

IN THE MATTER OF
STEWART BROTHERS & ALWARD COMPANY, ET AL.

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

Docket C-2124. Complaint, Jan. 3, 1972—Decision, Jan. 3, 1972

Consent order requiring a Newark, Ohio, dealer in furniture and appliances to cease violating the Truth in Lending Act by failing to properly use on its installment contracts the terms "finance charge," "cash down payment," "unpaid balance of cash price," "deferred payment price" and other disclosures required by Regulation Z of said Act.

COMPLAINT

Pursuant to the provisions of the Truth in Lending Act and the implementing regulation 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 Stewart Brothers & Alward Company, a corporation, and Walter T. Brown, Floyd F. Layman, Helen (NMI) Reitter, and Howard W. Kraner,

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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 Stewart Brothers & Alward 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 21 West Church Street, Newark, Ohio.

Respondents Walter T. Brown, Floyd F. Layman, Helen (NMI) Reitter, and Howard W. Kraner are officers of the corporate respondent. They equally formulate, direct, and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. The addresses of the said officers are: Walter T. Brown, 407 Springs Drive, Columbus, Ohio; Floyd F. Layman, 201 North Columbus Street, Lancaster, Ohio; Helen (NMI) Reitter and Howard W. Kraner, the same as the corporate respondent.

PAR. 2. Respondents are now, and for some time last past, have been engaged in the offering for sale and sale of furniture and appliances to the public at retail.

PAR. 3. In the ordinary course and conduct of their business as aforesaid, respondents offer to extend and extend credit to natural persons for personal, family or household purposes, which credit, pursuant to an agreement, is payable in more than four installments. Respondents thereby extend "consumer credit."

PAR. 4. Subsequent to July 1, 1969, respondents, in the ordinary course of their business as aforesaid and in connection with their credit sales as "credit sale" is defined in Regulation Z, have caused and are causing their customers to execute Security Agreements, hereinafter referred to as "the contract," which contain certain consumer credit cost disclosures. Respondents make no consumer credit cost disclosures other than on the contract.

By and through the use of the contract, respondents:

(1) Fail to print the term "FINANCE CHARGE" more conspicuously than other terminology where such term is required to be used, as required by Section 226.6(a) of Regulation Z;

(2) Fail to make full disclosures before the transaction is consummated and to furnish the customers with a duplicate of the

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instrument or a statement by which the required disclosures are made, as required by Section 226.8(a) of Regulation Z;

(3) Fail to disclose the amount of any odd monthly payment, as required by Section 226.8(b)(3) of Regulation Z;

(4) Fail to disclose the amount, or method of computing the amount, of any default, delinquency, or similar charges payable in the event of late payment, as required by Section 226.8(b)(4) of Regulation Z;

(5) Fail to employ the term "CASH DOWNPAYMENT" to describe downpayment in money and to disclose the amount of the "TOTAL DOWNPAYMENT," using that term, as required by Section 226.8(c)(2) of Regulation Z;

(6) Fail to describe the difference between the cash price and the total down payment as the "UNPAID BALANCE OF CASH PRICE," as required by Section 226.8(c)(3) of Regulation Z;

(7) Fail to employ the term "AMOUNT FINANCED" to describe the balance financed and to disclose such amount, as required by Section 226.8(c)(7) of Regulation Z;

(8) Fail to employ the term "DEFERRED PAYMENT PRICE" to describe the sum of the cash price, all other charges which are included in the amount financed but are not a finance charge under Section 226.4 of Regulation Z, and the total amount of the finance charge, if any, as required by Section 226.8(c)(8)(ii) of Regulation Z;

(9) Fail to make the disclosures to the extent applicable as prescribed under Section 226.8 of Regulation Z, when an existing obligation is increased, as required by Section 226.8(j) of Regulation Z.

PAR. 5. Subsequent to July 1, 1969, respondents, in the ordinary course of their business as aforesaid and in connection with their credit sales as "credit sale" is defined in Regulation Z, have caused and are causing their customers to execute Promissory Notes, hereinafter referred to as "Note," which contain a confession of judgment clause.

By and through the use of the note, respondents retain or will retain or acquire a security interest in real property which is used or is expected to be used as the principal residence of the customer and, respondents:

(a) Fail to give notice of the customer's right to rescind the transaction by furnishing the customer with two copies of the notice in the form as set forth in Section 226.9(b) of Regulation Z, as required by Section 226.9 of Regulation Z.

