

report in writing setting forth in detail the manner and means by which it has complied with this order.

IN THE MATTER OF

RON-EL BUILDERS, 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-1946. Complaint, June 15, 1971—Decision, June 15, 1971

Consent order requiring Pittsburgh, Pa., sellers and distributors of home improvements, including residential siding, to cease using bait advertising, false pricing claims, deceptively guaranteeing its work, and making other false representations; respondents are also required to cease violating the Truth in Lending Act by failing to disclose the annual percentage rate, the amount financed, the deferred payment price, the total of payments, and other disclosures required by Regulation Z of said Act.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and of the Truth in Lending Act and the regulation promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Ron-El Builders, Inc., a corporation, and Elliotte L. Greenberg, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts, and of the regulation promulgated under the Truth in Lending 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 Ron-El Builders, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 4209 Penn Avenue, Pittsburgh, Pennsylvania.

Respondent Elliotte L. Greenberg is an officer of the corporate re-

Complaint

spondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices herein-after 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 advertising, offering for sale, sale and distribution of home improvements, including residential siding, and in the installation thereof.

COUNT ONE

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 One as if fully set forth verbatim.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of Pennsylvania to purchasers thereof located in various other States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their products and installations, respondents and their salesmen or representatives have represented, and now represent, directly or by implication, in advertising and promotional material and in oral solicitations to prospective purchasers, that:

1. The offer set forth in respondents' advertisements was a bona fide offer to sell home improvements of the kind therein described at the prices and on the terms and conditions stated.

2. Respondents' products and installations are being offered for sale at special or reduced prices, and that savings are thereby afforded purchasers from respondents' regular selling prices.

3. Homes of prospective purchasers had been specially selected as model homes for the installation of respondents' siding; after installation such homes would be used for demonstration and advertising purposes by respondents; and, as a result of allowing their homes to be used as models, purchasers would be granted reduced prices or would receive allowances, discounts or commissions.

4. Their siding materials are unconditionally guaranteed.

5. Respondents operate business offices in Toronto, Ohio and Allison Park, Pennsylvania.

6. Respondents manufacture the home improvement products which they sell and install, and respondents sell and install their home improvement products direct from their factory.

PAR. 5. In truth and in fact:

1. The offer set forth in respondents' advertisements was not a genuine or bona fide offer but was made for the purpose of obtaining leads as to persons interested in the purchase of respondents' products and installations. After obtaining such leads, respondents or their salesmen or representatives would call upon such persons at their homes or wait upon them at respondents' place of business. At such times and places, respondents, their salesmen or representatives would disparage the advertised home improvements and otherwise discourage the purchase thereof and would attempt to sell, and in many instances, did sell different and more expensive home improvements.

2. Respondents' products and installations are not being offered for sale at a special or reduced price and savings are not granted respondents' customers because of a reduction from respondents' regular selling price. In fact, respondents do not have a regular selling price but the price at which respondents' products and installations are sold vary from customer to customer depending on the resistance of the prospective purchaser.

3. Homes of prospective purchasers are not specially selected as model homes for installation of respondents' siding; after installation such homes are not used for demonstration and advertising purposes by respondents; and purchasers, as a result of allowing their homes to be used as models, are not granted reduced prices, nor did they receive allowances, discounts or commissions.

4. Respondents' siding materials and installations are not unconditionally guaranteed. Such guarantee as may have been provided was subject to numerous terms, conditions and limitations, and the guarantee failed to set forth the nature and extent of the guarantee, the identity of the guarantor, and the manner in which the guarantor would perform thereunder.

5. Respondents do not operate business offices in either Toronto, Ohio or Allison Park, Pennsylvania.

6. Respondents do not manufacture the home improvement products which they sell and install and respondents do not own a factory from which their home improvement products are shipped.

Therefore, the statements and representations as set forth in Paragraph Four hereof were and are false, misleading and deceptive.

