

Complaint

IN THE MATTER OF

TUFTEX, INC., ET AL.

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

Docket C-2314. Complaint, Nov. 7, 1972—Decision, Nov. 7, 1972

Consent order requiring a Dalton, Georgia, manufacturer and retailer of carpets and rugs, 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 TufTex, Inc., a corporation, and Gordon C. Leonard, individually and as an officer of the said corporation, hereinafter referred to as respondents, have violated the provisions of the 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 TufTex, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia. Respondent Gordon C. Leonard is an officer of the said corporate respondent. He formulates, directs, and controls the acts, practices, and policies of the said corporation.

Respondents are engaged in the manufacture and sale of carpets and rugs, with their principal place of business located at 107 Brooker Drive, Dalton, Georgia.

PAR. 2. Respondents are now and for some time last past have been engaged in the manufacturing for sale, sale and 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 the terms "commerce" and "product," are defined in the Flammable Fabrics Act, as amended, which products fail to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the Flammable Fabrics Act, as amended.

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Among such products mentioned hereinabove were carpets and rugs in style "Shockpruf, Color Stop Red," subject to Department of Commerce Standard for the Surface Flammability of Carpets and Rugs (DOC FF 1-70).

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 Division of Textiles and Furs 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 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 Tuftex, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia.

Respondent Gordon C. Leonard 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 carpets and rugs, with the office and principal place of business of respondents located at 107 Brooker Drive, Dalton, Georgia.

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 Tuflex, Inc., a corporation, its successors and assigns, and its officers, and respondent Gordon C. Leonard, 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 the results thereof, (5) any disposition of said products since

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March 9, 1972 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. Respondents will submit with their report, a complete description of each style of carpet or rug currently in inventory or production. Upon request, respondents will forward to the Commission for testing a sample of any such carpet or rug.

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 individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business or employment in which he is engaged as well as a description of his duties and responsibilities.

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 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

LOCAL FINANCE CORPORATION

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

Docket C-2315. Complaint, Nov. 13, 1972—Decision, Nov. 13, 1972

Consent order requiring a Providence, Rhode Island, loan company, among other things to cease violating the Truth in Lending Act by failing to disclose to customers finance charges; the fact that insurance coverage is not required by the creditor; the annual percentage rate; and any 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 Local Finance Corporation, a corporation, hereinafter sometimes referred to as respondent, has violated the provisions of said Acts and of the implementing regulation promulgated under the Truth in Lending 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 that respect as follows:

PARAGRAPH 1. Respondent Local Finance Corporation is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Rhode Island and Providence Plantations with its principal office and place of business located at 179 Wayland Avenue, Providence, Rhode Island.

Respondent Local Finance Corporation has established and operated a number of corporate subsidiaries for the purpose of engaging in the business of lending money to the public. Respondent Local Finance Corporation currently operates a substantial number of these subsidiaries which are located in the States of Rhode Island, Massachusetts, New Jersey, Pennsylvania and North Carolina. Respondent Local Finance Corporation, in the operation of certain of these subsidiaries uses various trade names, such as Provident Management Corporation, Local Consumer Discount Company and Local Acceptance Company.

Respondent Local Finance Corporation dominates, controls, furnishes the means, instrumentalities, services and facilities for, and condones and approves the acts and practices of its subsidiaries including the acts and practices hereinafter set forth. Moreover, respondent Local Finance Corporation directly or indirectly profits and benefits by and through the acts and practices hereinafter set forth.

PAR. 2. Respondent is now, and has for some time last past, through its various organizational divisions and subsidiaries, been engaged in the business of lending money to the public. Respondent Local Finance Corporation and its subsidiary organizations cooperate and act together in the carrying out of their business as hereinafter set forth. Their volume of business has been, and is, substantial.

PAR. 3. In the ordinary course and conduct of its business as aforesaid, respondent regularly extends and for some time last past has regularly extended 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, respondent, in the ordinary course and conduct of its business and in connection with its extensions of consumer credit as "consumer credit" is defined in Regulation Z, has caused and is causing customers to execute a loan agreement herein-after referred to as the "Small Loan Set" and consisting of fourteen pages, each separated by a carbon sheet. The thirteenth page of the loan set, which serves as the respondent's office copy and also as a receipt that the customer received a Statement of Disclosure, is entitled "Statement of Disclosure and Insurance Authorization."

