

turn the matter to formal adjudicative status. Accordingly,

It is ordered, That the matter be, and it hereby is, returned to adjudication for further proceeding under Part 3 of the Commission's Procedures and Rules of Practice.

Commissioners Dixon and MacIntyre do not concur and would have accepted the offer of settlement.

IN THE MATTER OF
JOE MARKS, TRADING AS HOME IMPROVEMENT
CENTER

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

Docket C-2351. Complaint, Feb. 7, 1973—Decision, Feb. 7, 1973.

Consent order requiring an Akron, Ohio, seller and distributor of residential aluminum siding products, 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 Joe Marks, an individual, trading and doing business as Home Improvement Center, hereinafter referred to as respondent, has 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 Joe Marks is an individual trading and doing business as Home Improvement Center, with his

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office and principal place of business located at 3290 South Main Street, Akron, Ohio.

PAR. 2. Respondent is now, and for sometime last past has been, engaged in the advertising, offering for sale, sale and distribution of residential aluminum sliding products and other home improvement products to the general public and in the installation thereof.

PAR. 3. In the ordinary course and conduct of his business as aforesaid, respondent regularly arranges for the extension of consumer credit or offers to extend or arrange for the extension of such 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 of business as aforesaid, and in connection with his credit sales, as "credit sale" is defined in Regulation Z, has caused, and is causing, customers to execute a binding order, hereinafter referred to as the "Order Contract," and one or more confession of judgment (cognovit) notes for the purchase and installation of residential aluminum siding products and other home improvements to the residence of the customer. Respondent does not provide these customers with any other consumer credit cost disclosures.

By and through the use of the order contract and cognovit note, respondent:

(1) Fails, in some instances, to disclose the "unpaid balance of cash price" to describe the difference between the cash price and the total downpayment, as prescribed by Section 226.8(c) (3) of Regulation Z.

(2) Fails, in some instances, to disclose the "amount financed" to describe the amount of credit extended, as prescribed by Section 226.8(c) (7) of Regulation Z.

(3) Fails, in some instances, to disclose the "finance charge" to describe the sum of all charges required

(5) Fails, in some instances, to disclose the annual percentage rate, computed in accordance with Section 226.5 of Regulation Z, as prescribed by Section 226.8(b) (2) of Regulation Z.

(6) Fails, in some instances, to disclose the number, amount, and due dates or periods of payments scheduled to repay the indebtedness, as prescribed by Section 226.8(b) (3) of Regulation Z.

(7) Fails to rescribe the type of any security interest held or to be retained or acquired by the creditor in connection with the extension of credit, as prescribed by Section 226.8(b) (5) of Regulation Z.

PAR. 5. By the aforesaid failure to make disclosures, respondent has failed to comply with the requirements of Regulation Z, the implementing regulation of the Truth in Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System. Pursuant to Section 103(q) of the Truth in Lending Act, respondent's aforesaid failure to comply with Regulation Z constitutes violations of that Act and, pursuant to Section 108 thereof, respondent has 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 respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Cleveland Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; 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 aforesaid draft of complaint, 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

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 Joe Marks is an individual trading and doing business as Home Improvement Center, with his office and place of business located at 3290 South Main Street, Akron, Ohio. Respondent is now, and for sometime last past has been, engaged in the advertising, offering for sale, sale and distribution of residential aluminum siding products and other home improvement products to the general public and in the installation thereof.

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 Joe Marks, an individual trading and doing business as Home Improvement Center, or any other name or names, his successors and assigns, and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with any extension or offer to extend or arrange for the extension of consumer credit, as "consumer credit" is defined in Regulation Z (12 C.F.R. Section 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 "unpaid balance of cash price" to describe the difference between the cash price and the total downpayment, as prescribed by Section 226.8(c) (3) of Regulation Z.

(2) Failing to disclose the "amount financed" to describe the amount of credit extended, as prescribed by Section 226.8(c) (7) of Regulation Z.</

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 prescribed by Section 226.8(c)(8)(ii) of Regulation Z.

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

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

(7) Failing to describe the type of any security interest held or to be retained or acquired by the creditor in connection with the extension of credit, as prescribed by Section 226.8(b)(5) of Regulation Z.

(8) Failing, in any consumer credit transaction or advertisement, to make all disclosures determined in accordance with Section 226.4 and Section 226.5 of Regulation Z, in the manner, form, and amount required by Section 226.6, Section 226.7, Section 226.8, Section 226.9, and Section 226.10 of Regulation Z.

It is further ordered, That respondent deliver a copy of this order to cease and desist to all present and future personnel of respondent engaged in the consummation of any extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, and that respondent secure a signed statement acknowledging receipt of said order from each such person.

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.

