

Complaint

IN THE MATTER OF

JAMES P. SPRATT, ET AL. DOING BUSINESS AS CREDIT
ARRANGERS, ET AL.

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

Docket C-2139. Complaint, Jan. 25, 1972—Decision, Jan. 25, 1972

Consent order requiring two Shreveport, La., operators of debt consolidation businesses to cease failing to disburse promptly to creditors any money received from clients, misrepresenting the efficacy of their service in dealing with creditors, and failing to contact creditors to attempt settlement; respondents also violated the Truth in Lending Act by failing to make disclosures in accordance with Regulation Z of said Act.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that James P. Spratt and Harry P. Scroggins, individually, trading and doing business as Credit Arrangers, Credit Arrangers, Inc., and Credit Arrangers of Jefferson, Inc., hereinafter referred to as respondents, have violated the provisions of said Act, 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 such respect in Count I hereof.

Also pursuant to the provisions of the Truth in Lending Act (15 U.S.C. §1601 *et seq.*), and the implementing Regulation Z promulgated thereunder, effective July 1, 1969, the Commission having reason to believe that the respondents have violated the said act of Congress, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, the Commission issues this its complaint stating its charges in such respect in Count II hereof.

COUNT I

Charge Under Federal Trade Commission Act

PARAGRAPH 1. James P. Spratt and Harry P. Scroggins formulate, direct and control, and have cooperated and acted together in the performance of the acts and practices of the business which they

Complaint

80 F.T.C.

have conducted and are conducting under the names of Credit Arrangers, and/or Credit Arrangers, Inc., and/or Credit Arrangers of Jefferson, Inc., including the acts and practices hereinafter set forth. The office address of Harry P. Scroggins is 2317 Veterans Highway, Kenner, Louisiana. The office address of James P. Spratt is Suite 102, 3109 Alexander Street, Shreveport, Louisiana.

PAR. 2. That although James P. Spratt and Harry P. Scroggins represented that they have incorporated their said business in the State of Louisiana before a Notary Public in an act of incorporation, such business has not been recognized and a charter issued as a corporation by the Secretary of State of Louisiana.

PAR. 3. Respondents are now, and for some time last past have been engaged in the advertising, offering for sale and sale to the public of a service whereby respondents distribute a portion of the income of their clients to their clients' creditors for a fee or service charge.

PAR. 4. In the course and conduct of their business, respondents now sell, and for some time last past have sold their said service to purchasers thereof located in the States of Louisiana, and Texas, and maintain, and at all times mentioned herein, have maintained, a substantial course of trade in said service in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. In the course and conduct of their business and for the purpose of inducing the purchase of their service, respondents and their agents have made certain statements and representations with respect thereto and advertisements appearing on radio programs of interstate transmission.

Typical and illustrative of such statements and representations, but not all inclusive thereof, are the following:

RIGHT NOW THOUSANDS OF PEOPLE AROUND THE COUNTRY ARE OUT OF DEBT BECAUSE OF MAKING A SINGLE PHONE CALL TO CREDIT ARRANGERS AT 869-2381.

CREDIT ARRANGERS WILL TAKE OVER ALL OF YOUR BILLS, PAST DUE OR NOT, AND MAKE ALL THE ARRANGEMENTS WITH YOUR CREDITORS.

NO MORE ROBBING PETER TO PAY PAUL, NO SLEEPLESS NIGHTS AND EMBARRASSING PHONE CALLS.

IF YOU HAVE A SINCERE DESIRE TO GET OUT OF DEBT. CALL CREDIT ARRANGERS AT 869-2381.

PAR. 6. By and through the use of the aforementioned statements and representations, and others of similar import and meaning not

specifically set out herein, respondents represent directly or by implication, that:

1. Respondents would receive monthly payments from the clients, and upon receipt thereof, would promptly make payments to the creditors.

2. Respondents would contact the creditors and make agreements with them to reduce the monthly payments due to the creditor.

3. Respondents will consolidate the debt of their clients to their clients' creditors, or financially assist or arrange for financial assistance in the payment of such debts; and

4. Respondents' clients will be assured of delay, restraint or other forbearance on the part of all the creditors of said clients in effecting or attempting to effect collection of debts owed them by said clients.

5. The respondents would seek out and contact each creditor and make a bona fide effort to include each particular creditor in a debt consolidation arrangement.

PAR. 7. In truth and in fact:

1. Respondents have not promptly made payments to creditors but rather have retained the money, and despite numerous demands by clients, refuse to pay the creditors or return the money to clients.

