

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

Docket C-2489. Complaint, Feb. 11, 1974—Decision, Feb. 11, 1974

Consent order requiring a Flint, Mich., seller of mattresses and other household 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: *Jeffrey P. Albert.*

For the respondents: *Pro se.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and the Truth in Lending Act and the implementing regulation promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Peerless Mattress & Furniture Company, a partnership, and Charles E. Pemberton, LaRue I. Pemberton, James A. Pemberton, Lenore R. Winacoff, Sheila F. Bloom, and Ilene M. Isaacs, individually and as partners in said partnership, and Virgil A. Sellers, individually and as an employee of said partnership, hereinafter sometimes 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 Peerless Mattress & Furniture Company is a partnership organized, existing and doing business under and by virtue of the laws of the State of Michigan, with its principal office and place of business located at 816 South Saginaw Street, Flint, Mich.

Respondents Charles E. Pemberton, LaRue I. Pemberton, James A. Pemberton, Lenore R. Winacoff, Sheila F. Bloom, and Ilene M. Isaacs are individuals and are partners in the partnership respondent, and respondent Virgil A. Sellers is an individual and is the general manager of the partnership respondent. They formulate, direct and control the acts and practices of the partnership respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the partnership respondent.

PAR. 2. Respondents are now, and for some time have been, engaged in the offering for sale and the sale of mattresses and other household furniture to the public at retail.

PAR. 3. In the ordinary course and conduct of their business as aforesaid, respondents offer to extend and 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 their business as aforesaid and in connection with their credit sales, as "credit sale" is defined in Regulation Z, have caused, and are causing, their customers to enter into contracts for the purchase of respondents' goods and services, hereinafter referred to as "the contract," which contain certain consumer credit cost disclosures. Respondents make no consumer credit cost disclosures other than on the contract.

By and through the use of the contract, respondents:

1. Fail to furnish customers with a duplicate of the contract or instrument, or a statement by which the required disclosures are made and on which the creditor is identified, as prescribed by Section 226.8(a) of Regulation Z.

2. Fail to make all of the disclosures together on either the note or other instrument evidencing the obligation on the same side of the page and above or adjacent to the place for the customer's signature, or on one side of a separate statement which identifies the transaction, as prescribed by Section 226.8(a) of Regulation Z.

3. Fail 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.

4. Fail to use the term "total of payments" to describe the sum of the payments scheduled to repay the indebtedness, as prescribed by Section 226.8(b) (3) of Regulation Z.

5. 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 prescribed by Section 226.8(b) (5) of Regulation Z.

6. Fail to use the term "cash price," as defined in Section 226.2(i) of Regulation Z, to describe the purchase price of the merchandise, as prescribed by Section 226.8(c) (1) of Regulation Z.

7. Fail to use the term "cash downpayment" to describe the downpayment in money made in connection with the credit sale, as prescribed by Section 226.8(c) (2) of Regulation Z.

8. Fail to use the term "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.

9. Fail to use the term "amount financed" to describe the amount of credit extended, as prescribed by Section 226.8(c) (7) of Regulation Z.

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

PAR. 5. Subsequent to July 1, 1969, in the ordinary course and conduct of their business as aforesaid, respondents have caused to be published, advertisements for their goods and services, as "advertisement" is defined in Regulation Z, which advertisements aid, promote or assist, directly or indirectly, the extension of consumer credit. By and through the use of these advertisements, respondents state that there is no charge for credit without also stating, in terminology prescribed under Section 226.8 of Regulation Z, all of the following terms, as required by Section 226.10(d) (2) of Regulation Z:

(i) The cash price, or the amount of the loan, as applicable, as prescribed by Section 226.10(d)(2)(i) of Regulation Z.

(ii) The amount of the downpayment required, or that no downpayment is required, as applicable, as prescribed by Section 226.10(d)(2)(ii) of Regulation Z.

(iii) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended, as prescribed by Section 226.10(d)(2)(iii) of Regulation Z.

(iv) The deferred payment price, or the sum of the payments, as applicable, as prescribed by Section 226.10(d)(2)(v) of Regulation Z.

PAR. 6. Pursuant to Section 103(q) of the Truth in Lending Act, respondents' aforesaid failure to comply with Regulation Z constitutes violation 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 Cleveland 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 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 Peerless Mattress & Furniture Company is a partnership organized, existing and doing business under and by virtue of the laws of the State of Michigan, with its principal office and place of business located at 816 South Saginaw Street, Flint, Mich.

