

Complaint

81 F.T.C.

IN THE MATTER OF

FLORIDA STATE CONSTRUCTORS 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-2273. Complaint, August 22, 1972—Decision, August 22, 1972.

Consent order requiring a Miami, Florida, seller and distributor of home improvement products to cease violating the Truth in Lending Act by failing to disclose to customers the annual percentage rate; the total number of payments; the method of computing penalty charges and other disclosures required by Regulation Z of the 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 Florida State Constructors Service, Inc., a corporation, and Joseph Weinstock, individually and as an officer 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 Florida State Constructors Service, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its principal office and place of business located at 7541 Biscayne Boulevard, Miami, Florida.

Respondent Joseph Weinstock is an officer of the corporate respondent. He formulates, directs and controls the policy, acts and practices of the corporation, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of home improvement products to the public and in the installation thereof.

PAR. 3. In the ordinary course of their business as aforesaid, respondents regularly extend 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, in the ordinary course of their business as aforesaid, and in connection with their credit sales, as "credit sale" is defined in Regulation Z, respondents have caused and are causing their customers to enter into two separate contracts for the sale of respondents' goods and services. On both of these contracts, hereinafter referred to as "the contracts," respondents provide certain consumer credit cost information. Respondents do not provide these customers with any other consumer credit cost disclosures prior to the consummation of the "credit sale," as required by Section 226.8 (a) of Regulation Z.

By and through the use of the contracts, respondents:

1. Fail in some instances to disclose the "annual percentage rate" 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.
2. Fail in some instances to disclose accurately the number, amount and due dates or periods of payments scheduled to repay the indebtedness and the sum of such payments, as required by Section 226.8 (b) (3) of Regulation Z.
3. Fail 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.
4. Fail in some instances to disclose accurately the deferred payment price, as required by Section 226.8(c) (8) (ii) of Regulation Z.
5. Fail in some instances to identify the type of security interest held, retained, or acquired in connection with the extension of credit as required by Section 226.8(b) (5) of Regulation Z.

PAR. 5. By and through the use of the contract, as set forth in Paragraph Four, respondents retain or acquire a security interest in real property which is or is expected to be used as the principal residence of the customer. The customer thereby has the right to rescind the

Decision and Order

81 F.T.C.

transaction, as provided in Section 226.9(a) of Regulation Z. Having consummated a rescindable credit transaction, respondents:

1. Fail in some instances to provide each customer who has the right to rescind with two copies of the notice prescribed by Section 226.9(b) of Regulation Z, as required by that section.
2. Make physical changes in the property of the customer and perform work and services for the customer before the rescission period provided in Section 226.9(a) of Regulation Z has expired, in violation of Section 226.9(c) thereof.

PAR. 6. 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 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 Atlanta 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 Truth in Lending Act and the implementing regulation promulgated thereunder, and 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 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. Respondent Florida State Constructors Service, Inc., is a corporation organized existing and doing business under and by virtue of the

laws of the State of Florida. Its office and principal place of business is located at 7541 Biscayne Boulevard, Miami, Florida.

Respondent Joseph Weinstock is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of the corporate respondent including those hereinafter referred to. The address of Joseph Weinstock is the same as that of the corporate respondent.

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 Florida State Constructors Service, Inc., a corporation, its successors and assigns, and Joseph Weinstock, individually and as an officer of said corporation, and respondents' officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension of consumer credit or any advertisement to aid, promote or assist directly or indirectly and any extension of consumer credit, as "consumer credit" 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. Failing to disclose the annual percentage rate 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.

2. Failing to disclose accurately the number, amount and due dates or periods of payments scheduled to repay the indebtedness and the sum of such payments, as required by Section 226.8(b)(3) of Regulation Z.

3. 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.

4. Failing to disclose accurately the deferred payment price, as required by Section 226.8(c)(8)(ii) of Regulation Z.

5. Failing to identify the type of security interest held, retained or acquired in connection with the extension of credit as required by Section 226.8(b)(5) of Regulation Z.

6. Failing, in any transaction in which respondents 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, to provide each customer with notice of the right to rescind, in the

form and manner specified by Section 226.9(b) and Section 226.9(f) of Regulation Z.

