

MARTIN INDUSTRIES, INC., ET AL.

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

Docket C-2624. Complaint, Jan. 16, 1975 - Decision, Jan. 16, 1975

Consent order requiring three Kansas City, Mo., affiliated sellers of a correspondence course in livestock buying, among other things to cease using deceptive sales tactics and from 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: *Keith Q. Hayes* and *Charles B. Wesonig*.

For the respondents: *James D. Veselich*, Kansas City, Mo.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and of the Truth in Lending Act and the implementing regulations promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Martin Industries, Inc., Cattle Buyers, Inc., and Educational Finance Corp., corporations, and Daniel M. Martin, Jr., and George C. Kopp, III, individually and as officers of said corporations, hereinafter sometimes referred to as respondents, have violated the provisions of said Acts, and of the implementing regulations 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 Martin Industries, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware with its principal office and place of business located at 2 E. Gregory Blvd., Kansas City, Mo.

Respondent Cattle Buyers, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Missouri with its principal office and place of business located at 2 E. Gregory Blvd., Kansas City, Mo.

Respondent Educational Finance Corp. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Missouri with its principal office and place of business located at 2 E. Gregory Blvd., Kansas City, Mo.

Respondents Daniel M. Martin, Jr., and George C. Kopp, III, are individuals and officers of each of the corporate respondents. Together, they formulate, direct, and control the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. Their addresses are the same as those of the corporate respondents.

Respondents cooperate and act together in carrying out respondents' business as hereinafter set forth.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the formulation, development, advertising, offering for sale, sale, and distribution of course(s) of vocational instruction purported to prepare graduates thereof for employment as livestock buyers.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, their course(s) of vocational instruction in livestock buying to be advertised, sold, and financed to purchasers thereof located in the various States of the United States, and maintain, and at all times mentioned herein have

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Complaint

maintained, a substantial course of trade in said livestock buying course(s), in commerce, as "commerce" is defined in the Federal Trade Commission Act.

COUNT I

Alleging violations of Section 5 of the Federal Trade Commission Act, the allegations of Paragraphs One, Two and Three hereof are included by reference in Count I as if fully set out.

PAR. 4. In the course and conduct of their aforementioned business, respondents, for the purpose of obtaining leads to prospective purchasers and inducing the purchase of their course(s) of instruction, related products, and services by members of the public, have made, and are now making, numerous statements and representations in advertising appearing in various newspapers of general interstate circulation. Typical and illustrative of the foregoing, but not all inclusive thereof, are the following:

MEN WANTED
CATTLE
AND
LIVESTOCK
BUYERS

We want men in this area.
Train to buy cattle, sheep
and hogs.

We will train qualified men
with some livestock experience.

For local interview,
write today with your background.
Include your full
address and phone number.

CATTLE BUYERS, INC.
4420 Madison
Kansas City, Mo. 64111

* * * * *

THE LIVESTOCK INDUSTRY

NEEDS MEN

TRAINED AS
CATTLE
AND
LIVESTOCK
BUYERS* * *

PAR. 5. By and through the use of the statements and representations as set forth in Paragraph Four and others similar thereto but not

specifically set out herein, and through statements made orally and in writing by respondents, their employees, agents, and representatives, respondents have represented, and do now represent, directly or by implication, to the purchasing public that they offer employment to persons in the field of livestock buying.

PAR. 6. In truth and in fact, respondents do not offer employment to persons in the field of livestock buying, but are seeking prospective purchasers for their course(s) of instruction in livestock buying. Those persons, who respond to respondents' ads as set out in Paragraph Four above, are contacted for the purpose of enrolling them in respondents' course(s) of instruction in livestock buying.

Therefore, statements and representations as set forth in Paragraphs Four and Five hereof, were and are false, misleading, deceptive, and unfair.

PAR. 7. Respondents have offered, and now offer for sale, course(s) of instruction intended to prepare graduates thereof for employment in the livestock buying industry, without disclosing, in advertising or through their sales representatives:

1. That most persons enrolling in respondents' course(s) of livestock buying will not be employed in the livestock buying industry during or after completion of said course(s) of instruction because livestock buying cannot be learned from a correspondence course.

