

Consent order requiring an Albany, N.Y., seller of home improvement services
and materials to cease violating the Truth in Lending Act by failing to dis-

close the cash price, cash downpayment, amount financed, deferred payment price, annual percentage rate, failing to disclose the customer's right to rescind contract within three days, failing to note on the contract a Notice that any holder takes it subject to all terms, and failing to make all 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 B & L Building Modernization Corp., a corporation, and Henry S. Bloomgarden and Harold Lavine, individually and as officers of said corporation, 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 B & L Building Modernization Corp. 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 1054 Central Avenue, Albany, New York.

Respondents Henry S. Bloomgarden and Harold Lavine are officers of the corporate respondent. They formulate, direct and control the policy, acts and practices of the corporation, including the acts and practices hereinafter set forth. Their 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, and sale of home improvement services and materials to the public.

PAR. 3. In the ordinary course of their business as aforesaid, respondents regularly arrange for the extension of consumer credit, as "consumer credit" and "arrange for the extension of consumer credit" are 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 contracts for the sale of respondents' goods and services. On these contracts, hereinafter referred to as "the contract," respondents provide certain consumer credit cost

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information. Respondents do not provide these customers with any other consumer credit cost disclosures.

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

1. Failed to accurately disclose the "cash price," to describe the price at which respondents offer, in the regular course of business, 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. Failed to accurately disclose the "cash downpayment," to describe the amount of downpayment in money made in connection with the credit sale, as required by Section 226.8(c) (2) of Regulation Z.

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

4. Failed to disclose the "deferred payment price," to describe the sum of the cash price, all 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.

5. Failed to disclose the annual rate of the finance charge expressed as an "annual percentage rate," as required by Section 226.8(b) (2) of Regulation Z.

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

PAR. 6. By and through use of the contract, as set forth in Paragraph Four, respondents retain or acquire a security interest in real property which is 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. Failed to accurately state on the notice of rescission the date on which the customers' right of rescission expired, said date being not earlier than the third business day following the date of the transaction, as required by Section 226.9(b) of Regulation Z. In at least one instance, respondents failed to disclose any date on which the customer's right to rescind expired.

PAR. 7. 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 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 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 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 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. Respondent B & L Building Modernization Corp., 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 1054 Central Avenue, in the city of Albany, State of New York.

Respondents, Henry Bloomgarden and Harold Lavine are the president and vice president, respectively, of said corporation. They formulate, direct and control the consumer credit policies, acts and practices of said corporation and their 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, B & L Building Modernization Corp., a corporation, and its officers, Henry Bloomgarden and Harold Lavine, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any

corporate or other device, or under any other name, in connection with any consumer credit sale, as "consumer credit" and "credit sale" are 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 to disclose or to accurately disclose the "cash price," to describe the price at which respondents offer, in the regular course of business, 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 disclose or to accurately disclose the "cash downpayment," to describe the amount of the downpayment in money made in connection with the credit sale, as required by Section 226.8(c)(2) of Regulation Z.
3. Failing to disclose the "amount financed," to describe the amount of credit of which the customer has the actual use, as required by Section 226.8(c)(7) of Regulation Z.
4. Failing to disclose the "deferred payment price," to describe the sum of the cash price, all 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.
5. Failing to disclose the annual rate of the finance charge expressed as an "annual percentage rate," as required by Section 226.8(b)(2) of Regulation Z.
6. Failing to disclose the date on which the finance charge begins to accrue, when different from the date of the transaction, as required by Section 226.8(b)(1) of Regulation Z.
7. Failing to disclose, or to accurately disclose on the notice of rescission, the date on which the customer's right of rescission expires, said date being not earlier than the third business day following the date of the transaction, as required by Section 226.9(b) of Regulation Z.
8. 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.
9. 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.

10. 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 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 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, resultant 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 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 the order to cease and desist contained herein.

IN THE MATTER OF

SHAW BROS. CO., ET AL.

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

Docket C-2066. Complaint, Oct. 15, 1971—Decision, Oct. 15, 1971

Consent order requiring a Chicago, Ill., firm selling at retail radios, television sets, phonographs, jewelry and furniture to cease violating the Truth in Lending Act by failing to use the terms cash price, cash downpayment, trade-in, total downpayment, amount financed, deferred payment, failing to disclose the annual percentage rate, and all other disclosures required by