

Consent order requiring an Upland, Calif., seller of swimming pools, among other things to cease neglecting to inform credit customers of their right to a three-day cooling-off period during which they may cancel their contract; and making any physical changes to or performing any work or services on customers' property prior to the end of the three-day cooling-off period.

Appearances

For the Commission: *Paul R. Roark.*

For the respondents: *Paul M. Weil, Whittier, Calif.*

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 Sunset Pools East, Inc., a corporation, and Jack Feinberg, individually and as an officer of said corporation, and Leo Feinberg and Gerald Brand, individually, 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 Sunset Pools East, Inc. 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 929 Foothill Boulevard, Upland, Calif.

Respondent Jack Feinberg is an officer of the corporate respondent. He formulates, directs and controls the policies, acts and practices of the corporation, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

Respondent Leo Feinberg is an employee of the corporate respondent. He cooperates and acts together with the other respondents to bring about the acts and practices of the corporation, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

Respondent Gerald Brand is an employee of the corporate respondent. He cooperates and acts together with the other respondents to bring about the acts and practices of the corporation, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

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

PAR. 3. In the ordinary course and conduct of their business as aforesaid, respondents regularly arrange for the extension of consumer 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, respondents, in the ordinary course of 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 a binding "Lien Contract and Deed of Trust," hereinafter referred to as "Lien Contract."

By and through the use of the lien contracts, a security interest, as "security interest" is defined in Section 226.2(z) of Regulation Z, is or will be retained or acquired in real property which is used or expected to be used as the principal residence of the respondents' customers. Respondents' retention or acquisition of such security interest in said real property thereby entitles their credit customers to be given the right to rescind that transaction *by* midnight of the third business day following the consummation of the transaction or the date of delivery of all disclosures required by Regulation Z, whichever is later.

Respondents have in some instances failed to give their credit customers the right to rescind *by* midnight of the third business day following consummation of the transaction or the date of delivery of all disclosures, whichever is later, and have failed to give notice of the right to rescind to their customers, as required by Sections 226.9(a) and (b).

Further, respondents have made physical changes in a customer's property and have performed work or services on such property before expiration of the three-day rescission period. Respondents' failure to refrain from commencing work pursuant to rescindable contracts before the rescission period has expired is in violation of Section 226.9(c) of Regulation Z.

PAR. 5. By and through the acts and practices set forth above, respondents have failed to comply with the requirements of Regulation Z, the implementing regulation of the Truth in Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System. Pursuant to Section 103(q) of the Act, such failure to comply constitutes a violation of the Truth in Lending Act and, pursuant to Section 108 thereof, respondents have violated the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereto with violation of the Truth in Lending Act and the implementing regulation promulgated thereunder, and the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; 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 complaint to

issue herein, 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 considered the agreement and having provisionally 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 hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Sunset Pools East, Inc. 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 929 Foothill Boulevard, in the city of Upland, State of California.

Respondent Jack Feinberg is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation, and his principal office and place of business is located at the above stated address.

Respondents Leo Feinberg and Gerald Brand are employees of the corporate respondent. They cooperate and act together with the other respondents to bring about the acts and practices of said corporation. Their address is the same as that of the corporate respondent.

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 Sunset Pools East, Inc., a corporation, its successors, assigns, and its officers, and Jack Feinberg, individually and as an officer of said corporation, and Leo Feinberg and Gerald Brand, individually, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension of, or arrangement 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. 90-321, 15 U.S.C. 1601, *et seq.*), do forthwith cease and desist from:

1. Failing in any transaction in which respondents retain or acquire a security interest in real property which is used or expected to be used as the principal residence of the customer, to give such customer the right to rescind by midnight of the third business

day following the consummation of the transaction or the date of delivery of all disclosures required by Regulation Z, whichever is later, or to give notice of the right to rescind to such customers, as required by Sections 226.9(a) and (b) of Regulation Z.

