

Docket C-2189. Complaint, Apr. 11, 1972—Decision, Apr. 11, 1972

Consent order requiring a New York City company selling and distributing encyclopedia, yearbooks and other publications and its six subsidiaries

Complaint

to cease violating the Truth in Lending Act by failing to disclose the annual percentage rate in its retail installment contracts, failing to use the terms amount financed, total of payments, unpaid balance of cash price, finance charge, and failing to make all other disclosures required by Regulation Z of the Act.

COMPLAINT

Pursuant to the provisions of the Truth in Lending Act and the regulations 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 Grolier Incorporated, a corporation, Americana Corporation, a corporation, Federated Credit Corp., a corporation, R. H. Hinkley Company, a corporation, Spencer International Press, Inc., a corporation, The Grolier Society, Inc., a corporation, and the Richards Company, Inc., a corporation, hereinafter referred to as respondents, having violated the provisions of said Acts and regulations, 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 Grolier Incorporated is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its offices and principal place of business located at 575 Lexington Avenue, New York, New York. Respondent Grolier, Inc., controls and furnishes the services and facilities for and condones and approves the acts and practices of the corporations hereinafter referred to below.

Respondent Americana Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 575 Lexington Avenue, New York, New York. It sells and otherwise distributes encyclopedias, yearbooks, and other publications, merchandise or services to the general public. Its volume of business has been, and is substantial. It is a wholly-owned subsidiary corporation of respondent Grolier Incorporated.

Respondent Federated Credit Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 575 Lexington Avenue, New York, New York. It collects and induces payment for the subsidiary corporations of Grolier Incorporated. Its volume of business has been, and is substantial. It is a wholly-owned subsidiary corporation of respondent Grolier Incorporated.

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Respondent R. H. Hinkley Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maine, with its principal office and place of business located at 575 Lexington Avenue, New York, New York. It sells and otherwise distributes encyclopedia, yearbooks, and other publications, merchandise or services to the general public. Its volume of business has been, and is substantial. It is a wholly-owned subsidiary corporation of respondent Grolier Incorporated.

Respondent Spencer International Press, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 575 Lexington Avenue, New York, New York. It sells and otherwise distributes encyclopedia, yearbooks and other publications, merchandise or services to the general public. Its volume of business has been, and is substantial. It is a wholly-owned subsidiary corporation of respondent Grolier Incorporated.

Respondent the Grolier Society, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 575 Lexington Avenue, New York, New York. It sells and otherwise distributes encyclopedia, yearbooks, and other publications, merchandise or services to the general public. Its volume of business has been, and is substantial. It is a wholly-owned subsidiary corporation of respondent Grolier Incorporated.

Respondent the Richards Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 635 Madison Avenue, New York, New York. It sells and otherwise distributes encyclopedia, yearbooks, and other publications, merchandise or services to the general public. Its volume of business has been, and is substantial. It is a wholly-owned subsidiary corporation of respondent Grolier Incorporated.

PAR. 2. In the conduct and course of their business, as aforesaid, respondents regularly extend and for some time last past have regularly extended consumer credit as "consumer credit" is defined by Regulation Z, the implementing regulation of the Truth in Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System. Further, in the ordinary course of their business as aforesaid, respondents cause to be published advertisements of their goods and services, as "advertisement" is defined in Regulation Z, which advertisements aid, promote, or assist directly or indirectly extensions of consumer credit in connection with the sale of these goods or services.

PAR. 3. Subsequent to July 1, 1969, respondents, in the ordinary course and conduct of their business and in connection with their credit sales, as "credit sale" is defined in Regulation Z, have caused and are causing their customers to execute retail installment contracts, hereinafter referred to as the "contract." By and through the use of the contract, respondents:

1. Fail to disclose the annual percentage rate, computed accurately to the nearest quarter of one percent in accordance with Section 226.5(b)(1) of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.

2. Fail to use the term "amount financed" to describe the sum of the "unpaid balance of cash price" and all other charges, individually itemized, which are included in the amount financed but which are not part of the finance charge, as required by Section 226.8(c)(4) of Regulation Z.

