

dentro de los sesenta (60) días siguientes al anegocimiento de esta orden, con la Comisión un informe escrito exponiendo, en detalle, la forma y maneras en que se ha cumplido esta orden.

IN THE MATTER OF

MONTGOMERY WARD & CO., INCORPORATED

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

Docket C-2077. Complaint, Nov. 3, 1971—Decision, Nov. 3, 1971

Consent order requiring a major seller and distributor of merchandise by means of catalogs and retail stores with headquarters in Chicago, Ill., to cease violating the Truth in Lending Act by failing to disclose the method of determining the finance charge, the conditions under which the company may retain a security interest in any purchase, in catalogs where credit is involved print "Credit Terms, P. —," and in any consumer credit advertising make disclosures required by Regulation Z of said Act; it is further ordered that respondent provide customers who have incumbered their real estate an opportunity to rescind the transaction, and provide the customer the right to rescind the respondent's security interest if the property is residential and has a mechanic's lien against it; and where the amount of the purchase requires credit terms the respondent's catalog shall contain the words, "For Terms Relating to Deferred Payment, See p. —," and other provisions for the protection of credit customers.

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 Montgomery Ward & Co., Incorporated, a corporation, hereinafter referred to as respondent, has 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 Montgomery Ward & Co., Incorporated, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal place of business and office located at 619 West Chicago Avenue, Chicago, Illinois.

PAR. 2. Montgomery Ward is now, and for some time last past has been, engaged in the offering for sale, sale and distribution of various articles of merchandise to the public by means of catalogs and retail outlets located throughout the United States.

COUNT I

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 I as if fully set forth verbatim.

PAR. 3. In the ordinary course and conduct of its business as aforesaid, respondent regularly extends, and for some time last past has 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. Respondent, subsequent to July 1, 1969, in the ordinary course and conduct of its business, extends open end credit to its customers in connection with its credit sales, as "open end credit" and "credit sale" are defined in Regulation Z. In connection with its open end credit agreement, and prior to the first transaction made under such agreement, respondent makes disclosures to each customer describing the credit terms of these open end accounts.

PAR. 5. In the open end credit disclosure statements used by respondent, referred to in Paragraph Four hereof, respondent:

1. Failed to disclose the method of determining the balance upon which a finance charge may be imposed, as required by Section 226.7 (a) (2) of Regulation Z.

2. Failed to disclose the lower balance to which the periodic rate applies, when application of the periodic rate did not yield an amount equal to the minimum finance charge, as required by Section 226.7 (a) (4) of Regulation Z.

3. Failed to disclose the conditions under which a mechanic's lien, materialman's lien or similar lien against the customer's real property may be retained or acquired as a security interest to secure the obligation incurred by the customer in any open end credit sale by respondents of home improvements which become part of the customer's real

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property under applicable state law, and to include a description of each such security interest or interests, as required by Section 226.7 (a) (7) of Regulation Z.

PAR. 6. By and through use of the agreement referred to in Paragraph Four hereof, respondent sells home improvements which become part of the customer's real property under applicable state law. As a result, a security interest is or will be retained or acquired by respondent in real property which is or is expected to be used as the principal residence of the customer through operation of state law. The customer thereby has a three day right to rescind the transaction, as provided in Section 226.9(a) of Regulation Z. Having consummated a rescindable credit transaction, respondent:

1. Failed to provide each customer who had the right to rescind with any copy of the notice prescribed by Section 226.9(b) of Regulation Z, as required by that Section.

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

PAR. 7. Respondent, subsequent to July 1, 1969, has published advertisements, as "advertisement" is defined in Regulation Z, in the form of catalogs which are distributed to the public. Such advertisements aid, promote, or assist, directly or indirectly, extensions of open end credit, as "open end credit" is defined in Regulation Z.

PAR. 8. By and through the use of a table of credit terms in the catalog advertisements referred to in Paragraph Seven hereof, respondent sets forth, as prescribed in Section 226.10(c) of Regulation Z, the explanation of the time period within which any credit extended may be paid without incurring a finance charge; the method of determining the amount of the finance charge; certain of the balances to which the periodic rate or rates apply; the periodic rate or rates; the corresponding annual percentage rate or rates; and the minimum periodic payment required; but fails:

1. To state the method of determining the balance upon which a finance charge may be imposed, as required by Section 226.10(c) (2) of Regulation Z.

