

Complaint

IN THE MATTER OF
AMERICAN THRIFT AND FINANCE PLAN, 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-2465. Complaint, Oct. 12, 1973—Decision, Oct. 12, 1973.

Consent order requiring two New Orleans, La., money lenders, 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: *Joseph Hickman.*

For the respondents: *Patrick D. Breeden, Russell & DeRussy,*
New Orleans, La.

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 American Thrift and Finance Plan, Inc., a corporation, and State Farm Acceptance, a 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. Respondents American Thrift and Finance Plan, Inc., and State Farm Acceptance are corporations organized, existing and doing business under and by virtue of the laws of the State of Louisiana with their principal office and place of business located at 4039 Touro Street, in the city of New Orleans, State of La.

The aforementioned respondents cooperate and act together in carrying out the acts and practices herein set forth.

PAR. 2. Respondents are now and for some time last past have been, engaged in the business of lending money to the public.

PAR. 3. In the ordinary course and conduct of their business as aforesaid, respondents regularly extend and for some time last past have regularly extended consumer credit as "consumer

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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 their business as aforesaid, have caused and are causing to be extended consumer credit as "consumer credit" is defined in Regulation Z, and have caused and are causing consumers to execute binding small loan and discount loan agreements, herein-after referred to as "loan disclosures." Respondents do not provide these consumers with any other consumer credit cost disclosures.

By and through use of loan disclosures, respondents:

(1) Fail to furnish the consumer with a duplicate of the instrument containing the disclosures or a statement by which the required disclosures are made, as required by Section 226.8 of Regulation Z.

(2) Fail to include the charges for credit life insurance in the finance charge when a specifically dated and separately signed affirmative written indication of the consumer's desire for such insurance has not been obtained as required by Section 226.4(a) 5 of Regulation Z.

(3) Fail to disclose the annual percentage rate, computed in accordance with Section 226.5 and Section 226.8(b) (2) of Regulation Z.

(4) Fail to disclose the dollar amount of the finance charge, charged in connection with the extension of credit, as required by Section 226.8(d) (3) of Regulation Z.

(5) Fail to disclose the correct 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 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 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 Dallas Regional Office proposed to present to the Commission for its consid-

eration and which, if issued by the Commission would charge respondents with violation of the Federal Trade Commission Act, and the Truth in Lending Act and the implementing regulation promulgated thereunder; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all 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 American Thrift and Finance Plan, Inc., and State Farm Acceptance are corporations organized, existing and doing business under and by virtue of the laws of the State of La., with their office and principal place of business located at 4039 Touro Street, city of New Orleans, State of La.

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, American Thrift and Finance Plan, Inc., a corporation and State Farm Acceptance, a corporation, their successors and assigns and their officers, agents, representatives and employees, directly or through any corporate or other device, in connection with any extension or arrangement for the extension of consumer credit or offer to extend or arrange 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. 90-312, 15 U.S.C. 1601 *et seq.*) do forthwith cease and desist from:

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

2. Failing, in any credit transaction, to include and to itemize the amount of premiums for credit life as part of the finance charge, unless the amount of such premiums is excluded from the finance charge because of appropriate exercise of the option available pursuant to Section 226.4(a)(5) of Regulation Z.

3. 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.

4. Failing to disclose the finance charge determined in accordance with Section 226.4 of Regulation Z as prescribed by Section 226.8 (c) (8) (i) of Regulation Z.

5. Failing to disclose accurately the correct total of payments, in accordance with Section 226.6 (a) of Regulation Z, as prescribed by Section 226.8 (b) (3) of Regulation Z.

6. Failing in any consumer credit transaction in which the charges for credit life insurance and/or credit disability insurance are not included in the finance charge, to provide the following statements which shall be read to the consumer before consummation of any consumer loan transactions:

Credit Life Insurance and/or Credit Disability Insurance IS NOT REQUIRED to obtain this loan. No charge is made and no insurance is provided unless the borrower signs the appropriate statement(s) below.
cost of Credit Life Insurance is \$_____. Cost of Credit Disability Insurance is \$_____.

In conjunction with the above statements in conspicuous print the following statement, dated and signed by the consumer and initialled by respondents' employees:

I ACKNOWLEDGE BY MY SIGNATURE BELOW THAT THE ABOVE INSURANCE STATEMENT WAS READ BEFORE SIGNING.

Initial

Date

Signature

7. Failing to place the following separate statements on the loan disclosure to be dated and signed by the consumer:

I DO NOT DESIRE CREDIT LIFE OR DISABILITY INSURANCE

Date

Signature

I DESIRE CREDIT LIFE INSURANCE

Date

Signature

I DESIRE CREDIT DISABILITY INSURANCE

Date

Signature

8. 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, 226.7, 226.8, 226.9 and 226.10 of Regulation Z.

It is further ordered, That respondents' corporation 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, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That respondents' corporation 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 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 respondents' corporation 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 provisions of this order.

IN THE MATTER OF

HOWELL LIQUIDATING COMPANY, INC.

TRADING AS

HOWELL'S DISCOUNT FURNITURE, ET AL.

CONSENT ORDER, ETC. IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket C-2466. Complaint, Oct. 12, 1973—Decision, Oct. 12, 1973.

Consent order requiring two furniture stores located in Beaumont and Port Arthur, Tex., among other things to cease misrepresenting the amount of savings accorded customers who purchase respondents' merchandise;