

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

Docket C-2325. Complaint, Nov. 30, 1972—Decision Nov. 30, 1972

Consent order requiring three Seattle, Washington, real estate agents, 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

81 F.T.C.

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 Colman & Riddell, Inc., Cape George Village, Inc., corporations, and Birch Bay Investors, a limited partnership, and Howard G. Riddell and V. Keith Colman, individually, as officers of said corporations, and as general partners in Birch Bay Investors, 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 Colman & Riddell, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Washington with its office and principal place of business located at 333 Taylor North, Suite 201, Seattle, Washington.

Cape George Village, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Washington with its office and principal place of business located at 333 Taylor North, Suite 201, Seattle, Washington.

Birch Bay Investors is a limited partnership existing and doing business in the State of Washington. Its office and principal place of business is located at 333 Taylor North, Suite 201, Seattle, Washington.

Respondents Howard G. Riddell and V. Keith Colman are officers of the corporate respondents and are the only general partners in the respondent partnership Birch Bay Investors. They jointly formulate, direct and control the policies, acts and practices of the corporate respondents and the respondent partnership, including the acts and practices hereinafter set forth. Their 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 sale to the public of parcels of land located within land developments and the advertising of same in various media.

PAR. 3. In the ordinary course of their business as aforesaid, respondents Colman & Riddell, Inc., Howard G. Riddell, and V. Keith Colman arrange and have arranged for the extension of consumer credit, as "consumer credit" and "arrange for the extension of consumer credit" are defined in Regulation Z, the implementing regula-

tion of the Truth in Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System.

In the ordinary course of their business as aforesaid, respondents Cape George Village, Inc., Birch Bay Investors, Howard G. Riddell, and V. Keith Colman regularly extend and have 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, in the ordinary course of their business as aforesaid, and in connection with credit sales, as "credit sales" is defined in Regulation Z, respondents Colman & Riddell, Inc., Howard G. Riddell, and V. Keith Colman have provided and are offering to provide consumer credit which is or will be extended by another person, as "person" is defined in Section 226.2(v) of Regulation Z, through the consummation of credit sale contracts for the sale of parcels of land. During the same period of time and in the ordinary course of their business as aforesaid, and in connection with credit sales, as "credit sale" is defined in Regulation Z, respondents Cape George Village, Inc., Birch Bay Investors, Howard G. Riddell, and V. Keith Colman have entered into and are entering into credit sale contracts for the sale of parcels of land. On the contracts referred to hereinabove in this paragraph, hereinafter referred to as "the contract," respondents have provided certain limited consumer credit cost information, but have not provided the credit buyers with substantially all of the disclosures required by Sections 226.6 and 226.8 of Regulation Z. More particularly, respondents have:

1. Failed in credit sales to disclose accurately the price at which respondents, in the regular course of business, offered to sell for cash the said parcels of land which were the subject of the credit sale and to use the term "cash price" to describe that price, as required by Section 226.8(c) (1) of Regulation Z.

2. Failed to use the term "cash downpayment" to describe the downpayment in money made in connection with the credit sale, as required by Section 226.8(c) (2) of Regulation Z.

3. Failed to disclose the difference between the "cash price" and the downpayment and to use the term "unpaid balance of cash price" to describe that amount as required by Section 226.8(c) (3) of Regulation Z.

4. Failed to disclose the amount of credit extended, and to describe that amount as the "amount financed" as required by Section 226.8(c) (7) of Regulation Z.

5. Failed to disclose the sum of all charges which are required by Section 226.4 of Regulation Z to be included in the finance charge

and to use the term "finance charge" to describe that sum, as required by Section 226.8(c)(8)(i) of Regulation Z.

6. Failed to disclose the sum of the cash price, all charges which are included in the amount financed but which are not part of the finance charge, and the finance charge, and to describe that sum as the "deferred payment price," as required by Section 226.8(c)(8)(ii) of Regulation Z.

7. Failed to disclose the "annual percentage rate," computed in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.

8. Failed to disclose the number of payments required to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.

9. Failed 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.

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 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 hereto with violation of the Truth in Lending Act and the implementing regulation promulgated thereunder, and the Federal Trade Commission Act, and the respondents having been served with notice of said 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 complaint to issue herein, 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 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 complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Colman & Riddell, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the state of Washington, with its office and principal place of business located at 333 Taylor North, Seattle, Washington.

Respondent Cape George Village, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the state of Washington, with its office and principal place of business located at 333 Taylor North, Seattle, Washington.

Respondent Birch Bay Investors is a limited partnership organized, existing and doing business under and by virtue of the laws of the state of Washington, with its office and principal place of business located at 333 Taylor North, Seattle, Washington.

Respondents Howard G. Riddell and V. Keith Colman are officers of said corporations and are general partners in the above limited partnership. They formulate, direct and control the policies, acts and practices of said corporations and the said limited partnership, and their principal office and place of business is located at the above stated address.

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, Colman & Riddell, Inc., a corporation, Cape George Village, Inc., a corporation, and their officers, and Birch Bay Investors, a limited partnership, and their successors and assigns, and Howard G. Riddell and V. Keith Colman, individually, as officers of the above corporations, and as general partners in Birch Bay Investors, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension of consumer credit, or 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 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 accurately the price at which the subject of any credit sale is offered for sale for cash in the regular course of business and to use the term "cash price" to describe that price as required by Section 226.8(c)(1) of Regulation Z.

2. Failing to use the term "cash downpayment" to describe the downpayment in money made in connection with the credit sale, as required by Section 226.8(c)(2) of Regulation Z.

3. Failing to disclose the difference between the "cash price" and the downpayment and to use the term "unpaid balance of cash price" to describe that amount as required by Section 226.8(c)(3) of Regulation Z.

4. Failing to disclose the amount of credit extended, and to describe that amount as the "amount financed" as required by Section 226.8(c)(7) of Regulation Z.

5. Failing to disclose the sum of all charges which are required by Section 226.4 of Regulation Z to be included in the finance charge and to use the term "finance charge" to describe that sum, as required by Section 226.8(c)(8)(i) of Regulation Z.

6. Failing to disclose the sum of the cash price, all charges which are included in the amount financed but which are not part of the finance charge, and the finance charge and to describe that sum as the "deferred payment price," as required by Section 226.8(c)(8)(ii) of Regulation Z.

7. Failing to disclose the "annual percentage rate," computed in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.

8. Failing to disclose the number of payments required to repay an indebtedness, as required by Section 226.8(b)(3) of Regulation Z.

9. Failing to disclose the sum of 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.

10. Failing to prominently display no less than two signs on the premises of each sales office which will clearly and conspicuously state that a customer must receive a complete copy of the consumer credit cost disclosures, as required by the Truth in Lending Act, in any transaction which is financed, before the transaction is consummated.

11. Failing in any consumer credit transaction or advertising to make all disclosures determined in accordance with Sections 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 and 226.10 of Regulation Z; and to give all notices of the right to rescind at the time and in the manner and form required by Section 226.9 of Regulation Z.

It is further ordered, That respondents deliver a copy of this order to cease and desist to each operating division and to all present and

future personnel of respondents engaged in the consummation of any extension of consumer credit, 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 respondents, 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 corporations which may affect compliance obligations arising out of the order.

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which they are engaged as well as a description of their duties and responsibilities.

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

HOWARD CARPET MILLS, INC., ET AL.