

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

SAFETY FINANCE SERVICE, INC., ET AL.

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

Docket C-2135. Complaint, Jan. 14, 1972—Decision, Jan. 14, 1972

Consent order requiring three New Orleans, La., finance companies to cease violating the Truth in Lending Act by failure to disclose in its credit transactions the "annual percentage rate," the number, amounts and due dates of periodic repayments, the "amount financed," the "finance charge," 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 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 Safety Finance Service, Inc., a corporation; and Safety Finance Service of Carrollton, Inc., a corporation; and Jack A. Porobil, Sr. and Joseph Franceivich, copartners trading as Safety Finance Company; and Jack A. Porobil, Sr., individually, and as an officer of said corporations; and Jack A. Porobil, Jr., individually, and as an officer of Safety Finance Service, Inc., hereinafter sometimes referred to as respondents, have violated the provisions of said Acts and regulation, and it appearing to the Commission that a proceeding

Complaint

80 F.T.C.

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 Safety Finance Service, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at Suite 634 Audubon Building, 931 Canal Street, New Orleans, Louisiana.

Respondent Safety Finance Service of Carrollton, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal place of business located at 2414 S. Carrollton Avenue, New Orleans, Louisiana.

Respondents Jack A. Porobil, Sr. and Joseph Franceivich are co-partners trading as Safety Finance Company. In the recent past it has conducted its business in the name of Safety Auto Finance Company. Its principal place of business is located at 2000 St. Claude Avenue, New Orleans, Louisiana.

Respondent Jack A. Porobil, Sr. is an officer of the named corporate respondents, and Jack A. Porobil, Jr. is an officer of Safety Finance Service, Inc. They formulate, direct and control the acts and practices of the corporate respondents herein named, including the acts and practices hereinafter set forth. Their addresses are the same as that of Safety Finance Service, Inc.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the lending of money to the public.

PAR. 3. In the ordinary course and conduct of their business, as foresaid, respondents regularly extend and 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. Subsequent to July 1, 1969, respondents, in the ordinary course of their business, as aforesaid, and in connection with their loan transactions, have caused and are causing customers to execute promissory notes, some unsecured, others secured by chattel mortgages or real estate mortgages, and in connection with these transactions, provide these customers with loan disclosure statements, hereinafter referred to as "statement."

By and through the use of the statement, respondents:

1. Fail, when a specific dated and separately signed affirmative written indication of the customer's desire for credit life and disability insurance is not obtained, to include the amount of the charge

71

Decision and Order

for such insurance in the finance charge as required by Section 226.4 (a) (5) of Regulation Z, and thereby fail to state the finance charge accurately as required by Section 226.8(d) (3) of Regulation Z.

2. Fail to disclose the Annual Percentage Rate with an accuracy at least to the nearest quarter of 1 per cent on some contracts as required by Section 226.5(b) (1) of Regulation Z.

3. Fail to identify the creditor on some contracts as required by Section 226.8(a) of Regulation Z.

4. Fail to disclose the number, amount and due dates or periods of payment scheduled to repay the indebtedness on some contracts as required by Section 226.8(b) (3) of Regulation Z.

5. Fail, on some contracts, to disclose the security interest held, retained or acquired in connection with the extension of credit, and a clear identification of the property to which the security interest relates as required by Section 226.8(b) (5) of Regulation Z.

6. Fail to disclose the "Amount Financed" on some contracts as required by Section 226.8(d) (1) of Regulation Z.

7. Fail to disclose the "Finance Charge" on some contracts as required by Section 226.8(d) (3) of Regulation Z.

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 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; 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

Decision and Order

80 F.T.C.

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 conformity with the procedures 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 Safety Finance Service, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at 931 Canal Street, New Orleans, Louisiana.

Respondent Safety Finance Service of Carrollton, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at 2414 South Carrollton Avenue, New Orleans, Louisiana.

Respondents Jack A. Porobil, Sr. and Joseph Franceivich are copartners trading as Safety Finance Company, a partnership which in the recent past has conducted its business in the name of Safety Auto Finance Company, its offices and place of business located at 2000 St. Claude Avenue, New Orleans, Louisiana.

Respondent Jack A. Porobil, Sr. is president of the named corporate respondents; and respondent Jack A. Porobil, Jr. is executive vice-president of Safety Finance Service, Inc. As such, Jack A. Porobil, Sr., as to the named corporate respondents, and Jack A. Porobil, Jr., individually, and in cooperation with Jack A. Porobil, Sr., as to Safety Finance Service, Inc., formulate, direct and control the policies, acts and practices of the corporate respondents, their addresses being 931 Canal Street, New Orleans, Louisiana.

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 Safety Finance Service, Inc., a corporation; Safety Finance Service of Carrollton, Inc., a corporation, and its officers and respondent Jack A. Porobil, Sr., individually, and as an officer of said corporations, and respondent Jack A. Porobil, Jr., individually, and as an officer of Safety Finance Service, Inc., and Jack A. Porobil, Sr. and Joseph Franceivich, copartners trading as Safety Finance Company or under any other name or names, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with

any extension or arrangement for the extension of consumer credit to aid, promote or assist directly or indirectly any extension of consumer credit, as "consumer credit" is 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 include in the finance charge, for purposes of disclosure of the finance charge and computation of the annual percentage rate, any charge for credit life or disability insurance, if a specific dated and separately signed affirmative written indication of the customer's desire for such insurance is not obtained, as provided in Section 226.4(a)(5) of Regulation Z.

2. Failing to disclose the "annual percentage rate" accurately to the nearest quarter of one per cent, in accordance with Section 226.5(b)(1) of Regulation Z.

3. Failing to identify the creditor as required by Section 226.8(a) of Regulation Z.

4. Failing to disclose the number, amount and due dates or periods of payments scheduled to repay the indebtedness, prior to the consummation of the transaction as required by Section 226.8(b)(2) of Regulation Z.

5. Failing to disclose the security interest held, retained or acquired in connection with the extension of credit, and clear identification of the property to which the security interest relates as required by Section 226.8(b)(5) of Regulation Z.

6. Failing to disclose the "amount financed" as required by Section 226.8(d)(1) of Regulation Z.

7. Failing to disclose the "finance charge" as required by Section 226.8(d)(3) 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.

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 respondent 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

Complaint

80 F.T.C.

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