

THE BRIDIE CORPORATION, ET AL.

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

Docket C-2068. Complaint, Oct. 26, 1971—Decision, Oct. 26, 1971

Consent order requiring a Bridgehampton, N.Y., real estate firm to cease violating the Truth in Lending Act by failing to use the terms cash price, cash downpayment, unpaid balance of cash price, amount financed, failing to notify customers so entitled to their right to rescind, and in its consumer credit transactions 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

The Bridie Corporation, a corporation, and John M. Matthews, individually and as an officer 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 The Bridie Corporation 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 Montauk Highway, Bridgehampton, New York, Post Office Box AX.

Respondent John M. Matthews is the president of the corporate respondent. He formulates, directs and controls the 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 offering for sale to the public of parcels of land situated primarily throughout the eastern portions of Suffolk County.

PAR. 3. 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.

PAR. 4. 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 contracts for the sale of land, hereinafter referred to as "the contract." The following is an illustration of the contract:

THIS AGREEMENT made this 27th day of July, 1969, between THE BRIDIE CORP., A domestic corporation having its principal place of business at Montauk Highway, Bridgehampton, New York 11932, P.O. Box AX, Known herein as the SELLER and Darcy M. Messina and Annette B. Messina, his wife, residing at 190 Willoughby Street, Brooklyn, New York 11201, Known herein as THE PURCHASER.

WITNESSETH, that for and in consideration of the sum of Fifteen thousand and 00/100 * * * (\$15,000.00) Dollars to be fully paid by the Purchaser, the Seller agrees to sell all the following described property: ALL that certain Lot or Parcel of land situate, lying and being at Watermill, Deerfield, Town of Southampton, State of New York, tentatively described as Lot #20 proposed MAP OF DEERFIELD HILLS, Dimensions approximately 150± feet x 260± ft, a more definite description to be supplied when map has received final approval of the Planning Board of Town of Southampton.

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And the Purchaser agrees to purchase the above described property and pay for the same as follows:

One thousand and 00/100 * * * (\$1,000.00) Dollars on the signing of this agreement, receipt of which is hereby acknowledged by the Seller, and the further sum of One hundred and 00/100 * * * (\$100.00) Dollars or more, on the 27th day of every month hereafter until the full amount of the purchase price is paid.

However, nothing elsewhere to the contrary herein contained shall be construed so as to extend this contract beyond a period of Seven (7) Years from the date hereof. Seller agrees to accept monthly installments for the term of Seven (7) Years at the end of which time any balance and interest shall be due and payable.

THE PURCHASER agrees to pay interest at the rate of Seven and one-half Percent (7½%) per annum on all monthly unpaid balances said interest to be paid semi-annually, and the Purchaser will assume all taxes accruing after the date of this contract, said taxes to be paid on or before the tenth day of January every year hereafter.

That as prompt performance is the nature and essence of this contract, therefore, any default in any of the above mentioned payments for a period of sixty days after the same shall become due, voids all rights of the Purchaser hereunder, and Seller may retain all monies paid hereon as liquidated damages. This clause in the event of default hereunder, becomes effective upon fourteen days notice by certified mail by the Seller to the Purchaser, it being provided, however, if default become effective as provided above, then, and in that event, all principal payments in excess of 75% of the purchase price shall be refunded to the Purchaser, less any arrears in interest which may be due the Seller and less any taxes which at that time shall be due and unpaid.

IT IS AGREED THAT THE PREMISES ARE SOLD SUBJECT TO THE FOLLOWING COVENANTS AND RESTRICTIONS which shall be incorporated in the deed to be delivered as hereinafter provided, and that the Purchaser for himself, his heirs and executors, administrators and assigns covenants and agrees with the Seller as follows:

(a) That the arrangements for water supply and sewage disposal shall be in accordance with the plans approved by the Suffolk County Department of Health.

(b) That the premises herein shall be conveyed subject to Zoning Ordinances and Building Regulations of the Town of Southampton.

IT IS MUTUALLY AGREED that the seller upon receiving payments in full will execute, acknowledge and deliver to the purchaser a Bargain and Sale Deed with Covenants, Against the Grantor, subject only to the conditions above set forth, and the Seller, further agrees to deliver and the Purchaser to accept such title as any reputable Title Co. will insure.

All the payments, hereinabove provided for shall be made at the office of JOHN M. MATTHEWS, P.O. Box AX, Montauk Highway, Bridgehampton, N.Y., 11932. ALL BALANCES HEREUNDER SHALL BECOME DUE AND PAYABLE SEVEN YEARS FROM DATE HEREOF.

IT IS AGREED that this contract supersedes all oral representations made in effecting this sale and that only the elements herein are binding on parties hereto.

The foregoing stipulations shall apply to and bind the parties hereto, their successors, heirs, administrators or assigns.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures and seals the day and year first above written.

WITNESS:

John M. Matthews L.S.
President, The Bridie Corp.
Darcy M. Messina L.S.
Annette B. Messina L.S.

By and through the use of the contract set forth in Paragraph Four hereof, respondents:

1. Failed to use the term "cash price" to describe the price at which respondents offer, in the regular course of business, to sell for cash the property which is the subject of the credit sale, as required by Section 226.8(c) (1) of Regulation Z.
2. Failed to use the term "cash downpayment" to describe the downpayment in money made in connection with the credit sale, as required by Section 226.8(c) (2) of Regulation Z.
3. Failed to use the term "unpaid balance of cash price" to describe the difference between the cash price and the total downpayment, as required by Section 226.8(c) (3) of Regulation Z.
4. Failed to use the term "amount financed" to describe the amount of credit extended, as required by Section 226.8(c) (7) of Regulation Z.
5. Failed to disclose the number, amount and due dates or periods of payments scheduled to repay the indebtedness, as required by Section 226.8(b) (3) of Regulation Z.
6. Failed 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.
7. Failed to make all of the prescribed disclosures together on either the note or other instrument evidencing the obligation, on the same side of the page and above or adjacent to the place for the customer's signature, or on one side of a separate statement which identifies the transaction, as required by Section 226.8(a) (1) and (2).

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 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

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 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 the Bridie Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at Montauk Highway, Bridgehampton, New York, Post Office Box AX.

Respondent John M. Matthews is the president of said corporation. He formulates, directs and controls the 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 the Bridie Corporation, a corporation, and its officers, and John M. Matthews, individually and as an officer of said corporation, and respondents' subsidiaries, divisions, successors, assigns, directors, agents, representatives, and employees, directly or through any corporate or other device, in connection with any consumer credit sale of real property, or any advertisement to aid, promote or assist directly or indirectly any consumer credit sale of real property, as "credit sale" and "advertisement" 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 use the term "cash price" to describe the price at which respondents offer, in the regular course of business, to sell for cash the property which is the subject of the credit sale, as required by Section 226.8(c) (1) of Regulation Z.

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

4. Failing to use the term "amount financed" to describe the amount of credit extended, as required by Section 226.8(c) (7) of Regulation Z.

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

6. Failing 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.

7. Failing to make all of the prescribed disclosures together on either the note or other instrument evidencing the obligation, on the same side of the page and above or adjacent to the place for the customer's signature, or on one side of a separate statement which identifies the transaction, as required by Section 226.8(a) (1) and (2).

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.

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, 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.

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It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a