

Docket C-1928. Complaint, June 2, 1971—Decision, June 2, 1971

Consent order requiring a Brooklyn, N.Y., corporation selling furniture, electrical appliances and other merchandise to cease violating the Truth in Lending Act by failing to use in installment contracts the terms, finance charge, annual percentage rate, cash price, cash downpayment, unpaid balance of cash price, deferred payment price, total of payments, amount financed, and failing to make other disclosures required by Regulation Z of said Act.

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 John Mullins & Sons, Inc., a corporation and Irving Sable, 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 John Mullins & Sons, 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 84 Myrtle Avenue, Brooklyn, New York.

Respondent Irving Sable is the assistant secretary in charge of credit of the corporate respondent. He formulates, directs and controls the consumer credit policies, 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.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the sale of furniture, electrical appliances, and other merchandise to the public.

PAR. 3. In the ordinary course and conduct of their business, as aforesaid, respondents regularly extend and arrange for the extension of 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, in the ordinary course of their business as aforesaid, respondents have caused and are causing their customers to enter into contracts for the sale of respondents' goods, hereinafter referred to as "the contract." Respondents provide these customers with no evidence of or information concerning the credit transactions, other than on the contract and the payment book.

PAR. 5. By and through the use of the contract set forth in Paragraph Four respondents have:

1. Failed to obtain new contract forms or to alter their existing stock of contract forms prior to, during and subsequent to the period beginning July 1, 1969 and ending December 31, 1969, as required by Section 226.6(k) of Regulation Z.

Complaint

78 F.T.C.

2. Failed to use the term "finance charge" to describe the cost of credit as required by Section 226.8(c)(8)(i) of Regulation Z, in more prominent print than the other prescribed terminology, as required by Section 226.6(a) of Regulation Z.

3. Failed to use the term "annual percentage rate" to describe the annual rate of the finance charge, as required by Section 226.8(b)(2) of Regulation Z, in more prominent print than the other prescribed terminology, as required by Section 226.6(a) of Regulation Z.

4. Failed to use the term "cash price" to describe the price at which the respondents offered, in the ordinary course of business, to sell for cash the property or services, which were the subject of consumer credit transactions, as required by Section 226.8(c)(1) of Regulation Z.

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

6. Failed to use the term "unpaid balance of cash price" to describe the difference between the cash price and the cash downpayment, trade-in or total downpayment, as required by Section 226.8(c)(3) of Regulation Z.

7. Failed to use the term "deferred payment price" to describe the sum of the cash price, all other charges which were included in the amount financed but which were not part of the finance charge, and the finance charge, as required by Section 226.8(c)(8)(ii) of Regulation Z.

8. Failed 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.

9. Failed to use the term "amount financed" to describe the amount of credit which the customer had the actual use of, as required by Section 226.8(c)(7) of Regulation Z.

10. Failed to render consumer credit cost disclosure statements before the transactions were consummated, as required by Section 226.8(a) of Regulation Z.

11. Failed to render consumer credit cost disclosure statements to mail order and telephone customers, as indicated in the prior allegations of this complaint, not later than the date the first payment was due, as required by Section 226.8(g)(1) of Regulation Z.

12. Failed to disclose the annual percentage rate with an accuracy at least to the nearest quarter of one percent, in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.

1116

Decision and Order

PAR. 6. Pursuant to Section 103(q) of the Truth in Lending Act, respondents' aforesaid failures to comply with the provisions of Regulation Z constitute violations of that Act and pursuant to Section 108(c) thereof, respondents have 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 complaint, 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, and the Commission having determined that comments received and considered showed no changes in the proposed order to be necessary or appropriate, now and 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 John Mullins & Sons, 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 84 Myrtle Avenue, in the county of Kings, New York, New York.

Proposed respondent Irving Sable is the assistant secretary in charge of credit of said corporation. He formulates, directs and controls the consumer credit 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 proceeding is in the public interest.

ORDER

It is ordered, That respondents John Mullins & Sons, Inc., a corporation, and its officers, and Irving Sable, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with any extension of consumer credit or any advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are 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 "finance charge" to disclose and describe the cost of credit, as required by Section 226.8(c)(8)(i) of Regulation Z, in more prominent print than the other prescribed terminology, as required by Section 226.6(a) of Regulation Z.

2. Failing to use the term "annual percentage rate" to disclose and describe the annual rate of the finance charge, as required by Section 226.8(b)(2) of Regulation Z, in more prominent print than the other prescribed terminology, as required by Section 226.6(a) of Regulation Z.

3. Failing to use the term "cash price" to disclose and describe the price at which the respondents offer, in the ordinary course of business, to sell for cash the property or services, which are the subject of consumer credit transactions, as required by Section 226.8(c)(1) of Regulation Z.

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

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

6. Failing to use the term "deferred payment price" to disclose and describe the sum of the cash price, all the other charges which are included in the amount financed but which are not

part of the finance charge, and the finance charge, as required by Section 226.8(c)(8)(ii) of Regulation Z.

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

8. Failing to use the term "amount financed" to disclose and describe the amount of credit which the customer has the actual use of, as required by Section 226.8(c)(7) of Regulation Z.

9. Failing to render consumer credit cost disclosure statements before the transactions are consummated, as required by Section 226.8(a) of Regulation Z.

10. Failing to render consumer credit cost disclosure statements to mail order and telephone customers not later than the date the first payment is due, as required by Section 226.8(g)(1) of Regulation Z.

11. Failing to disclose the annual percentage rate with an accuracy at least to the nearest quarter of one percent, in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.

12. Failing, in any consumer credit transaction or advertisement, to make all disclosures determined in accordance with Sections 226.4 and 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 respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents 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 respondents 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 each respondent shall, within sixty (60) days after service upon them 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.

Complaint

78 F.T.C.

IN THE MATTER OF

SIDNEY GILBERT & CO., INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE TEXTILE FIBER PRODUCTS
IDENTIFICATION ACTS

Docket C-1929. Complaint, June 2, 1971—Decision, June 2, 1971

Consent order requiring Charlotte, N.C., dealers in wholesale yarn and fabrics to cease misbranding their textile fiber products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Textile Fiber Products Identification Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Sidney Gilbert & Co., Inc., a corporation, and Sidney H. Goldberg and David D. Berson, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Textile Fiber Products Identification 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 Sidney Gilbert & Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Rhode Island, with its office and principal place of business located at 4804 Rozzells Ferry Road, Charlotte, North Carolina.

Individual respondents Sidney H. Goldberg and David D. Berson are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation and their address is the same as that of the corporate respondent.

Respondents are wholesale yarn and fabric dealers.

PAR. 2. Respondents are now and for some time last past have been engaged in the introduction, delivery for introduction, sale, advertising, and offering for sale, in commerce, and in the transportation or causing to be transported in commerce, and in the importation into the United States, of textile fiber products; and have sold, offered for sale, advertised, delivered, transported, and caused to be transported, textile fiber products, which have been advertised or