PAR. 6. In the further course and conduct of their business, and in furtherance of a sales program for inducing the purchase of their home improvement products and installations, including residential siding materials, respondents and their salesmen or representatives have engaged in the following additional unfair and false, misleading and deceptive acts and practices:

1. Respondents and their salesmen or representatives have obtained purchasers' signatures on blank completion certificates and other instruments by making false and misleading representations and deceptive statements, including false and deceptive representations with respect to the nature and effect of such documents, to hurry purchasers into signing said instruments.

2. In a substantial number of instances and in the usual course of their business, respondents sell and transfer their customers' obligations, procured by the aforesaid unfair, false, misleading and deceptive means, to various financial institutions. In any subsequent legal action to collect on such obligations, these financial institutions or other third parties, as a general rule, have available and can interpose various defenses which may cut off certain valid claims customers may have against respondents for failure to perform or for certain other unfair, false, misleading or deceptive acts and practices.

Therefore, the acts and practices as set forth in Paragraph Six hereof were and are unfair and false, misleading and deceptive acts and practices.

PAR. 7. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and now are, in substantial competition, in commerce, with corporations, firms and individuals in the sale of home improvements, including residential siding, of the same general kind and nature as that sold by respondents.

PAR. 8. The use by the respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 9. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' 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.

Complaint

78 F.T.C.

COUNT TWO

Alleging violations of the Truth in Lending Act and the implementing regulation promulgated thereunder, and of the Federal Trade Commission Act, the allegations of Paragraphs One and Two hereof are incorporated by reference in Count Two as if fully set forth verbatim.

PAR. 10. 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. Further, in the ordinary course of their business as aforesaid, respondents cause to be published advertisements of their goods and services, as "advertisement" is defined in Regulation Z. These advertisements aid, promote, or assist directly or indirectly extensions of consumer credit in connection with the sale of these goods or services.

PAR. 11. Subsequent to July 1, 1969, respondents, in the ordinary course and conduct of their business and in connection with their credit sales, as "credit sale" is defined in Regulation Z, have caused and are causing their customers to execute retail installment contracts, hereinafter referred to as "the contract."

PAR. 12. By and through the use of the contract, respondents:

1. In a number of instances fail to disclose the annual percentage rate, and in other instances fail to disclose the annual percentage rate to the nearest quarter of one percent, computed as prescribed by Section 226.5(b)(1) of Regulation Z, as required by Section 226.8(b)(2), of the aforementioned Regulation.

2. Fail to disclose accurately the sum of the unpaid balance of cash price and all other charges, individually itemized, which are part of the finance charge, and to describe that sum as the "amount financed," as required by Section 226.8(c)(7) of Regulation Z.

3. Fail to disclose accurately the sum of the cash price, all 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)(iii) of Regulation Z.

4. Fail to disclose accurately the sum of all charges required to be disclosed by Section 226.4 of Regulation Z, and to describe that sum as the "finance charge," as required by Section 226.8(c)(8)(i) of Regulation Z.

5. Fail to disclose the identity of the creditor, as required by Section 226.8(a) of Regulation Z.

6. Fail to disclose the number, amount and due dates or periods of repayment scheduled to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.

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

8. Fail to disclose the cost of credit life insurance purchased by the customer, and fail to obtain a separate signed and dated statement that the customer desires to purchase credit life insurance, when not required by the creditor, as required by Section 226.4(a)(5)(ii) of Regulation Z.

9. Fail to maintain evidence of compliance with Regulation Z for two years after the date of each disclosure, as required by Section 226.6(i) of Regulation Z.

10. Retain a security interest in property in connection with their credit sales, and fail to describe the type of security interest retained and fail to describe or identify the property to which the security interest relates, as required by Section 226.8(b)(5) of Regulation Z.

PAR. 13. By and through the use of the contract, as set forth in Paragraph Eleven above, respondents retain or acquire a security interest in real property which is used or is expected to be used as the principal residence of the customer. The customer thereby has the right to rescind the transaction, as provided in Section 226.9(a) of Regulation Z. Having consummated a rescindable credit transaction, respondents:

1. Fail to provide each customer who has the right to rescind with two copies of the notice prescribed by Section 226.9(b) of Regulation Z, as required by that section. In some instances, respondents fail to provide customers who have the right to rescind with any copies of the required notice.

