

Consent order requiring a Hanford, Calif., seller and distributor of petroleum and related products, among other things to cease issuing credit cards without specific request or application.

Appearances

For the Commission: *Paul R. Peterson*, and *David M. Newman*.

For the respondent: *Pearson & Holding*, Hanford Calif., and *Pierson, Ball & Dowd*, Wash., D. C.

COMPLAINT

Pursuant to the provisions of the Truth in Lending Act, as amended, 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 Beacon Oil Company, 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 Beacon Oil Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nevada, with its office and principal place of business located at 525 West Third Street, Hanford, Calif.

PAR. 2. Respondent is now, and for some time in the past has been, engaged in the advertising, offering for sale, sale and distribution of petroleum and related products to the public through its own service stations and those operated by independent dealers.

PAR. 3. In the ordinary course and conduct of its business, as aforesaid, respondent regularly issued credit cards, as "credit card" 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, and subsequent to Oct. 26, 1970, has caused and is causing such credit cards to be issued to its customers as a means by which said customers may obtain products and services from respondent on credit, as "credit" is defined in Regulation Z.

PAR. 4. In a substantial number of instances, a consumer uses an oil company credit card other than a Beacon Oil credit card to purchase gasoline or other goods or services from various Beacon stations. Respondent supplies forms, sometimes hereafter referred to as "sales drafts," to be used both by its wholly-owned stations and those operated by independent dealers when a consumer charges a purchase with another oil company credit card.

On such sales drafts, in addition to the consumer's name and address and other information applicable to the particular sale, is the following language in small print:

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I understand that by using the credit card of another oil company as charge authorization, I have opened an account with Beacon Oil Company, and wish to have a Beacon Oil Credit Card.

Many consumers have made purchases using other oil company credit cards and have signed the aforementioned sales drafts unaware of the above-quoted language, solely for the purpose of authorizing credit sales and without intending to request or apply for Beacon credit cards.

Thereafter said sales drafts are forwarded to respondent. Pursuant to the language appearing on the sales drafts, and the consumers' signatures thereon, said respondent issued a substantial number of Beacon Oil credit cards to such consumers.

PAR. 5. By and through the use of the practice described in Paragraph Four hereof, respondent issued credit cards without a request or application therefor, and said credit cards were neither in renewal of nor in substitution for an accepted credit card, as "accepted credit card" is defined in Regulation Z, in violation of Section 132 of the Truth in Lending Act and Section 226.13(b) of Regulation Z.

PAR. 6. Pursuant to Section 103(q) of the Truth in Lending Act, respondent's aforesaid failure to comply with Section 226.13 of Regulation Z constitutes a violation of that Act, and pursuant to Section 108 thereof, respondent has thereby violated the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having issued its complaint in this proceeding on Jan. 2, 1974, charging respondent named in the caption hereof with violation of the Truth in Lending Act and the implementing regulation promulgated thereunder; and

The Commission having withdrawn the matter from adjudication for the purpose of negotiating a settlement by the entry of a consent order; and

The respondent and counsel for the Commission having executed an agreement containing a consent order, an admission by respondent of all the jurisdictional facts alleged in the 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 set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission having considered the agreement and having accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of sixty (60) days,

now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission makes the following jurisdictional findings, and enters the following order:

1. Respondent Beacon Oil Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nevada, with its principal office and place of business presently located at 525 West Third Street, Hanford, 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 Beacon Oil Company, a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the issuance of credit cards, as "credit card" is defined in Regulation Z (12 C.F.R. §226) of the Truth in Lending Act, as amended, (Pub. L. 90-321, 15 U.S.C. 1601, *et seq.*), shall forthwith cease and desist from:

Issuing any credit card, other than a credit card issued in renewal of or in substitution for an accepted credit card, as "accepted credit card" is defined in Section 226.13(a) of Regulation Z, unless:

1. In response to the recipient's separate, signed, affirmative and specific written request or written application therefor.

Or

2. In response to the recipient's specific oral request obtained pursuant to a telephone solicitation; *Provided*, That the following procedures are employed:

A. The person making the oral solicitation must state the following, or words of similar meaning and import, at the very outset of the conversation with the person being solicited:

The purpose of this telephone call is to find out if you would like to have a Beacon Oil Company [or other specific name, as applicable] credit card.

And

B. A detailed log of all oral solicitations is maintained for a period of at least two years, such a log to include:

(1) The name of the individual who made the oral solicitation;

(2) The name of the person with whom the solicitor spoke;

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- (3) The time and date of the solicitation; and
- (4) Whether or not a credit card was requested.

Or

3. In response to recipient's specific oral request obtained pursuant to an oral solicitation at any of its own service stations or those operated by its independent dealers or distributors; *Provided*, That the following procedures are employed:

A. The person making the oral solicitation must state the following, or words of similar meaning and import, at the very outset of the conversation with the person being solicited:

The purpose of this conversation is to find out if you would like to have a Beacon Oil Company [or other specific name, as applicable] credit card.

And

B. A detailed log of all oral requests is maintained for a period of at least two years, such a log to include:

- (1) The name of the individual who made the oral solicitation;
- (2) The name and address of the person who requested the credit card;
- (3) The date and place of the solicitation; and
- (4) The nature and number of the credit identification used.

And

C. The following notice captioned "IMPORTANT NOTICE" printed on at least 4-1/4" x 5-1/2" paper in type not smaller than eleven point shall be given to each person requesting a credit card immediately after the request:

IMPORTANT NOTICE

Thank you for requesting a Beacon Oil Company [or other specific name, as applicable] credit card. This card will be mailed to you in the near future, if approved. If you reconsider your need for this card, contact us by telephone [Beacon Oil Company's telephone number including area code] or write Beacon Oil Company [Beacon Oil Company's address].

It is further ordered, That respondent shall forthwith deliver a copy of this order to cease and desist to all present and future personnel of respondent or other persons engaged in the solicitation for or issuance of respondent's credit cards, whether or not employed by respondent, and that respondent secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respon-

dent 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 respondent herein shall within sixty (60) days after service upon it 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.