3. Fail, in some instances, to disclose the sum of the payments scheduled to repay the indebtedness, and to describe that sum as the "total of payments" as required by Section 226.8(b)(3) of Regulation Z.

4. Fail, in some instances, to identify the finance charge in the event of prepayment of the obligation, as required by Section 226.8(b)(7) of Regulation Z.

5. Fail, in some instances, to use the term "unpaid balance of cash price" to describe the difference between the cash price and the total downpayment, as required by Section 226.8(c)(3) of Regulation Z.

6. State, utilize and place additional information with disclosures required by Regulation Z in a manner which misleads or confuses the customer, and contradicts, obscures, or detracts attention from the information required by Regulation Z to be disclosed, in violation of Section 226.6(c) of Regulation Z.

7. Fail, in some instances, to make the required disclosures clearly, conspicuously, and in meaningful sequence, as required by Section 226.6(a) of Regulation Z.

PAR. 4. Subsequent to July 1, 1969, respondents, in the ordinary course and conduct of their business and in connection with their credit sales, as "credit sale" is defined in Regulation Z, have caused and are causing their customers to enter into open end credit agreements hereinafter referred to as the "agreement." By and through the use of the agreement, respondents:

1. Fail to disclose the conditions under which a finance charge may be imposed, including an explanation of the time period, if any, within which any credit extended may be paid without incurring a finance charge, as required by Section 226.7(a)(1) of Regulation Z.

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2. Fail 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.

3. Fail, in some instances, to describe by the term "finance charge" the sum of all charges required by Section 226.4 of Regulation Z to be included in the finance charge, as required by Section 226.7(a) of Regulation Z, and thereby also fail to employ this term more conspicuously than other required terminology, as required by Section 226.6(a) of Regulation Z.

PAR. 5. Subsequent to July 1, 1969, in the ordinary course and conduct of their aforesaid business, respondents have caused and are causing their customers to enter into contracts, which purport to be leases for the use of respondents' goods and services. The aforementioned lease contracts, hereinafter referred to as "the contract," when consummated, constitute credit sales as "credit sale" is defined in Section 226.2(n) of Regulation Z. On the contract, respondents fail to disclose credit cost information required by Section 226.8 of Regulation Z, in the manner and form prescribed therein, except the number, amount and due dates of the installment payments.

PAR. 6. Subsequent to July 1, 1969, in the ordinary course of their aforesaid business, respondents have caused to be published advertisements, as "advertisement" is defined in Regulation Z, which aid, promote, or assist directly or indirectly, extensions of consumer credit. Through these advertisements, respondents state the amount of a minimum monthly payment required, without also stating all of the following terms in terminology prescribed under Section 226.7(b) of Regulation Z, as required by Section 226.10(c) thereof:

1. An explanation of the time period, if any, within which any credit extended may be paid without incurring a finance charge.

2. The method of determining the balance upon which a finance charge may be imposed.

3. The method of determining the finance charge, including the determination of any minimum, fixed, check service, transaction, activity, or similar charge, which may be posed as a finance charge.

4. Where one or more periodic rates may be used to compute the finance charge, each such rate, the range of balances to which it is applicable, and the corresponding annual percentage rate determined by multiplying the periodic rate by the number of periods in a year.

5. The conditions under which any other charges may be imposed, and the method by which they will be determined.

PAR. 7. Respondents, through door-to-door salesmen and solicitors, deliver prepared sales talks to prospective purchasers and employ point of sale printed promotional aids, which prepared talks and printed promotional aids constitute advertisements, 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 respondents' goods and services. By and through the use of the advertisements, respondents state that no downpayment is required, and the amount of monthly installment payments which can be arranged in connection with a consumer credit transaction, 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) thereof:

1. The cash price;
2. The amount of the downpayment required or that no downpayment is required, as applicable;
3. The number, amount and due dates or period of payments scheduled to repay the indebtedness;
4. The amount of the finance charge expressed as an annual percentage rate, and
5. The deferred payment price.

