of Regulation Z.

11. Fails to disclose the date on which the finance charge begins to accrue, that date being different from the date of the transaction, as required by Section 226.8(b)(1) of Regulation Z.

PAR. 5. By and through the respondent's aforesaid failure to make the disclosures in the manner and form set forth in Paragraph Four hereof, respondent 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 105 of that Act, such failure to comply constitutes a violation of the Truth in Lending Act, and pursuant to Section 108 thereof, respondent 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 and Two hereof are incorporated by reference in Count II as if fully set forth verbatim.

PAR. 6. In the course and conduct of his business as aforesaid, respondent now causes, and for some time last past has caused, his said merchandise, when sold, to be shipped from his place of business in the State of Virginia to purchasers thereof located in the District of Columbia and in various other States of the United States, and maintains, and at all times mentioned herein has maintained, a substantial course of trade in said merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 7. In the course and conduct of his business as aforesaid, respondent, through door-to-door salesmen, is and for some time last past has been engaged in the following unfair and deceptive acts and practices.

In connection with the credit transactions involving respondent's

retail installment contracts, more fully described in Count I hereinabove, respondent also induces his customers to execute blank promissory notes, the terms of which respondent completes at a later time. These promissory notes are in the amount of the customer's remaining indebtedness, the amount of the "total of payments" in his retail installment contract. Further, respondent fails to provide his customers with a copy of the executed promissory note at the time of consummation of the sale or at anytime thereafter.

PAR. 8. In the course and conduct of his aforesaid business, and at all times mentioned herein, respondent has been, and now is, in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of products of the same general kind and nature as those sold by respondent.

PAR. 9. The aforesaid acts and practices of respondent as alleged in Paragraph Seven were, and are, all to the prejudice and injury of the public and of respondent's 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.

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 Bureau of Consumer Protection 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, the Truth in Lending Act and the implementing Regulation promulgated thereunder; 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 Acts, 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

sion hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent is an individual trading as Quality Crafts of Arlington, with his office and principal place of business located at 5513 Vine Street, Alexandria, Virginia.

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 Henry Gold, an individual trading as Quality Crafts of Arlington, or trading or doing business under any other name or form of business, and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with the consumer credit sale of crystal, china, flatware, 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," as defined in Section 226.2(i) of Regulation Z, to describe the price of the merchandise or services purchased, as required by Section 226.8(c)(1) of Regulation Z.

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

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

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

5. Failing to use the term "finance charge" to describe the total cost of credit determined in accordance with Section 226.4 of Regulation Z, as required by Section 226.8(c)(8)(i) of Regulation Z.

6. Failing to disclose the finance charge expressed as an annual percentage rate, computed in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.

7. Failing to disclose the terms "annual percentage rate" and "finance charge" more conspicuously than other required terminology, as required by Section 226.6(a) of Regulation Z.

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

9. Failing to use the term "deferred payment price" to describe the sum of the cash price, other charges, and the finance charge, as required by Section 226.8(c)(8)(ii) of Regulation Z.

10. Failing to identify the method of computing any unearned portion of the finance charge in the event of prepayment of an obligation, as required by Section 226.8(b)(7) of Regulation Z.

11. Failing to disclose the date on which the finance charge begins to accrue, when that date is different from the date of the transaction, as required by Section 226.8(b)(1) of Regulation Z.

12. Engaging in any credit sale without making all disclosures that are required to be made in connection with that credit sale in the manner and form prescribed by Sections 226.6 and 226.8 of Regulation Z.

It is further ordered, That Henry Gold, an individual trading as Quality Crafts of Arlington, or under any other name or names, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of crystal, china, flatware or any other merchandise or services, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Inducing or causing purchasers or prospective purchasers of respondent's merchandise to sign blank or partially completed promissory notes or any other contractual instruments.

2. Failing or refusing to provide purchasers of respondent's merchandise with a copy of the executed promissory note and any other document evidencing the purchaser's transaction or obligation at the time of execution by the purchaser.

3. Assigning, selling or otherwise transferring respondent's notes, contracts or other documents evidencing a purchaser's indebtedness, unless any rights or defenses which the purchaser has and may assert against respondent are preserved and may be asserted against any assignee or subsequent holder of such note, contract or other such documents evidencing the indebtedness.

4. Failing to include the following statement clearly and conspicuously on the face of any note, contract or other evidence of indebtedness executed by or on behalf of respondent's customers:

"NOTICE"

"Any holder of this instrument takes it subject to all rights and defenses which would be available to the purchaser in any action arising out of the contract or transaction which gave rise to the debt evidenced hereby, notwithstanding any contractual provisions or other agreement waiving said rights or defenses."

5. In connection with any sale made in the buyer's home,

(a) Contracting for any sale which shall become binding on the buyer prior to midnight of the third day, excluding Sundays and legal holidays, after the date of consummation of the transaction.

(b) Failing to disclose, orally prior to the time of sale, and in writing on any conditional sales contract, promissory note or other instrument executed by the buyer with such conspicuousness and clarity as likely to be observed and read by such buyer, that the buyer may rescind or cancel the sale by directing or mailing a notice of cancellation to respondent's address prior to midnight of the third day, excluding Sundays and legal holidays, after the date of the sale. Upon such cancellation the burden shall be on respondent to collect any goods left in buyer's home and to return any payments received from the buyer. Nothing contained in this right-to-cancel provision shall relieve buyers of the responsibility for taking reasonable care of the goods prior to cancellation and during a reasonable period following cancellation.

(c) Failing to provide a separate and clearly understandable form which the buyer may use as a notice of cancellation.

(d) Negotiating any conditional sales contract, promissory note, or other instrument of indebtedness to a finance company or other third party prior to midnight of the fifth day, excluding Sundays and legal holidays, after the date of execution by the buyer.

(e) *Provided, however,* That nothing contained in paragraph 5 of this order shall relieve respondent of any additional obligations respecting contracts made in the home required by Federal law or the law of the State in which the contract is made. When such obligations are inconsistent respondent can apply to the Commission for relief from this provision with respect to contracts executed in the state

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in which such different obligations are required. The Commission, upon proper showing, shall make such modifications as may be warranted in the premises.

It is further ordered, That respondent shall forthwith deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of respondent's products or services, and shall secure from each such salesman or other person a signed statement acknowledging receipt of said order.

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

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

IN THE MATTER OF

PINROS AND GAR CORPORATION

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