

Docket C-2567. Complaint, Oct. 8, 1974—Decision, Oct. 8, 1974

Consent order requiring a Tonolea, Ariz., general merchandise retailer, pawnbroker and money lender, 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: *Paul R. Roark.*

For the Respondents: *Austin E. Roberts, Tansey, Rosebrough, Roberts & Gerding, P. C., Farmington, N.M.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and of 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 Stokies, Incorporated, a corporation doing business as Inscription House Trading Post, and Orange J. Carson, 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 Stokies, Incorporated is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Mexico and is licensed to conduct business on the Navajo Reservation by the Bureau of Indian Affairs, with its principal office and place of business located at Tonolea, Ariz.

Respondent Orange J. Carson is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. His address is P.O. Box 207, 507 East 16th Street, Farmington, N.M.

PAR. 2. Respondents are now, and for some time last past have been engaged in buying, selling, ordering and exchanging and dealing generally in all classes of good, wares, merchandise and articles of trade with consumers and in pawn broking and money lending.

PAR. 3. In the regular course and conduct of their business as aforesaid respondents regularly arrange for the extension of consumer credit or offer to extend or arrange for the extension of such 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, in the ordinary course and conduct of their business as aforesaid, respondents arrange for the extension of loans which are not a credit sale. In these transactions, respondents:

1. Fail to make the disclosures required by Section 226.8 of Regulation Z clearly, conspicuously and in a meaningful sequence, as prescribed by Section 226.6(a) of Regulation Z.

2. Fail to print the terms "annual percentage rate" and "finance charge" more conspicuously than other required terminology, as prescribed by Section 226.6(a) of Regulation Z.

3. Fail to disclose the finance charge expressed as an annual percentage rate, using the term "annual percentage rate," as prescribed by Section 226.8(b)(2) of Regulation Z.

4. Fail to disclose the number, amount, and due dates or periods of payments scheduled to repay the indebtedness and the sum of such payments using the term "total of payments," as prescribed by Section 226.8(b)(3) of Regulation Z.

5. Fail to disclose a description or identification of the type of any security interest held or to be retained or acquired by the creditor in connection with the extension of credit, and a clear identification of the property to which the security interest relates, as prescribed by Section 226.8(b)(5) of Regulation Z.

6. Fail to disclose identification of the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation and a statement of the amount or method of computation of any charge that may be deducted from the amount of any rebate of such unearned finance charge that will be credited to the obligation or refunded to the customer, as prescribed by Section 226.8(b)(7) of Regulation Z.

7. Fail to disclose the amount of credit which will be paid to the customer including all charges, individually itemized, which are included in the amount of credit extended but which are not part of the finance charge, using the term "amount financed," as prescribed by Section 226.8(d)(1) of Regulation Z.

8. Fail to disclose the total amount of the finance charge, with description of each amount included, using the term "finance charge," as prescribed by Section 226.8(d)(3) of Regulation Z.

PAR. 5. By the aforesaid failure to make disclosures, 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 Truth in Lending Act, respondents' aforesaid failure to comply with Regulation Z constitutes violations of that Act and, pursuant to Section 108 thereof, respondents have thereby 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 Stokies, Incorporated is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Mexico, with its office and principal place of business located at Tonolea, Ariz.

Respondent Orange J. Carson is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation, and his address is the same as that of said corporation.

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 respondent Stokies, Incorporated, a corporation, its successors and assigns, and its officers, and Orange J. Carson, individually and as an officer of said corporation and respondents' agents, representatives and employees directly or through any corporation, subsidiary, division or other device in connection with the extension of "consumer credit" or arranging for "consumer credit" as 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 to make disclosures required by Section 226.8 of Regulation Z clearly, conspicuously and in a meaningful sequence, as prescribed by Section 226.6(a) of Regulation Z.

2. Failing to print the terms "annual percentage rate" and "finance charge" more conspicuously than other required terminology, as prescribed by Section 226.6(a) of Regulation Z.

3. Failing to disclose the finance charge expressed as an annual percentage rate, using the term "annual percentage rate," as prescribed by Section 226.8(b)(2) of Regulation Z.

4. Failing to disclose the number, amount, and due dates or periods of payments scheduled to repay the indebtedness and the sum of such payments using the term "total of payments," as prescribed by Section 226.8(b)(3) of Regulation Z.

5. Failing to disclose a description or identification of the type of any security interest held or to be retained or acquired by the creditor in connection with the extension of credit, and a clear identification of the property to which the security interest relates, as prescribed by Section 226.8(b)(5) of Regulation Z.

6. Failing to disclose identification of the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation and a statement of the amount or method of computation of any charge that may be deducted from the amount of any rebate of such unearned finance charge that will be credited to the obligation or refunded to the customer, as prescribed by Section 226.8(b)(7) of Regulation Z.

7. Failing to disclose the amount of credit which will be paid to the customer including all charges, individually itemized which are included in the amount of credit extended but which are not part of the finance charge, using the term "amount financed," as prescribed by Section 226.8(d)(1) of Regulation Z.

8. Failing to disclose the total amount of the finance charge, with description of each amount included, using the term "finance charge," as prescribed by Section 226.8(d)(3) of Regulation Z.

9. Failing in any consumer credit transaction 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 Sections 226.6, 226.7, and 226.8 of Regulation Z.

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 the respondent corporation, its successors and assigns, shall forthwith distribute a copy of this order to each of its operating divisions.

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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