2. Making any physical changes in the customer's property or performing any work or services on such property before expiration of the three-day rescission period provided for in Section 226.9(a) of Regulation Z, in any transaction in which respondents retain or acquire a security interest in real property which is used or is expected to be used as the principal residence of the customer as provided in Section 226.9(c) of Regulation Z.

3. Failing in any transaction in which respondents retain or acquire a security interest in real property which is used or expected to be used as the principal residence of the customer to comply with all requirements regarding the right of rescission set forth in Section 226.9 of Regulation Z.

It is further ordered, That respondents do the following:

(a) Deliver a copy of the following Notice to all present and future personnel of respondents engaged in the consummation of any extension or arrangement for the extension of consumer credit:

NOTICE

TO: ALL SALESMEN AND ALL OPERATING DIVISION PERSONNEL SUNSET POOLS EAST, INC.

We are required by the Federal Trade Commission to advise you of the following legal requirements.

Regulation Z (Truth in Lending Act) requires the following (among other things):

1. In any transaction in which a security interest in real property, which is used or expected to be used as the principal residence of the customer, is retained or acquired, such customer must be given the right to rescind by midnight of the third business day following the consummation of the transaction or the date of delivery of all disclosures required by Regulation Z, whichever is later. Notice of the right to rescind must be given to such customers, as required by Section 226.9(a) and (b) of Regulation Z.

2. No physical changes may be made in the customer's property and no work or services performed on such property before expiration of the three-day rescission period provided for in Section 226.9(a) of Regulation Z, in any transaction in which the company retains or acquires a security interest in real property which is used or is expected to be used as the principal residence of the customer.

3. In any transaction in which a security interest in real property which is used or expected to be used as the principal residence of the customer is retained or acquired, you must comply with all requirements regarding the right of rescission set forth in Section 226.9 of Regulation Z.

(b) Advise such personnel described in (a) above that delivery of such Notice and the requirements set out therein are required by

Decision and Order

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the terms of a Federal Trade Commission Order naming Sunset Pools East, Inc., Jack Feinberg, Leo Feinberg, and Gerald Brand as respondents.

(c) Immediately obtain from such personnel described in (a) above a signed and dated duplicate of the Notice described in (a) above. Such signed and dated duplicate Notice shall also have the following language on its face above the signature line:

I acknowledge receipt of a copy of the above Notice. I also acknowledge that I have been advised that delivery of such NOTICE and the requirements set out therein are required by the terms of a Federal Trade Commission Order naming Sunset Pools East, Inc., Jack Feinberg, Leo Feinberg, and Gerald Brand as respondents. This Order was entered pursuant to a Consent Agreement. Noncompliance with the terms of such Order may result in a substantial civil penalty to said respondents.

(d) Retain a copy of the signed and dated Notice for a period of two years.

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

It is further ordered, That respondents 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 this 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 a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF
NEVADA MEATS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECTIONS 5 & 12 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-2547. Complaint, Sept. 20, 1974—Decision, Sept. 20, 1974

Consent order requiring a Las Vegas, Nev., seller of bulk freezer meats, among other things to cease using bait advertisements. Further, when making pricing or savings claims, the firm must clearly disclose the reasonably anticipated net price per pound and net weight after trimming and cutting losses of each retail cut of meat and of all waste produced in obtaining retail cuts from the carcass or uncut meats.

Appearances

For the Commission: *Alfred Lindeman.*

For the respondents: *George Foley, Las Vegas, Nev.*

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 Nevada Meats, Inc., a corporation, and Edgar S. Stacy, individually and as an officer of said corporation, hereinafter 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 Nevada Meats, Inc. 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 located at 3551 West Spring Mountain Road, Las Vegas, Nev.

Respondent Edgar S. Stacy is an officer of the corporate respondent. Said individual respondent formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His business address is 3551 West Spring Mountain Road, Las Vegas, Nev.

PAR. 2. Respondents are now and for some time have been engaged in the advertising, offering for sale, sale and distribution of beef and other meat products which come within the classification of food, as the term "food" is defined in the Federal Trade Commission Act, to members of the purchasing public.