

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

Docket C-2475. Complaint, Nov. 12, 1973—Decision, Nov. 12, 1973

Consent order requiring a Rockville, Md., retailer 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: *Bernard Rowitz.*

For the respondent: *Francis X. Quinn*, Rockville, Md.

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

P. J. Nee Company, a corporation, hereinafter sometimes referred to as respondent, has violated the provisions of said Acts, 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 P. J. Nee Company, is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey with its principal office and place of business located at 1800 Rockville Pike, Rockville Md.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the offering for sale and retail sale and distribution of furniture to the public.

PAR. 3. In the ordinary course and conduct of their business as aforesaid, respondent regularly extends 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, respondent, in the ordinary course of their 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 retail installment contracts, hereinafter referred to as "the Contract." By and through the use of the contract respondent:

1. 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.

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

3. Failed to use the term "amount financed" to describe the amount of credit extended, as required by Section 226.8(c) (7) of Regulation Z.

4. Failed to disclose the term "finance charge" more conspicuously than other terminology, as required by Section 226.6(a) of Regulation Z.

5. Failed to employ the term "annual percentage rate," as required by Section 226.6(a) 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 use the term "total of payments" to describe the sum of the payments scheduled to repay the indebtedness, as required by Section 226.8(b) (3) of Regulation Z.

8. Failed to disclose the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation, as required by Section 226.8(b) (7), of Regulation Z.

9. Failed to make all the required disclosures in one of the following three ways, in accordance with Section 226.8(a) of Regulation Z:

(a) Together on the contract evidencing the same side of the page and above or adjacent to the place for the customer's signature; or

(b) On one side of a separate statement which identifies the transaction; or

(c) On both sides of a single document containing on each side thereof the statement "Notice: See other side for important information," with the place for the customer's signature following the full content of the document.

10. Failed in some instances to disclose the annual percentage rate accurately to the nearest quarter of one percent, in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(b) (2) of Regulation Z.

PAR. 5. Pursuant to Section 103(q) of the Truth in Lending Act, respondent's aforesaid failures to comply with the provisions of the 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 Washington, D.C. 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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has 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 P. J. Nee Company, is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 1800 Rockville Pike, city of Rockville, State of Maryland.

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 P. J. Nee Company, a corporation, its successors and assigns, and respondent's officers, 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 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.

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

3. Failing to use the term "amount financed" to describe the amount of credit extended, as required by Section 226.8(c) (7) of Regulation Z.

4. Failing to disclose the term "finance charge" more conspicuously than other terminology, as required by Section 226.6(a) of Regulation Z.

5. Failing to employ the term "annual percentage rate," as required by Section 226.6(a) 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 use the term "total of payments" to describe the sum of the payments scheduled to repay the indebtedness, as required by Section 226.8(b) (3) of Regulation Z.

8. Failing to disclose the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation, as required by Section 226.8(b) (7), of Regulation Z.

9. Failing to make all the required disclosures in one of the following three ways, in accordance with Section 226.8(a) of Regulation Z.

(a) Together on the contract evidencing the same side of the page and above or adjacent to the place for the customer's signature; or

(b) On one side of a separate statement which identifies the transaction; or

(c) On both sides of a single document containing on each side thereof the statement "Notice: See other side for important information," with the place for the customer's signature following the full content of the document.

10. Failing to disclose the annual percentage rate accurately to the nearest quarter of one percent, in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(b) (2) of Regulation Z.

11. Failing, in any consumer credit transaction or advertisement, to make all disclosures determined in accordance with Sections 226.4 and 226.5 of Regulation Z, in the manner, form and amount required by Sections 226.6, 226.8, and 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 computation, preparation or execution of consumer credit documents 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 respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

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 affect 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

1068

FEDERAL TRADE COMMISSION DECISIONS

Complaint

83 F.T.C.