

OF THE TRUTH IN LENDING AND FEDERAL TRADE COMMISSION
ACTS

Docket C-2426. Complaint, July 25, 1973—Decision, July 25, 1973.

Consent order requiring a Los Angeles, California seller and distributor of furniture, 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.

Appearances

For the Commission: *K. H. Cirlin.*

For the respondents: *Morris Kastle*, Los Angeles, California.

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 Hall's Furniture Company, Inc., a corporation, and Harry Heller, 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 Hall's Furniture Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 5760 Crenshaw Boulevard, Los Angeles, California.

Respondent Harry Heller is an officer of the corporate respondent. 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 last past have been, engaged in the offering for sale, sale and distribution of furniture and other merchandise 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 of business as aforesaid, and in connection with their credit sales, as "credit sale" is defined in Regulation Z, have caused and are causing customers to execute a binding "Retail Installment Contract and Security Agreements," "Security Agreements and Federal Disclosure," and "Supplemental Security

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Agreements and Memorandum of Add-on Sale and Federal Disclosure," hereinafter referred to as Security Agreements." Respondents do not provide these customers with any other credit cost disclosures.

By and through the use of the security agreements, respondents:

1. Fail in some instances 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.

2. Fail in some instances to disclose the number of payments scheduled to repay the indebtedness, as required by Section 226.8(b) (3) of Regulation Z.

3. Fail in some instances to include in the finance charge charges or premiums for credit life, accident, health, or loss of income insurance, written in connection with credit transactions when the customer has not given a specific dated and separately signed affirmative written indication of his desire for such coverage as prescribed by Section 226.4(a) (5) (ii) of Regulation Z.

4. Fail in some instances to furnish the customer with a duplicate copy of the instrument containing the disclosures required by Section 226.8 or a statement by which the required disclosures are made at the time those disclosures are made, as prescribed by Section 226.8(a) of Regulation Z.

PAR. 5. By and through the acts and practices set forth above, respondents fail 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 Los Angeles 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 Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admis-

sion 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 Hall's Furniture Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 5760 Crenshaw Boulevard, Los Angeles, California.

Respondent Harry Heller is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation, and his 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 Hall's Furniture Company, Inc., a corporation, its successors and assigns, and its officers, and Harry Heller, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with any 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 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.

2. Failing to disclose the number of payments scheduled

to repay the indebtedness, as required by Section 226.8(b) (3) of Regulation Z.

3. Failing to include in the finance charge any charges or premiums for credit life, accident health or loss of income insurance when the customer has not given a specific dated and separately signed affirmative written indication of such desire after receiving written disclosure to him of the cost of such insurance as prescribed by Section 226.4(a) (5) (ii) of Regulation Z.

4. Failing to furnish the customer with a duplicate of the instrument containing the disclosures required by Section 226.8 or a statement by which the required disclosures are made at the time those disclosures are made, as prescribed by Section 226.8(a) of Regulation Z.

5. Failing in any consumer credit transaction 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, 226.7, and 226.8 of Regulation Z.

It is further ordered, That respondents prominently display no less than two signs on each of its premises which will clearly and conspicuously state that a customer must receive a complete copy of the consumer credit cost disclosures as required by the Trust 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 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 for each person.

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 effect compliance obligations arising out of the order.

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
WARNER-LAMBERT COMPANY

Docket 8850. Interlocutory Order, July 26, 1973.

Order directing complaint counsel to file supplemental brief in connection with interlocutory appeal regarding disclosure of certain government records; and granting respondent permission to file answering brief.

Appearances

For the Commission: *P. R. Teetor, R. Jacobs, D. A. Lofty, and T. P. Athridge.*

For the respondent: *Mudge, Rose, Guthrie & Alexander, New York, New York, Bergson, Borkland, Margolis & Adler, Washington, D. C.*

ORDER DIRECTING FURTHER BRIEFING

This matter is before the Commission upon petition of complaint counsel filed June 22, 1973, that the Commission entertain an interlocutory appeal from a ruling of the administrative law judge regarding disclosure of certain Government records. Respondent has filed an answer opposing the petition.

In order to aid further the Commission's consideration in this matter,

It is ordered, That a further supplemental brief be filed by complaint counsel directed to the following questions:

1. To what extent, if any, has complaint counsel actually used, or planned to use, the "Alphabetical List of IND Generics" print-out in preparing evidence or testimony in its case-in-chief? This information should be put in affidavit form.

2. On the question whether a firm or group of firms should be considered potential entrants into an alleged submarket because of research activity or interest, why should not the Commission, in the interest of keeping the scope of the record within reasonable bounds and confined to evidence clearly probative, grant the appeal and limit both parties' evidence and discovery to research activity that has at least reached the stage of the filing of a New Drug Application with the Food and Drug Administration?

Complaint counsel's brief shall be filed within ten (10) days of this order. Respondent may file an answering brief within ten (10) days of receipt of complaint counsel's brief.