By and through the use of the Small Loan Set respondent:

1. Failed, when the fact that insurance coverage was not required by the creditor was not clearly and conspicuously disclosed to the customer in writing, to include the amount of the charge for such insurance in the finance charge as required by Section 226.4(a)(5)(i) of Regulation Z, and thereby failed to state the finance charge accurately as required by Section 226.8(d)(3).

2. Fails to disclose to customers clearly, conspicuously in writing, and in meaningful sequence that insurance coverage is not required by the creditor, as required by Section 226.6(a) of Regulation Z.

3. Fails to furnish customers with a duplicate of the instrument containing the disclosures or a separate statement of disclosure on which all of the required disclosures are made clearly, conspicuously and legibly at the time those disclosures are made as required by Section 226.8(a) of Regulation Z.

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

PAR. 5. Pursuant to Section 103(q) of the Truth in Lending Act, respondent's aforesaid failures to comply with the provisions of Regulation Z constitute violations of the Truth in Lending Act and, pursuant to Section 108 thereof, respondent thereby violated the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereto with violation of the Federal Trade Commission Act, and the Truth in Lending Act, and the respondent having been served with notice of said determina-

tion and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent 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 considered the agreement and having provisionally 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 complaints in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Local Finance Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Rhode Island, with its office and principal place of business located at 179 Wayland Avenue, Providence, Rhode Island.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent Local Finance Corporation, a corporation, doing business as Provident Management Corporation, Local Consumer Discount Company, Local Acceptance Company or any other name, its successors and assigns, and its officers, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, affiliate, so-called Massachusetts business trust, division, or other device, in connection with any extension or arrangement for the extension of consumer credit as "consumer credit" is 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 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, unless the fact that such insurance is not required is clearly and conspicuously disclosed to the customer in writing as provided in Section 226.4(a)(5)(i).

2. Failing to disclose to customers clearly, conspicuously, in writing and in a meaningful sequence that insurance coverage is not required by the creditor, as required by Section 226.6 of Regulation Z.

3. Failing to furnish customers with a duplicate of the instrument containing the disclosures or a separate statement of disclosure on which all of the required disclosures are made clearly, conspicuously and legibly at the time those disclosures are made as required by Section 226.8(a) of Regulation Z.

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

5. Failing in any consumer credit transaction, to make all the disclosures determined in accordance with Section 226.4 and Section 226.5 of Regulation Z, in the manner, form and amount required by Sections 226.6, 226.8 and 226.10 of Regulation Z.

It is further ordered, That a copy of this order to cease and desist be delivered to all present and future personnel of respondent and its subsidiaries engaged in the consummation of any extension of consumer credit and that respondent secure from each such person a signed statement acknowledging receipt of the order.

It is further ordered, That respondent prominently display no less than two signs on the premises of each office location which will clearly and conspicuously state that a customer must receive a completed copy of the consumer credit cost disclosures, as required by the Truth in Lending Act, before the transaction is consummated.

It is further ordered, That respondent 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 creating or dissolution of subsidiaries, or any other change in the corporation which may effect compliance obligations arising out of the order.

It is further ordered, That the respondent herein shall within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Complaint

IN THE MATTER OF

DERBY CONSTRUCTION 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-2316. Complaint, Nov. 13, 1972—Decision, Nov. 13, 1972

Consent order requiring a Providence, Rhode Island, real estate company, among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the 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 Derby Construction Inc., a corporation, and Howard A. Brynes, 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 Derby Construction Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Rhode Island and Providence Plantations with its principal office and place of business located at 1359A Broad Street, Providence, Rhode Island.

Respondent Howard A. Brynes is an officer of the corporation. He formulates, directs, and controls the policies, 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 in the past have been engaged in the advertising, offering for sale, and sale of real estate to the public.

PAR. 3. In the ordinary course and conduct 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, respondents in the ordinary course and conduct of their business as aforesaid and in connection with