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PAR. 6. Subsequent to July 1, 1969, respondents have caused advertisements to be published, within the meaning of Section 226.10 of Regulation Z, which advertisements aid, promote, or assist directly or indirectly the extension of consumer credit. By and through the use of these advertisements, respondents state the amount of the downpayment required and that there is no charge for credit without also stating, in terminology prescribed under Section 226.8 of Regulation Z, all of the following items, as required by Section 226.10(d) (2) of Regulation Z:

(a) the rate of the finance charge expressed as an annual percentage rate;

(b) the number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;

(c) the deferred payment price.

PAR. 7. Pursuant to Section 103(q) of the Truth in Lending Act, respondents' aforesaid failures to comply with 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 Commission's staff 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; 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 Act, 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 conform-

ity 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. The respondent, Stewart Brothers & Alward 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 21 West Church Street, Newark, Ohio. The respondent Walter T. Brown is the president, Floyd F. Layman is the vice president, Helen (NMI) Reitter is the secretary, and Howard W. Kraner is the treasurer-manager of the said corporation. They equally formulate, direct, and control the policies, acts, and practices of said corporation, and their business addresses are: Walter T. Brown, 407 Springs Drive, Columbus, Ohio; Floyd F. Layman, 201 North Columbus Street, Lancaster, Ohio; Helen (NMI) Reitter and Howard W. Kraner, same as that of the 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 Stewart Brothers & Alward Company, a corporation, and its officers, and Walter T. Brown, Floyd F. Layman, Helen (NMI) Reitter, and Howard W. Kraner, individually and as officers of said corporation, and respondents' 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 (Pub.L. 90-321, 15 U.S.C. 1601 *et seq.*), do forthwith cease and desist from:

(1) Failing to print the term "FINANCE CHARGE" more conspicuously than other terminology where such term is required to be used, as required by Section 226.6(a) of Regulation Z;

(2) Failing to make full disclosures before the transaction is consummated and to furnish the customers with a duplicate of the instrument or a statement by which the required disclosures are made, as required by Section 226.8(a) of Regulation Z;

(3) Failing to disclose the amount of any odd monthly payment, as required by Section 226.8(b)(3) of Regulation Z;

(4) Failing to disclose the amount, or method of computing the amount, of any default, delinquency, or similar charges payable in the event of late payments, as required by Section 226.8(b)(4) of Regulation Z;

(5) Failing to employ the term "CASH DOWNPAYMENT" to describe any downpayment in money and to disclose the amount of the "TOTAL DOWNPAYMENT," using that term, as required by Section 226.8(c)(2) of Regulation Z;

(6) Failing to employ the term "UNPAID BALANCE OF CASH PRICE" to describe the difference between the cash price and total downpayment, as required by Section 226.8(c)(3) of Regulation Z;

(7) Failing to employ the term "AMOUNT FINANCED" to describe the balance financed and to disclose such amount, as required by Section 226.8(c)(7) of Regulation Z;

(8) Failing to employ the term "DEFERRED PAYMENT PRICE" to describe the sum of the cash price, all other charges which are included in the amount financed but are not a finance charge under Section 226.4 of Regulation Z, and the total amount of the finance charge, if any, as required by Section 226.8(c)(8)(ii) of Regulation Z;

(9) Failing to make the disclosures to the extent applicable as prescribed under Section 226.8 of Regulation Z, when an existing obligation is increased, as required by Section 226.8(j) of Regulation Z;

(10) Failing to give notice of right to rescind in credit transactions in which a security interest is or will be retained or acquired in any real property which is used or is expected to be used as the principal residence of the customer by furnishing two copies of such notice in the form as set forth in Section 226.9(b) of Regulation Z, as required by Section 226.9 of Regulation Z;

(11) Stating in advertising 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, without stating all of the following items 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.

(ii) The amount of the downpayment required or that no downpayment is required, as applicable.

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(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) The deferred payment price.

(12) 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.

It is further ordered, That the respondents herein 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.

It is further ordered, That the respondents herein 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

GARRISON PRINTING DIVISION, INC., ET AL

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

Docket C-2125. Complaint, Jan. 3, 1972—Decision, Jan. 3, 1972

Consent order requiring Bennington, Vt., wholesalers and retailers of greeting cards to cease preticketing their merchandise or furnishing others the means to mislead purchasers as to the prices of respondents' products.