2. To state the lower balance to which the periodic rate applies, when application of the periodic rate does not yield an amount equal to the minimum finance charge, as required by Section 226.10(c) (4) of Regulation Z.

PAR. 9. By and through the catalog advertisements referred to in Paragraph Seven hereof, respondent, when setting forth a required

minimum periodic payment for a particular item in the catalog, fails also to clearly and conspicuously set forth all credit terms required by Section 226.10(c) of Regulation Z, in terminology prescribed under Section 226.7(b) of Regulation Z. Respondent has not obviated the requirement that it disclose these credit terms by employing the alternative method of clearly and conspicuously referring to a table or schedule of credit terms by page number wherever the specified periodic payment appears in the catalogs, as set forth in Section 226.10(b) of Regulation Z.

PAR. 10. Respondent, subsequent to July 1, 1969, in the ordinary course and conduct of its business, has prepared and furnished for use in connection with other than open end credit sales, retail installment contracts which have been executed by purchasers. In these contracts, respondent fails to disclose the amount of credit of which the customer will have the actual use and to describe that amount as the "amount financed," as required by Section 226.8(c)(7) of Regulation Z.

PAR. 11. Pursuant to Section 103(k) of the Truth in Lending Act, respondent's aforesaid failures to comply with the provisions of Regulation Z constitute violations of that Act and, pursuant to Section 108 thereof, respondent has thereby violated the Federal Trade Commission Act.

COUNT II

Alleging violations of Section 5 of the Federal Trade Commission Act, the allegations of Paragraph One and Two, hereof are incorporated by reference in Count II as if fully set forth verbatim.

PAR. 12. In the course and conduct of its business as aforesaid, respondent has caused, and is causing, its said merchandise, when sold, to be shipped from its place of business located in the State of Illinois and other States of the United States and in the District of Columbia, to purchasers thereof located in various States in the United States, and maintains, and at all times mentioned herein has maintained, a substantial course of trade in said merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 13. By and through the use of advertisements in newspapers and in the form of catalogs which are made available to the public, respondent has made representations of which the following is typical, but not all inclusive:

"No monthly payments till June."

By and through the use of such representations, respondent has led its credit customers to believe that no charges will be incurred in

connection with the purchase while the first installment is being deferred.

PAR. 14. In truth and in fact, unless a customer pays the amount of the deferred purchase within thirty days from the beginning date of the billing cycle in which the customer is first billed for the purchase, respondent will impose a finance charge monthly on the amount of the purchase while the first installment is being deferred.

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

PAR. 15. In the course and conduct of its aforesaid business, and at all times mentioned herein, respondent has been, and is now, in substantial competition, in commerce, with corporations, firms and individuals in the sale of merchandise of the same general kind and nature as that sold by respondent.

PAR. 16. The use by respondent 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 respondent's merchandise because of such erroneous and mistaken belief.

PAR. 17. The aforesaid acts and practices of respondent, as alleged herein, were and are all to the prejudice and injury of the public and of respondent's 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.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereof with violation of the Truth in Lending Act, and the respondent 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 respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the complaint to issue, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent 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 Montgomery Ward & Co., Incorporated, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 619 West Chicago Avenue, in the city of Chicago, State of Illinois.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent Montgomery Ward & Co., Incorporated, a corporation and its officers, 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 § 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 *et seq.*), shall:

1. In a statement required by Section 226.7(a) of Regulation Z:

(a) Disclose the method of determining the balance upon which the finance charge may be imposed, as required by Section 226.7(a)(2) of Regulation Z;

(b) Disclose the lower balance to which the periodic rate applies, when application of the periodic rate does not yield an amount equal to the minimum finance charge, as required by Section 226.7(a)(4) of Regulation Z; and

(c) Disclose the conditions under which the creditor may retain or acquire any security interest in any property to secure the payment of any credit extended on the account, and provide a description or identification of the type of the interest or interests which may be so retained or acquired, as required by Section 226.7(a)(7) of Regulation Z; *Provided* That in lieu of the foregoing, the creditor may disclose that any such security interest in any such property has been or is waived by the creditor.