2. Make physical changes in the property of the customer and perform work and services for the customer before the rescission period provided in Section 226.9(a) of Regulation Z has expired, in violation of Section 226.9(c) thereof.

PAR. 14. Pursuant to Section 103(k) 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 thereof, respondents thereby violated the Federal Trade Commission Act.

Decision and Order

78 F.T.C.

DECISION AND ORDER

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

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 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 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 § 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. Respondent Ron-El Builders, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal place of business located at 4209 Penn Avenue, Pittsburgh, Pennsylvania.

Respondent Elliotte L. Greenberg is an officer of the corporate respondent. He formulates, directs and controls the 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.

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 Ron-El Builders, Inc., a corporation, and its officers, and Elliotte L. Greenberg, 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 the advertising, offering for sale, sale or

distribution or installation of home improvements, including residential siding, or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using, in any manner a sales plan, scheme or device wherein false, misleading or deceptive statements or representations are made in order to obtain leads or prospects for the sale of other merchandise or services.
2. Making representations purporting to offer merchandise for sale when the purpose of the representation is not to sell the offered merchandise but to obtain leads or prospects for the sale of other merchandise at higher prices.
3. Discouraging the purchase of or disparaging any merchandise or services which are advertised or offered for sale.
4. Representing, directly or by implication, that any merchandise or services are offered for sale when such offer is not a bona fide offer to sell such merchandise or services.
5. Representing, directly or by implication, that any price for respondents' products and installations is a special or reduced price, unless such price constitutes a significant reduction from an established selling price at which such products and installations have been sold in substantial quantities by respondents in the recent regular course of their business; or misrepresenting, in any manner, the savings available to purchasers.
6. Failing to maintain adequate records (a) which disclose the facts upon which any savings claims, including former pricing claims and comparative value claims, and similar representations of the type described in Paragraph Five of this order are based, and (b) from which the validity of any savings claims, including former pricing claims and comparative value claims, and similar representations of the type described in Paragraph Five of this order can be determined.
7. Representing, directly or by implication, that the home of any of respondents' customers, or prospective customers, has been selected to be used or will be used as a model home, or otherwise, for advertising purposes.
8. Representing, directly or by implication, that any allowance, discount or commission is granted by respondents to purchasers in return for permitting the premises on which respondents' products are installed to be used for model homes or demonstration purposes.

9. Representing, directly or by implication, that any of respondents' products and installations are guaranteed unless the nature and extent of the guarantee, the identity of the guarantor, and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed; and unless respondents promptly and fully perform all of their obligations and requirements, directly or impliedly represented, under the terms of each such guarantee.

10. Representing, directly or by implication, that respondents operate or maintain business offices in Toronto, Ohio or Allison Park, Pennsylvania, or any other locality where such offices are not actually open and fully operative; or misrepresenting, in any manner, the size or extent of respondents' business.

11. Representing, directly or by implication, that respondents manufacture any of the home improvement products which they sell and install, or that respondents sell their home improvement products directly from their factory; or misrepresenting, in any manner, the nature or scope of respondents' business.

12. Inducing or causing purchasers or prospective purchasers of respondents' products or services to sign blank or partially filled in completion certificates or other legal instruments or documents; or misrepresenting, in any manner, the true nature or effect of such documents.

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

14. Failing to include the following statement clearly and conspicuously on the face of any note, contract or other instrument of indebtedness executed by or on behalf of respondents' customers:

"Notice"

"Any holder takes this instrument subject to the terms and conditions of the contract which gave rise to the debt evidenced hereby, any contractual provision or other agreement to the contrary notwithstanding."