7. Making any physical changes in a customer's property or performing any work or services on such property before expiration of the three day rescission period provided for in Section 226.9(a) of Regulation Z, in any transaction in which respondents 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, as provided in Section 226.9(c) of Regulation Z.

8. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with Section 226.4 and 226.5 of Regulation Z, at the time and in the manner, form and amount required by Sections 226.6, 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 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 which they have complied with this order.

IN THE MATTER OF

CAMPUS JUNIORS, INC., ET AL.

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

Docket C-2274. Complaint, August 25, 1972—Decision, August 25, 1972.

Consent order requiring a New York City manufacturer, seller, and distributor of wearing apparel, among other things to cease manufacturing for sale, selling, importing, or distributing any product, fabric, or related material

which fails to conform to an applicable standard of flammability or regulation issued or amended under the provisions of the Flammable Fabrics Act.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Campus Juniors, Inc., a corporation, and Frank Peller, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the rules and regulations promulgated under the Flammable Fabrics Act, as amended, 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 Campus Juniors, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Respondent Frank Peller is an officer of said corporate respondent. He formulates, directs and controls the acts, practices and policies of said corporation.

The respondents are engaged in the manufacture, sale and distribution of wearing apparel, including but not limited to misses dresses, with their principal place of business located at 498 Seventh Avenue, New York, New York.

PAR. 2. Respondents for some time past have been engaged in the manufacture for sale, the sale or offering for sale, in commerce, and have introduced, delivered for introduction, transported and caused to be transported in commerce, and have sold or delivered after sale or shipment in commerce, products, as "commerce" and "product" are defined in the Flammable Fabrics Act, as amended, which products failed to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the Flammable Fabrics Act, as amended.

Among such products mentioned hereinabove were misses dresses.

PAR. 3. The aforesaid acts and practices of respondents were and are in violation of the Flammable Fabrics Act, as amended, and the rules and regulations promulgated thereunder, and as such constituted and now constitute unfair methods of competition and unfair and deceptive acts and practices in commerce, within the intent and meaning of 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 Flammable Fabrics Act, as amended; 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 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 Campus Juniors, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondent Frank Peller is an officer of the said corporation. He formulates, directs, and controls the acts, practices, and policies of the said corporation.

Respondents are engaged in the manufacture and sale of articles of wearing apparel with their office and principal place of business located at 498 Seventh Avenue, New York, New York.

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 respondent Campus Juniors, Inc., a corporation, its successors and assigns, and its officers, and respondent Frank Peller, individually and as an officer of said corporation and respondents'

agents, representatives and employees directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling, or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to this complaint, of the flammable nature of said products and effect the recall of said products from such customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the identity of the purchasers of said products, (3) the amount of said products on hand and in the channels of commerce, (4) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (5) any disposition of said products since March 23, 1970 and (6) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or to destroy said products, and the results of such action. Such report shall further inform the Commission whether respondents have in inventory any product, fabric or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof, in a weight of two ounces or less per square yard, or having a raised fiber surface.

Complaint

81 F.T.C.

Respondents will submit samples of any such product, fabric or related material with this report. Samples of the fabric, product or related material shall be of no less than one square yard of material.

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 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 respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That 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

KEY LEARNING SYSTEMS, INC., ET AL.

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

Docket C-2275. Complaint, August 29, 1972—Decision, August 29, 1972.

Consent order requiring a Riviera Beach, Florida, franchisor of home instruction courses, among other things, to cease representing that respondents' business is connected with any branch or agency of the United States Government; misrepresenting the qualifications of respondents' personnel or staff; misrepresenting the availability of civil service jobs; misrepresenting the nature and legal characteristics of any enrollment or other contract; misrepresenting the action to be taken or the results thereof, to effect payment of alleged indebtedness; neglecting to inform prospective customers of their right to a three-day cooling-off period in which they may cancel the contract and receive all monies paid. Respondent is further required to make all disclosures to customers required by Regulation Z of the Truth in Lending Act.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and of the Truth in Lending Act and the regulation promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Key Learning Systems, Inc., Key Training Service, Inc., and Automobile-Household-Education Credit and Finance Corporation, corporations, and George