2. In a schedule of credit terms in any catalog or other multi-page advertisement:

(a) Disclose the method of determining the balance upon which a finance charge may be imposed, as required by Section 226.10(c)(2) of Regulation Z; and

(b) Disclose the lower balance to which the periodic rate applies, when application of the periodic rate does not yield an amount equal to the minimum finance charge, as required by Section 226.10(c)(4) of Regulation Z.

3. In each catalog, when setting forth as to any advertised item one or more of the credit terms set forth in Section 226.10(c) of Regulation Z, state in immediate conjunction with the specific credit term, in print of at least equal prominence to such term, "Credit Terms, P. —."

4. In its retail installment contracts, disclose, the amount of credit of which the customer will have the actual use, and to describe that amount as the "amount financed," as required by Section 226.8(c)(7) of Regulation Z.

5. In any consumer credit advertisement, make all disclosures in the manner, form and amount required by Section 226.10 of Regulation Z.

It is further ordered, That respondent shall, within sixty days after service upon it of this order, either:

(a) Provide notice of opportunity to rescind, in the form set forth in Sections 226.9(b) and (f) of Regulation Z, to each customer in each credit transaction, not otherwise exempted by Section 226.9 of Regulation Z, entered into by respondent on or after July 1, 1969, in which a security interest was retained or acquired in any real property which, at the time of the transaction, was used or was expected to be used as the principal residence of the customer; or

(b) Provide such customer notice of waiver of respondent's right to retain or to acquire such security interest in any real property which, at the time of the transaction, was used or was expected to be used as the principal residence of the customer and, to the extent any mechanic's and/or materialman's lien arises in favor of subcontractors, workmen or others who are not creditors in such transaction, secure from such persons waiver of such security interest.

It is further ordered, That respondent, its officers, agents, representatives and employees, in advertising deferred payment for merchandise or services connected therewith, in commerce, as "commerce" is defined

in the Federal Trade Commission Act, where finance charges are imposed on the amount of the purchase during the period when no payment is required on that particular purchase, shall, where the reference appears in respondent's catalog, refer clearly and conspicuously to a schedule of credit terms as follows: "For Terms Relating to Deferred Payment, See p. —." or words of similar import. In this case, such terms shall disclose that on purchases for which payment is deferred more than 30 days, monthly finance charges will be assessed. Where the reference to deferred payment appears in newspaper advertising, respondent shall state in such advertisement, (1) in conjunction with such reference; (2) using type of the same style as such reference; and (3) in type size which bears a ratio to the type size of such reference of not less than one to three or in type size of not less than twelve points, whichever is larger: "Finance Charges are Applicable During the Deferred Period." In this case, terms provided at purchase shall disclose that on purchases for which payment is deferred more than 30 days, monthly finance charges will be assessed.

It is further ordered, That respondent shall deliver a copy of this order to all personnel employed in the credit, advertising, and merchandising departments at its general offices in Chicago, Illinois, who are engaged in the extension of consumer credit or in the preparation, creation or placing of advertising, and secure receipts for same.

It is further ordered, That respondent notify the Commission at least 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, should the Commission issue a trade regulation rule covering any of the matters for which provision is made in this order, respondent can petition the Commission for an appropriate modification in this order.

It is further ordered, That respondent shall, within 60 days after entry of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with the order.

IN THE MATTER OF
THE GEORGE L. BING FURNITURE COMPANY, ET AL.

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

Docket C-2078. Complaint, Nov. 3, 1971—Decision, Nov. 3, 1971

Consent order requiring a Euclid, Ohio, seller of furniture, television sets and stereos to cease violating the Truth in Lending Act by failing to make consumer cost disclosures, failing to accurately disclose the annual percentage rate, and failing to make all other credit disclosures required by Regulation Z of said Act; if credit is involved the contract should contain a "NOTICE" that the debit may have to be paid before the contract is fulfilled.

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 George L. Bing Furniture Company, a corporation and George L. Bing, 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 The George L. Bing Furniture Company, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its principal office and place of business located at 22300 Lakeshore Boulevard, Euclid, Ohio. The George L. Bing Furniture Company owns and operates two retail furniture stores known as Bing's Suburbia, located at 22300 Lakeshore Boulevard, Euclid, Ohio, and 6339 York Road, Parma Heights, Ohio. Respondent George L. Bing is the president-treasurer 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 sale of furniture, television sets, and stereos 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 Regula-