

with distribute a copy of this order to each of its operating divisions.

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 the order to cease and desist contained herein.

IN THE MATTER OF

EXCEL FINANCE BARONNE, INC., ET AL.

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

Docket C-2393. Complaint, April 27, 1973—Decision April 27, 1973.

Consent order requiring a New Orleans, Louisiana, finance company engaged in the business of lending money to the public and purchasing consumer credit sales contracts arranged by others, 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 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 Excel Finance Baronne, Inc., a corporation; Excel Baronne Discount, Inc., a corporation; Excel Finance Mid-City, Inc., a corporation; Ideal Mortgage Corporation, a corporation; X-L Finance Company, Inc., a corporation; and A. J. Gumina, individually and as an officer of said corporations, hereinafter sometimes referred to as respondents, have violated the provisions of said Acts and implementing 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, Excel Finance Baronne, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at 312 Baronne Street, New Orleans, Louisiana.

Respondent, Excel Baronne Discount, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at 312 Baronne Street, New Orleans, Louisiana.

Respondent, Excel Finance Mid-City, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at 4123 Bienville Street, New Orleans, Louisiana.

Respondent, Ideal Mortgage Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at 4123 Bienville Street, New Orleans, Louisiana.

Respondent, X-L Finance Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at 101 West Main Street, Houma, Louisiana.

Respondent, A. J. Gumina, is an individual and an officer of said corporations. He formulates, directs and controls the policies, acts and practices of said corporations, including the acts and practices hereinafter set forth. His address is Room 200, 838 Gravier Street, New Orleans, Louisiana.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the business of lending money to the public and purchasing consumer credit sales contracts arranged by others.

PAR. 3. In the ordinary course and conduct of their business as aforesaid, respondents regularly extend consumer credit, as "consumer credit" is defined in Section 226.2 of 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 connection with their extensions of consumer credit, have provided customers with consumer credit cost disclosure statements which:

1. Fail 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 required by Section 226.8(b)(5) of Regulation Z.

2. Fail to use the term "cash price" as defined in Section 226.2(i), in a credit sale transaction to describe the purchase price of the item, as required by Section 226.8(c)(1) of Regulation Z.

PAR. 5. Subsequent to July 1, 1969, respondents in connection with their extension of consumer credit in transactions in which a security interest is acquired in real property which is used as the principal residence of the customer, and where the customer thereby has the right to rescind the transaction as provided by Section 226.9 of Regulation Z:

1. Failed, in some instances, to provide each customer as defined in Section 226.2(o) and 226.9(f) of Regulation Z with two copies of notice of right to rescind in the form required by Section 226.9(b).

2. Failed, in some instances, to provide each customer as defined in Section 226.2(o) and Section 226.9(b) of Regulation Z with the disclosures required under Section 226.8 of Regulation Z.

PAR. 6. By and through the acts and practices set forth above, respondents 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 Act, such failure to comply constitutes a violation of the Truth in Lending Act and, pursuant to Section 108 thereof, respondents have 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 New Orleans Office 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 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 Act, 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, Excel Finance Baronne, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at 312 Baronne Street, New Orleans, Louisiana.

Respondent, Excel Baronne Discount, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at 312 Baronne Street, New Orleans, Louisiana.

Respondent, Excel Finance Mid-City, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at 4123 Bienville Street, New Orleans, Louisiana.

Respondent, Ideal Mortgage Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at 4123 Bienville Street, New Orleans, Louisiana.

Respondent, X-L Finance Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at 101 West Main Street, Houma, Louisiana.

Respondent, A. J. Gumina, is an individual and an officer of said corporations. He formulates, directs and controls the policies, acts and practices of said corporations, including the acts and practices hereinafter set forth. His address is Room 200, 838 Gravier Street, New Orleans, Louisiana.

2. The Federal Trade Commission has jurisdiction of the sub-

ject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Excel Finance Baronne, Inc., a corporation; Excel Baronne Discount, Inc., a corporation; Excel Finance Mid-City, Inc., a corporation; Ideal Mortgage Corporation, a corporation; X-L Finance Company, Inc., a corporation, and respondent A. J. Gumina, individually and as an officer of respondent corporations, and their successors and assigns and respondents' officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with 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 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 required by Section 226.8(b)(5) of Regulation Z.

2. Failing to use the term "cash price," as defined in Section 226.2(i), to describe the purchase price of the merchandise in a credit sale transaction, as required by Section 226.8(c)(1) of Regulation Z.

3. Failing in any transaction 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, including any transaction required by Section 226.8(j) of Regulation Z to be treated as a new transaction, to

- (a) provide each customer, as defined in Section 226.2(o) and 226.9(f) of Regulation Z who has the right provided by Section 226.9 of Regulation Z to rescind the transaction with two copies of notice of right to rescind in the form required by Section 226.9(b) of Regulation Z, which notice shall identify the transaction to which the right to rescind relates as required by Section 226.9(b) of Regulation Z prior to the consummation of the transactions.

- (b) provide each customer, who has the right provided by Section 226.9(a) of Regulation Z to rescind the transaction with a copy of all disclosures required by Section 226.8 thereof, as required by Section 226.6(e) of Regulation Z prior to the consummation of the transaction.

4. 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, at the time and in the manner, form and amount required by Sections 226.6, 226.7, 226.8, 226.9 and 226.10 of Regulation Z.

It is further ordered, That respondents shall prominently display no less than two signs on each premise or place at which they do business, 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.

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 respondents' business such as dissolution, assignment or sale resulting in the emergence of a successor business, corporation, or otherwise, the creation of subsidiaries, or any other change which may affect compliance obligations arising out of this order.

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 nature and form of their compliance with this order.

Opinion

IN THE MATTER OF
NATIONAL DYNAMICS CORPORATION, ET AL.

Docket 8803. Opinion and Order, May 1, 1973.

Opinion and order denying respondents' motion for reconsideration of Paragraph 4 (prohibition pertaining to claim of laboratory testing and results thereof) of the Commission's order issued February 16, 1973, or for reopening of the proceeding and modification of Paragraph 4 of the order, and for a stay of the effective date of the said order.

OPINION OF THE COMMISSION

By motion filed April 6, 1973, respondents request reconsideration or, in the alternative, reopening of this proceeding for the purpose of modifying Paragraph 4 of the Commission's order issued February 16, 1973.* Respondents further petition for a stay of the effective date of the order pending the disposition of this motion.

Specifically, the challenged order provision prohibits respondents from representing directly or by implication that:

any independent laboratory has tested any product or that any laboratory test substantiates or supports performance claims in said advertisement unless each performance claim in said advertisement has been substantiated by a competent scientific test conducted by said laboratory or laboratories and unless such laboratory or laboratories have supplied Respondents with a written report which describes in detail the entire test performed including, but not limited to, the product tested, instruments used, test procedures, data, and results of such tests.

In its complaint, the Commission charged respondents with falsely claiming that battery additive VX-6 had been fully

*See p. 488 herein.