

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

Docket C-2510. Complaint, Apr. 5, 1974—Decision, Apr. 5, 1974

Consent order requiring a Buena Park, Calif., seller of townhouses and condominiums, 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: *Bertrand E. Christian.*

For the respondent: *Pro se.*

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 M. B. Johnson Development Co., a corporation, hereinafter referred to as respondent, has 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 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 8521 Whitaker Street, Buena Park, Calif.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the advertising, offering for sale and sale of townhouses and condominiums to the general public.

PAR. 3. In the ordinary course and conduct of its business as aforesaid, respondent regularly arranges for the extension of consumer credit or offers to extend or arrange for the extension of such credit, as "arrange for the extension of credit" and "consumer credit" are 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, respondent, in the ordinary course of business as aforesaid, has caused, and is causing, to be published, advertisements, as "advertisement" is defined in Section 226.2 of Regulation Z, which advertisements aid, promote, or assist, directly or indirectly, the extension of other than open end credit.

PAR. 5. Respondent, in certain of these advertisements has stated, and is stating, the amount of the downpayment required, that no downpayment is required or that the downpayment is a certain percentage of the stated sales price without also stating all of the following items, in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d) (2) thereof:

- (a) The cash price;
- (b) The amount of the downpayment required or that no downpayment is required, as applicable;
- (c) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended; and
- (d) The amount of the finance charge expressed as an annual percentage rate.

PAR. 6. Respondent, in certain other of these advertisements, has stated, and is stating, the above required disclosures, but is not printing, as prescribed by Section 226.6 (a) of Regulation Z the term "annual

percentage rate" more conspicuously than other terminology required to be printed by Section 226.10 (d) (2) of Regulation Z.

PAR. 7. Respondent, in certain of these advertisements, has stated, and is stating, the rate of a finance charge, as "finance charge" is defined in Section 226.2 of Regulation Z, and has not expressed said rate as an annual percentage rate, using the term "annual percentage rate," as "annual percentage rate" is defined in Section 226.2 of Regulation Z, in violation of Section 226.10 (d) (1) of Regulation Z.

PAR. 8. Pursuant to Section 103 (q) of the Truth in Lending Act, respondent's aforesaid failures to comply with the provisions of Regulation Z constitute 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 Los Angeles 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 Truth in Lending Act and the implementing regulation promulgated thereunder and 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 Acts, 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, in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent M. B. Johnson Development Co. 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 8521 Whitaker Street, Buena Park, Calif.

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 M. B. Johnson Development Co., a corporation, its successors and assigns, and respondent's agents, representatives, salesmen and employees, directly or through any corporation, subsidiary, division or other device, in connection with 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. § 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. Stating the amount of the downpayment required, or that no downpayment is required, unless it states, in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10 (d) (2) thereof, all of the following items:

- (a) The cash price;
- (b) The amount of the downpayment required or that no downpayment is required, as applicable;
- (c) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended; and
- (d) The amount of the finance charge expressed as an annual percentage rate.

2. Failing to state the annual percentage rate, using the term "annual percentage rate," as "annual percentage rate" is defined in Section 226.2 of Regulation Z, in a more conspicuous manner than other terminology required to be stated by Section 226.10(d) (1) of Regulation Z as prescribed by Section 226.6(a) thereof.

3. Failing to state the rate of a finance charge unless said rate is expressed as an annual percentage rate, using the term "annual percentage rate," as "finance charge" and "annual percentage rate" are defined in Section 226.2 of Regulation Z, as prescribed by Section 226.10(d) (1) of Regulation Z.

4. Failing, in any advertisement, to make all disclosures as required by Section 226.10 of Regulation Z and in the manner prescribed therein.

It is further ordered, That respondent notify the Commission at least 30 days prior to any proposed change in any corporate respondent such

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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 respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

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.