

Docket C-1913. Complaint, May 10, 1971—Decision, May 10, 1971

Consent order requiring a Memphis, Tenn., money lending corporation to cease violating the Truth in Lending Act by failing to include in the "finance charge" any charges for credit life, accident or health insurance, failing to disclose the annual percentage rate correctly, and failing in any consumer credit transaction or advertisement to make all disclosures required by Regulation Z of said Act.

Complaint

78 F.T.C.

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 Murdock Acceptance Corporation, a corporation, doing business as Dixiemart-Corondolet Credit Department, 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:

PARAGRAPH 1. Respondent Murdock Acceptance Corporation, doing business as Dixiemart-Corondolet Credit Department, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Tennessee, with its principal office and place of business located in Memphis, Tennessee.

PAR. 2. Respondent is now, and for some time last past has been engaged in the lending of money to the public.

PAR. 3. In the ordinary course and conduct of its business as aforesaid, respondent regularly extends and for some time last past 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 its business and in connection with its lending of money on open end credit account plans, as "open end credit" is defined in Regulation Z, mailed to its customers a notice of the availability of credit life, accident and health insurance. The notice contained the following paragraph, which is typically illustrative but not necessarily all inclusive of the notice: "If for any reason you do not wish this bill paying insurance, please so indicate in the box provided on the back of the certificate and return it. Or, you may simply deduct the amount of the premium cost from your statement. Otherwise, from this very minute, your family is protected." Respondent thereby indicated that unless otherwise instructed by said customers, insurance premiums would be charged to said customers' open end accounts. This is commonly known as a "negative option plan."

PAR. 5. Subsequent to July 1, 1969, respondent, in the ordinary

course and conduct of its business and in connection with its lending of money, and subsequent to delivery to customers of the notice referred to in Paragraph Four, debited to its customers' open end credit accounts premiums for credit life, accident and health insurance, which premiums were paid by respondent on customers' behalf without said customers' specific dated and separately signed affirmative written indication of their desire to purchase such insurance. Respondent thereby:

1. Understated the finance charge by failing to disclose, separately itemized, as part of the finance charge on disclosures made pursuant to Section 226.7(b) of Regulation Z, the aforesaid insurance premiums, as required by Section 226.4(a)(5) of Regulation Z.

2. By failing to include in the finance charge the amount of the aforesaid insurance premiums, understated the Annual Percentage Rate disclosed to said customers in its periodic billing statement sent pursuant to Section 226.7(b)(6) of Regulation Z, in violation of Section 226.4 of Regulation Z.

PAR. 6. Pursuant to Section 103(q) of the Truth in Lending Act, respondent's failures to comply with the provisions of Regulation Z constitute violations of that Act and, pursuant to Section 108 thereof, respondent 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 respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the staff of the Federal Trade Commission 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 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, makes the following jurisdictional findings, and enters the following order:

1. Respondent Murdock Acceptance Corporation, doing business as Dixiemart-Corondolet Credit Department is a corporation organized, existing and doing business under and by virtue of the laws of the State of Tennessee, with its principal office and place of business located at 400 Union Avenue, Memphis, Tennessee.

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 Murdock Acceptance Corporation, a corporation, doing business as Dixiemart-Corondolet Credit Department or under any other name, and its officers, and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with any consumer credit extension as "consumer credit" 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 include in the "finance charge" any charges or premiums for credit life, accident or health insurance written in connection with any credit transaction unless:

a. The insurance coverage is not required by the creditor and this fact is clearly and conspicuously disclosed in writing to the customer; and

b. Any customer desiring such insurance coverage gives specific dated and separately signed affirmative written indication of such desire after receiving written disclosure to him of the cost of such insurance, as required by Section 226.4(a) (5) of Regulation Z.

2. Failing to disclose the annual percentage rate correctly, as determined in accordance with Section 226.5 of Regulation Z, both on the disclosure statement made at the opening of a new account in accordance with Section 226.7(a) of Regulation Z and on the periodic statement required by Section 226.7(b) of Regulation Z.

3. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with Section 226.4 and Section 226.5 of Regulation Z, in the manner,

form and amount required by Sections 226.6, 226.7, 226.8, 226.9 and 226.10 of Regulation Z.

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

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 change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered, That 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.

IN THE MATTER OF

OPERATION SKIP-LOCATE, INC., TRADING AS INTERSTATE
CREDIT CORPORATION ET AL.