PAR. 8. Pursuant to Section 103(q) of the Truth in Lending Act, respondents' aforesaid failure to comply with the provisions of 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 Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Truth in Lending Act, and the respondent having been served with notice of such determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; 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

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in said 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, makes the following jurisdictional findings, and enters the following order:

1. Respondent Grolier Incorporated, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 575 Lexington Avenue, New York, New York.

2. Respondent Americana Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 575 Lexington Avenue, New York, New York.

3. Respondent Federated Credit Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 575 Lexington Avenue, New York, New York.

4. Respondent R. H. Hinkley Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maine, with its office and principal place of business located at 575 Lexington Avenue, New York, New York.

5. Respondent Spencer International Press, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 575 Lexington Avenue, New York, New York.

6. Respondent the Grolier Society, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 575 Lexington Avenue, New York, New York.

7. Respondent the Richards Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 635 Madison Avenue, New York, New York.

8. 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 Grolier Incorporated, Americana Corporation, Federated Credit Corp., R. H. Hinkley Company, Spencer International Press, Inc., the Grolier Society, Inc., and the Richards Company, Inc., and their successors or assigns, officers, and respondents' representatives, employees, salesmen, agents or solicitors, directly or through any corporate or other device, in connection with any credit sale or advertisement of any textbook, encyclopedia, reference or educational material, training courses or teaching machine, or any other publication, merchandise or services, as "credit sale" and "advertisement" are defined in Regulation Z (12 C.F.R. § 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. By and through the use of the "retail installment contract:"
 - (a) Failing to disclose the annual percentage rate, computed accurately to the nearest quarter of one percent in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.
 - (b) Failing to use the term "amount financed," to describe the sum of the unpaid balance of cash price and all other charges, individually itemized, which are included in the amount financed but which are not part of the finance charge, as required by Section 226.8(c)(7) of Regulation Z.
 - (c) Failing to describe the sum of the payments scheduled to repay the indebtedness as the "total of payments," as required by Section 226.8(b)(3) of Regulation Z.
 - (d) Failing to identify the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation, as required by Section 226.8(b)(7) of Regulation Z.
 - (e) Failing to describe as the "unpaid balance of cash price" the difference between the cash price and the total downpayment as required by Section 226.8(c)(3) of Regulation Z.
 - (f) Stenciling, overprinting or rubber stamping language over the disclosures required by Regulation Z in a manner which may obscure or detract attention from the information required by Regulation Z to be disclosed.
2. By and through the use of any open end credit agreement:
 - (a) Failing to disclose any explanation of the time period, if any, within which any credit extended may be paid

without incurring a finance charge, as required by Section 226.7(a)(1) of Regulation Z.

(b) Failing to use the term "finance charge" to describe the sum of all charges required by Section 226.4 to be included in the finance charge, as required by Section 226.7(a) of Regulation Z, and failing to print the term "finance charge" more conspicuously than other required terminology, as required by Section 226.6(a) of Regulation Z.

3. Failing to disclose in any lease and rental contract or agreement that constitutes a "credit sale," as that term is defined in Section 226.2(n) of Regulation Z, all of the credit cost information required by Section 226.8 of Regulation Z, in the manner and form prescribed therein.

4. Stating in any advertisement for other than open end credit, the amount of the downpayment required, the amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for 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):

(a) The cash price;

(b) The amount of downpayment required or that no downpayment is required, as applicable;

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

(d) The amount of finance charge expressed as an annual percentage rate; and

(e) The deferred payment price.

5. Engaging in any consumer credit transaction or disseminating any advertisement within the meaning of Regulation Z of the Truth in Lending Act without making all disclosures determined in accordance with Sections 226.4 and 226.5 of Regulation Z, in the amount, manner and form specified in Sections 226.8 and 226.10 of Regulation Z.

It is further ordered, That the respondents shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That respondents herein shall notify the Commission at least thirty days prior to any proposed change in any of the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of which subsidiaries or any other change in the cor-

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poration which may affect compliance obligations arising out of this order.

It is further ordered, That the respondents shall, within sixty (60) days after the service upon it of this order, file with the Commission