

Complaint

84 F.T.C.

IN THE MATTER OF

TIMOTHY, LYNN, DANIEL, INC., ETC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION AND TRUTH IN LENDING ACTS*Docket C-2560. Complaint, Oct. 7, 1974—Decision, Oct. 7, 1974*

Consent order requiring a Houston, Tex., retailer of jewelry and other merchandise, 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: *Richard H. Gateley.*

For the respondents: *Barrow, Bland, Rehmet & Lee*, Houston, Tex.

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 Timothy, Lynn, Daniel, Inc., a corporation trading and doing business as Laufman's, and Timothy Gallagher, individually and as an officer of said corporation, hereinafter sometimes referred to as respondents, have violated the provisions of said Acts, and the implementing regulation promulgated under the Truth in Lending 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 Timothy, Lynn, Daniel, Inc., is a corporation, trading and doing business as Laufman's, organized existing and doing business under and by virtue of the laws of the State of Texas with its main business office located at 5254A Palms Center, Houston, Texas.

Respondent Timothy Gallagher is an officer of the corporate respondent. He formulated, directed and controlled the acts and practices of the corporate respondent 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 retail sale of jewelry and other merchandise to the public.

PAR. 3. In ordinary course and conduct of their business as aforesaid, respondents regularly 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 and conduct of their business and in connection with their credit sales, as "credit sale" is defined in Regulation Z, have caused to be delivered and are delivering to customers periodic statements, as "periodic statements" are described in Section 226.7 (b) and (c) of Regulation Z. By and through the use of the periodic statements respondents:

1. Fail to disclose the terms required by Section 226.7(b) and (c) clearly, conspicuously and in meaningful sequence in accordance with Section 226.6(a) of Regulation Z.

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

3. Fail to disclose the term "annual percentage rate" more conspicuously than other required terminology as required by Section 226.6(a) of Regulation Z.

4. Fail to disclose the outstanding balance in the account at the beginning of the billing cycle, using the term "previous balance", as required by Section 226.7(b)(1) of Regulation Z.

5. Fail to employ the term "payments" to describe the amounts credited to the account during the billing cycle for payments, as required by Section 226.7(b)(3) of Regulation Z.

6. Fail to disclose the amount of any finance charge, using the term "finance charge", debited to the account during the billing cycle, as required by Section 226.7(b)(4) of Regulation Z.

7. Fail to disclose each periodic rate, using the term "periodic rate" (or "rates"), that may be used to compute the finance charge (whether or not applied during the billing cycle), as required by Section 226.7(b)(5) of Regulation Z.

8. When a finance charge is imposed during the billing cycle, fail to disclose the annual percentage rate or rates determined under Section 226.5(a) of Regulation Z using the term "annual percentage rate" (or "rates"), as required by Section 226.7(b)(5) of Regulation Z.

9. Fail to disclose the balance on which the finance charge was computed, and the statement of how that balance was determined, as required by Section 226.7(b)(8) of Regulation Z.

10. Fail to disclose the term "new balance" to describe the outstand-

ing balance in the account on the closing date of the billing cycle, as required by Section 226.7(b)(9) of Regulation Z.

11. Fail to employ a statement accompanying the term "new balance" indicating the date by which, or the period, if any, within which payment must be made to avoid additional finance charges, as required by Section 226.7(b)(9) of Regulation Z.

PAR. 5. By the aforesaid failure to make the disclosures in the periodic statement in the manner and form required by Regulation Z, as set forth in Paragraph Four hereof, respondents fail to comply with the requirements of Regulation Z of the Truth in Lending Act duly promulgated by the Board of Governors of the Federal Reserve System. Pursuant to Section 105 of that Act, such failure to comply constitutes a violation of the Truth in Lending Act and, pursuant to Section 108 thereof, respondents 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 Dallas 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 sixty (60) days and now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint, making the following jurisdictional findings, and enters the following order:

1. Respondent Timothy, Lynn, Daniel, Inc. is a corporation trading and doing business as Laufman's, organized, existing and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business located at 5254A Palms Center, city of Houston, State of Texas.

Respondent Timothy Gallagher 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.

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 Timothy, Lynn, Daniel, Inc., a corporation, trading and doing business as Laufman's, or under any other name or names, its successors and assigns, and its officers, and Timothy Gallagher, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporate, subsidiary, division or other device in connection with any extension of consumer credit as "consumer credit" is defined in Regulation Z (12 C.F.R. §226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 *et seq.*), do forthwith cease and desist from:

1. Failing to disclose the terms required by Section 226.7(b) and (c) clearly, conspicuously and in meaningful sequence in accordance with Section 226.6(a) of Regulation Z.

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

3. Failing to disclose the term "annual percentage rate" more conspicuously than other required terminology as required by Section 226.6(a) of Regulation Z.

4. Failing to disclose the outstanding balance in the account at the beginning of the billing cycle, using the term "previous balance," as required by Section 226.7(b)(1) of Regulation Z.

5. Failing to employ the term "payments" to describe the amounts credited to the account during the billing cycle for payments, as required by Section 226.7(b)(3) of Regulation Z.

6. Failing to disclose the amount of any finance charge, using the term "finance charge," debited to the account during the billing cycle, as required by Section 226.7(b)(4) of Regulation Z.

7. Failing to disclose each periodic rate, using the term "periodic rate" (or "rates") that may be used to compute the finance charge (whether or not applied during the billing cycle), as required by Section 226.7(b)(5) of Regulation Z.

8. When a finance charge is imposed during the billing cycle, failing to disclose the annual percentage rate or rates determined under Section 226.5(a) of Regulation Z using the term "annual percentage rate" (or "rates"), as required by Section 226.7(b)(6) of Regulation Z.

9. Failing to disclose the balance on which the finance charge was computed, and the statement of how that balance was determined, as required by Section 226.7(b)(8) of Regulation Z.

10. Failing to disclose the term "new balance" to describe the outstanding balance in the account on the closing date of the billing cycle, as required by Section 226.7(b)(9) of Regulation Z.

11. Failing to employ a statement accompanying the term "new balance" indicating the date by which, or the period, if any, within which payment must be made to avoid additional finance charges, as required by Section 226.7(b)(9) 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 at the time and in the manner, form and amount required by Section 226.6, 226.7, 226.8 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 the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his 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 respondents, such as dissolution, assignment, or sale resulting in the emer-

gence 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 order, 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.