

IN THE MATTER OF

SIRLES AND SON REALTY CO., INC., DOING BUSINESS AS
SIRLES AND SON REALTY, ET AL.

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

Docket C-2103. Complaint, Nov. 18, 1971—Decision, Nov. 18, 1971

Consent order requiring a real estate broker of Oak Lawn, Ill., to cease advertising the amount of downpayment required on properties without stating other credit term disclosures and failing to notify its customers of their right to rescind such transactions in violation of Regulation Z of the Truth in Lending 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 Sirles and Son Realty Co., Inc., a corporation, doing business as Sirles and Son Realty, and Edgar Sirles and Richard Sirles, 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. Sirles and Son Realty Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of

the State of Illinois, under the name Sirles and Son Realty, with its office and principal place of business located at 5265 W. 95th Street, Oak Lawn, Illinois.

Edgar Sirles and Richard Sirles are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation, including the acts and practices hereinafter set forth.

PAR. 2. Respondents are now, and for some time in the past have been, engaged as brokers and agents selling real estate to the public.

PAR. 3. In the ordinary course and conduct of their aforesaid business, respondents regularly extend or arrange for the extension of 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. In connection with the consumer credit transactions set forth in Paragraph Three hereof, respondents have caused and are causing customers to execute Retail Installment Contracts, hereinafter referred to as "contracts," either for their own account or as an arranger of credit as defined in Section 226.2(f) of Regulation Z. By and through the use of the contracts, respondents entered into transactions in which there was acquired or retained a security interest in real property which is used or expected to be used as the principal residence of the customer. Respondents failed to notify customers of their right to rescind such transactions under Section 226.9(a) of Regulation Z, as required by Section 226.9(b) of Regulation Z.

PAR. 5. In the ordinary course of their aforesaid business, respondents cause advertisements to be published, 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 real estate. By and through use in said advertisements of such statements as, "\$2,500 down * * * \$7,000 down * * * Call Sirles," respondents have stated the amount of the downpayment required in connection with an extension of consumer credit, without also stating all of the following items, in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d) (2) thereof:

- (i) the cash price or the amount of the loan, as applicable;
- (ii) the number, amount, and due dates or period of repayments scheduled to repay the indebtedness if the credit is extended; and
- (iii) the amount of the finance charge expressed as an annual percentage rate.

PAR. 6. Pursuant to Section 103(q) of the Truth in Lending Act, respondents' aforesaid failures to comply with the provisions of Regu-

lation 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 Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act, the Truth in Lending Act and the implementing regulation promulgated thereunder; 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 implementing regulation, 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, Sirles and Sons Realty is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 5265 W. 95th Street, Oak Lawn, Illinois.

Respondents Edgar Sirles and Richard Sirles are officers of said corporation. They formulate, direct and control the policies, acts and practices hereinafter set forth. Their address is the same as that of the 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 Sirles and Son Realty Co., Inc., a corporation, and Edgar Sirles and Richard Sirles, individually and as officers of said corporation, doing business as Sirles and Son Realty or under any other name, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with any advertisement or consumer credit sale of real estate or any other merchandise or service, as "advertisement" 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. Stating directly or indirectly in any advertisement the amount of the downpayment required or that no downpayment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless all of the following items are stated, in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) of Regulation Z:

- (i) the cash price or the amount of the loan, as applicable;
- (ii) the amount of the downpayment required or that no downpayment is required, as applicable;
- (iii) the number, amount and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;
- (iv) the amount of the finance charge expressed as an annual percentage rate;
- (v) except in the case of the sale of a dwelling or a loan secured by a first lien on a dwelling to purchase that dwelling, the deferred payment price or the sum of the payments, as applicable.

2. Failing to give the customer the notice of opportunity to rescind, as set forth in Section 226.9(b) of Regulation Z, when a security interest is or will be attained or acquired in any real property which is used or is expected to be used as principal residence of the customer, as required by Section 226.9(a) of Regulation Z, except a first lien or security interest to finance an acquisition or initial construction of a dwelling in which the customer resides or expects to reside.

3. 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 Section 226.6, Section 226.8, Section 226.9 and Section 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 said person.

It is further ordered, That respondents shall, within sixty (60) days after service upon it 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.

It is further ordered, That respondents notify the Commission at least 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.

IN THE MATTER OF

ABBEY DOMESTIC CORPORATION DOING BUSINESS AS
ABBEY SEWING CENTER, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-2104. Complaint, Nov. 18, 1971—Decision, Nov. 18, 1971