Respondents Charles E. Pemberton, LaRue I. Pemberton, James A. Pemberton, Lenore R. Winacoff, Sheila F. Bloom, and Ilene M. Isaacs are partners in said partnership, and respondent Virgil A. Sellers is the General Manager of said partnership. They formulate, direct and control the policies, acts and practices of said partnership, and their 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 Peerless Mattress & Furniture Company, a partnership, and Charles E. Pemberton, LaRue I. Pemberton, James A. Pemberton, Lenore R. Winacoff, Sheila F. Bloom, and Ilene M. Isaacs, individually and as co-partners trading and doing business as Peerless Mattress & Furniture Company, or under any name or names, and Virgil A. Sellers, individually and as an employee of said partnership, their successors and assigns, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension or arrangement for the extension of consumer credit, or any 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. Section 226) of the Truth in Lending Act (Pub.L. No. 90-321, 15 U.S.C. 1601, *et seq.*), do forthwith cease and desist from:

1. Failing to furnish customers with a duplicate of the contract or instrument, or a statement by which the required disclosures are

made and on which the creditor is identified, as prescribed by Section 226.8(a) of Regulation Z.

2. Failing to make all of the disclosures together on either the note or other instrument evidencing the obligation on the same side of the page and above or adjacent to the place for the customer's signature, or on one side of a separate statement which identifies the transaction, as prescribed by Section 226.8(a) of Regulation Z.

3. 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.

4. Failing to use the term "total of payments" to describe the sum of the payments scheduled to repay the indebtedness, as prescribed by Section 226.8(b)(3) of Regulation Z.

5. 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.

6. Failing to use the term "cash price," as defined in Section 226.2(i) of Regulation Z, to describe the purchase price of the merchandise, as prescribed by Section 226.8(c)(1) of Regulation Z.

7. Failing to use the term "cash downpayment" to describe the downpayment in money made in connection with the credit sale, as prescribed by Section 226.8(c)(2) of Regulation Z.

8. Failing to use the term "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.

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

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

11. Failing to state in advertising the amount of the downpayment required, or that no downpayment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, without stating all of the following in the terminology prescribed under Section 226.8 of Regulation Z, as prescribed by Section 226.10(d)(2) of Regulation Z:

(i) The cash price, or the amount of the loan, as applicable, as prescribed by Section 226.10(d)(2)(i) of Regulation Z.

(ii) The amount of the downpayment required, or that no downpayment is required, as applicable, as prescribed by Section 226.10(d)(2)(ii) of Regulation Z.

(iii) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended, as prescribed by Section 226.10(d)(2)(iii) of Regulation Z.

(iv) The deferred payment price, or the sum of the payments, as applicable, as prescribed by Section 226.10(d)(2)(v) of Regulation Z.

12. 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 prescribed by Sections 226.6, 226.7, 226.8, 226.9, and 226.10 of Regulation Z.

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 the partnership respondent, such as dissolution, assignment or sale, resultant in the emergence of a successor partnership, or any other change in the partnership which may affect compliance obligations arising out of the order.

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business or employment in which they are engaged, as well as a description of their duties and responsibilities.

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 manner and form in which they have complied with this order.

IN THE MATTER OF

REDI-BREW CORPORATION, ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION

OF THE FEDERAL TRADE COMMISSION ACT

Docket C-2490. Complaint, Feb. 12, 1974—Decision, Feb. 12, 1974

Consent order requiring a San Mateo, Calif., franchisor of hot-drink vending machines, among other things to cease misrepresenting the nature, character, performance or efficacy of its vending machines; misrepresenting offers as being restricted or limited to certain individuals with specific qualifications; misrepresenting respondent's affiliation with the Coca-Cola Company; misrepresenting the nature or extent of its services and misrepresenting its business activities. Further, respondent is required to inform prospective customers of their right to a three-day cooling-off period during which they may cancel any contract as set out in the order; and maintain files for a two-year period of all inquiries or complaints on contracts entered into by respondent relating to acts or practices prohibited by this order.

Appearances

For the Commission: *John M. Porter.*

For the respondents: *Robinson & Leland*, San Francisco, Calif.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Redi-Brew Corporation, a corporation, and Morgan Montague, individually and as an officer of said corporation, hereinafter sometimes referred to as respondents, have violated the provisions of said Act, 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 Redi-Brew Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of California. The respondent corporation maintains its office and principal place of business at 1001 Howard Avenue, San Mateo, Calif.

Respondent Morgan Montague is an officer of the corporate respondent. He formulates, directs and controls the policies, acts and practices of the corporate respondent including those hereinafter referred to. His address is 1001 Howard Avenue, San Mateo, Calif.

PAR. 2. Respondents are now, and for some time last past have been engaged in the advertising, offering for sale, sale and distribution of hot drink vending machines and merchandise sold in vending machines to distributors and potential distributors. Said distributors purchase respondents' vending machines under a distribution agreement whereby respondents agree to locate vending machines in areas of high potential customer concentration and perform various other acts helpful to dis-