2. In many cases the creditors have not been contacted and no attempt has been made to reduce the amount of the monthly payments.

3. In many cases respondents did not consolidate the debts of the clients to their clients' creditors, or financially assist or arrange for financial assistance in the payment of such debts. Respondents have acted solely as an agent sometimes distributing the monies of their clients as their clients may supply them this money, for which service respondents collect a fee.

4. Respondents have not been successful in obtaining delay, restraint or other forbearance on the part of the creditors of their said clients in many instances.

5. Respondents, in many cases, have neither contacted all creditors nor attempted to include them in a debt consolidation agreement.

Therefore, the statements and representations referred to in Paragraphs Five and Six were and are exaggerated, false, misleading and deceptive.

PAR. 8. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of service of the same general kind and nature as that sold by respondents.

Decision and Order

80 F.T.C.

PAR. 9. The use by respondents of the aforesaid exaggerated, false, misleading and deceptive statements and representations 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 respondents' service by reason of said erroneous and mistaken belief.

PAR. 10. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' 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.

COUNT II

The Charge Under The Truth In Lending Act

PAR. 1. to 3. As Paragraphs One to Three, inclusive, of Count II of this complaint the Commission hereby incorporates Paragraphs One to Three, inclusive, of Count I to precisely the same extent as if each and all of them were set forth in full and repeated in extenso in this count.

PAR. 4. In the ordinary course and conduct of their business as aforesaid, respondents arrange, and for some time last past regularly have arranged, 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. 5. That respondent has failed to comply with the Truth in Lending Act (15 USC § 1601 *et seq.*), and the implementing Regulation Z promulgated thereunder, specifically, by not making any disclosure required by said law, and not providing printed forms necessary in making such disclosures.

PAR. 6. That 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 New Orleans Regional Office 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 Truth in Lending Act (15 U.S.C. Section 1601 *et seq.*), and the implementing regulations being 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 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. Respondents James P. Spratt and Harry P. Scroggins are individuals, trading and doing business as Credit Arrangers, Credit Arrangers, Inc., and Credit Arrangers of Jefferson, Inc. Their principal places of business are located at 3109 Alexander Street, Shreveport, Louisiana and 2317 Veterans Highway, Kenner, 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 James P. Spratt and Harry P. Scroggins, individually, trading and doing business as Credit Arrangers, Credit Arrangers, Inc., and Credit Arrangers of Jefferson, Inc., or under any other name, and respondents' agents, representatives and employees, successors and assigns, directly or through any corporate or other device, in connection with the conduct of any business for the assisting of debtors, or any other business, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Failing to disburse promptly to creditors any money received from clients, less charges permitted by applicable law and/or contract.
2. Representing, directly or by implication, that their clients will be assured of delay, restraint or other forbearance on the part of all the creditors of said clients in effecting, or attempting to effect, collection of debts owed them by said clients, or misrepresenting, directly or by implication, their efficacy in providing for, obtaining delay, restraint or other forbearance on the part of the creditors of their clients in effecting, or attempting to effect, collection of debts owed them by said clients.
3. Representing, directly or by implication, that they will consolidate the debts of their clients to their clients' creditors, or financially assist or arrange for financial assistance in the payment of such debts; *Provided however*, That it shall be a defense in any enforcement proceeding hereunder that respondents have actually made a bona fide attempt to consolidate the debts or have financially assisted, or arranged for the financial assistance in the payment of such debts.
4. Failure to contact creditors to attempt to effect a debt consolidation agreement; and to make clear to the client orally and in writing that the creditor may not agree to any debt pooling arrangement proposed.
5. Misrepresenting in any manner the kind or character of the services they render.
6. Misrepresenting themselves to be incorporated.

It is further ordered, That respondents James P. Spratt and Harry P. Scroggins, individually, trading and doing business as Credit Arrangers, Credit Arrangers, Inc., and Credit Arrangers of Jefferson, Inc., or under any other name, 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, 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 USC 1601 *et seq.*), do forthwith cease and desist from:

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 the respondents herein shall forthwith deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of respondents' merchandise, products or services, and shall secure from each such salesman or other person a signed statement acknowledging receipt of said order.

It is further ordered, That the respondents shall notify the Commission within thirty (30) days prior to any change in this business organization such as dissolution, assignment, incorporation or sale resulting in the emergence of a successor corporation or partnership or any other change which may affect compliance obligations arising out of this 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 this order.