It is further ordered, That respondents Ron-El Builders, Inc., a corporation, and its officers, and Elliotte L. Greenberg, individually and as an officer of said corporation, and respondents' agent, 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 cease and desist from:

1. Failing to disclose the annual percentage rate computed to the nearest quarter of one percent in accordance with Section 226.5(b) (1) of Regulation Z, as required by Section 226.8(b) (2) of Regulation Z.
2. Failing to disclose accurately the sum of the unpaid balance of cash price and all other charges, individually itemized, which are included in the amount financed but which are not part of the finance charge, and to describe that sum as the "amount financed," as required by Section 226.8(c) (7) of Regulation Z.
3. Failing to disclose accurately the sum of the cash price, all 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) (iii) of Regulation Z.
4. Failing to disclose accurately the sum of all charges required by Section 226.4 of Regulation Z, and to describe that sum as the "finance charge," as required by Section 226.8(c) (8) (i) of Regulation Z.
5. Failing to disclose the identity of the creditor, as required by Section 226.8(a) of Regulation Z.
6. Failing to disclose the number, amount and due dates or periods of repayment scheduled to repay the indebtedness, as required by Section 226.8(b) (3) of Regulation Z.
7. Failing to disclose accurately the sum of the payments scheduled to repay the indebtedness, and to describe that sum as the "total of payments," as required by Section 226.8(b) (3) of Regulation Z.
8. Failing to disclose the cost of credit life insurance purchased by the customer, and failing to obtain a separate signed and dated statement that the customer desires to purchase credit life insurance, when not required by the creditor, as required by Section 226.4(a) (5) (ii) of Regulation Z.
9. Failing to maintain evidence of compliance with Regulation Z for two years after the date of each disclosure, as required by Section 226.6(i) of Regulation Z.

10. Failing to describe the type of any security interest retained in property in connection with any credit sale, and to describe or identify the property to which that security interest relates as required by Section 226.8(b) (5) of Regulation Z.

11. Failing to provide each customer who has the right to rescind a credit sale with two copies of the notice prescribed by Section 226.9(b) of Regulation Z, as required by that section.

12. Making any physical changes in the property of the customer who has the right to rescind, or performing work on premises for any customer who has the right to rescind, before expiration of the rescission period, as required by Section 226.9(c) of Regulation Z.

13. 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, 226.8, 226.9 and 226.10 of Regulation Z.

It is further ordered, That respondents herein shall, within sixty days after service upon them of this order, deliver notice of right to rescind, in the number, manner and form set forth in Section 226.9(b) of Regulation Z, to each customer who purchased products from respondents on or after July 1, 1969, in any credit transaction in which the respondents have retained or acquired or will retain or acquire a security interest in real property which is used or is expected to be used as the customer's principal place of residence.

It is further ordered, That respondents shall forthwith deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the offering for sale or sale of respondents' products or services, in the consummation of any extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging the 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 the order.

It is further ordered, That the respondents herein 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 this order.

Complaint

IN THE MATTER OF

COMMUNITY HEARING CENTER, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket C-1947. Complaint, June 17, 1971—Decision, June 17, 1971*

Consent order requiring a Providence, R.I., seller and distributor of hearing aids to cease advertising that any hearing aid is a new invention, or making other claims without disclosing that some individuals will not be benefited, misrepresenting that its hearing aids are guaranteed, failing to disclose that the firm is selling hearing aids, and misrepresenting in any manner the purpose of the business or the efficacy of its products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Community Hearing Center, Inc., a corporation, and Edward J. McElroy, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said 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. Community Hearing Center, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Rhode Island, with its principal office and place of business located at 69 Empire Street, in the city of Providence, State of Rhode Island.

Respondent Edward J. McElroy is an individual and an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is 69 Empire Street, in the city of Providence, State of Rhode Island.

PAR. 2. Respondents, under the trade or assumed name of Community Hearing Center, Inc., are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of hearing aids which come within the classification of "device" as the term "device" is defined in the Federal Trade Commission Act. Respondents do not manufacture said devices but purchase them from one or more manufacturers.