

Complaint

79 F.T.C.

IN THE MATTER OF

BYER FURNITURE COMPANY, INC., ET AL.

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

Docket C-2042. Complaint, Sept. 13, 1971—Decision, Sept. 13, 1971

Consent order requiring a Miami, Fla., retail seller and distributor of furniture to cease violating the Truth in Lending Act by failing in any credit sale to use the term "cash sale," disclose the deferred payment price, the annual percentage rate, and all other credit 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 Byer Furniture Company, Inc., a corporation, and Norman L. Madan, individually and as an officer, hereinafter referred to as respondents, have 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 Byer Furniture Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its principal office and place of business located at 2199 Northwest 36th Street, Miami, Florida.

Respondent Norman L. Madan is an officer of the corporate respondent. He formulates, directs and controls the policy, acts and practices of the corporation, 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 offering for sale and retail sale and distribution of furniture to the public.

PAR. 3. In the ordinary course and conduct of their business as aforesaid, respondents regularly extend 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 and in connection with their credit sales, as "credit sale" is defined in Regulation Z, respondents have caused and

are causing their customers to enter into retail installment contracts for the sale of respondents' goods and services. On these contracts, hereinafter referred to as "the contract," respondents provide certain consumer credit cost information. Respondents do not provide these customers with any other consumer credit cost disclosures.

By and through the use of the contract, respondents:

1. Fail in any credit sale to use the term "Cash Price" to disclose the price at which respondents in the regular course of business offer to sell for cash the property or services which are the subject of the credit sale, as required by Section 226.8(c) (1) of Regulation Z.

2. Fail to accurately disclose the deferred payment price as 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, as prescribed by Section 226.8(c) (8) (ii) of Regulation Z.

3. Fail to disclose the annual percentage rate accurately 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.

PAR. 5. 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 thereof, respondents have 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 respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Atlanta Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Truth in Lending Act and the implementing regulation promulgated thereunder, and the Federal Trade Commission Act; 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 aforesaid draft of complaint, 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 thereafter considered the matter and having determined that it had reason to believe that the respondents have 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 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 Byer Furniture Company, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 2199 Northwest 36th Street, Miami, Florida.

Respondent Norman L. Madan is an individual and an officer of Byer Furniture Company, Inc. He directs, formulates and controls the acts and practices of the respondent corporation, including the acts and practices under investigation.

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 Byer Furniture Company, Inc., and its officers, and Norman L. Madan, individually and as an officer of said corporation and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with any extension of consumer credit, as "consumer credit" is defined in Regulation Z (12 CFR § 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 in any credit sale to use the term "cash price" to describe the price at which respondents, in the regular course of business offer to sell for cash the property or services which are the subject of the credit sale, as required by Section 226.8(c)(1) of Regulation Z.

2. Failing to accurately disclose the deferred payment price as 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, as prescribed by Section 226.8(c)(8)(ii) of Regulation Z.

3. Failing to disclose the "annual percentage rate" accurately 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.

4. Failing in any consumer credit transaction or advertising to make all disclosures determined in accordance with Sections

226.4 and 226.5 of Regulation Z, at the time and in the manner, form and amount required by Sections 226.6, 226.8, and 226.10 of Regulation Z.

It is further ordered, That respondents deliver a copy of this order to cease and desist to each operating division and to all present and future personnel engaged in the consummation of any extension of consumer credit and respondents 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 the order.

It is further ordered, That the respondents 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.

IN THE MATTER OF

MARTIN DISPOSABLES, INC., TRADING AS MARTIN
HOSPITAL DISPOSABLES, ET AL.

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

Docket C-2043. Complaint, Sept. 20, 1971—Decision, Sept. 20, 1971

Consent order requiring a Brooklyn, N.Y. manufacturer and distributor of