2. That there is little, if any, demand for those persons who graduate from respondents' course(s) of livestock buying instruction by any industry.

3. That respondents do not provide employment or offer assistance in obtaining employment in the field of livestock buying to those persons who graduate from respondents' course(s) of livestock buying.

Knowledge of such facts would indicate the possibility of securing future employment as a result of enrolling in respondents' course(s) of livestock buying. Thus, respondents have failed to disclose a material fact which, if known to certain consumers, would be likely to affect their consideration of whether or not to purchase such course(s) of instruction.

Therefore, the aforesaid acts and practices were and are false, misleading, deceptive or unfair.

PAR. 8. (a) Respondents have been and are now using the aforesaid false, misleading, deceptive, or unfair acts and practices, which under all of the facts and circumstances, respondents should have known were false, misleading, deceptive, and unfair, to induce persons to pay or to contract to pay substantial sums of money for their course(s) of instruction which, in connection with said purchasers' future employment and careers, were, and are, virtually worthless. Respondents have

received the said sums and have failed to offer refunds, or refund such sums, or rescind such contractual obligations of a substantial number of enrollees and participants in such course(s) who were unable to secure employment in the positions and fields for which they purportedly have been trained by respondents.

The use by respondents of the aforesaid acts and practices, their continued retention of said sums of money, and their continued failure to rescind such contractual obligations of their customers, as aforesaid, are unfair acts or practices.

(b) In the alternative, and separate to Paragraph Eight (a) herein, respondents, who are in substantial competition in commerce with corporations, firms, and individuals engaged in the sale of vocational courses of instruction, have been and are now using as aforesaid, false, misleading, deceptive, or unfair acts or practices to induce persons to pay substantial sums of money to purchase respondents' course(s) of instruction.

The effect of using the aforesaid acts and practices to secure substantial sums of money is, or may be, to hinder, lessen, restrain, or prevent competition between respondents and the aforementioned competitors.

Therefore, the said acts and practices constitute an unfair method of competition in commerce in violation of Section 5 of the Federal Trade Commission Act.

PAR. 9. In the course and conduct of their business and at all times mentioned herein, respondents have been and are now in substantial competition in commerce with corporations, firms, and individuals engaged in the sale of courses of vocational instruction covering the same or similar subjects.

PAR. 10. The use by respondents of false, misleading, deceptive, and unfair statements, representations, acts, and practices, and their failure to disclose material facts, as aforesaid, has had and now has a capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations are true and complete, and into the purchase of said respondents' course(s) in livestock buying, by reason of said erroneous and mistaken belief.

PAR. 11. The aforesaid acts and practices of respondents, as herein alleged, were all to the prejudice and injury of the public and constituted, and now constitute, unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

COUNT II

Alleging violations of the Truth in Lending Act and the implementing regulations promulgated thereunder, and of the Federal Trade Commission Act, the allegations of Paragraphs One, Two and Three hereof are incorporated by reference in COUNT II as if fully set forth verbatim.

PAR. 12. In the course and conduct of their business as aforesaid, respondents regularly extend, and for some time last past have regularly extended, 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. 13. Subsequent to July 1, 1969, respondents, in the ordinary course and conduct of their business and in connection with credit sales as "credit sale" is defined in Section 226.2(n) of Regulation Z, have caused and are now causing their customers to execute retail installment contracts, hereinafter referred to as the contract.

PAR. 14. By and through the use of the contract, respondents, in a number of instances, have failed to:

1. Disclose the term "Finance Charge" more conspicuously than other terminology as required by Section 226.6(a) of Regulation Z.
2. Use the term "Total of Payments" as required by Section 226.8(b)(3) of Regulation Z.
3. Use the term "Cash Price" as required by Section 226.8(c)(1) of Regulation Z.
4. Use the term "cash downpayment" as required by Section 226.8(c)(2) of Regulation Z.
5. Use the term "amount financed" as required by Section 226.8(c)(7) of Regulation Z.
6. Use the term "Deferred Payment Price" as required by Section 226.8(c)(8)(ii) of Regulation Z.

PAR. 15. Pursuant to Section 103(q) of the Truth in Lending Act, respondents' aforesaid failure to comply with the provisions of Regulation Z constitute violations of that Act and, pursuant to Section 108 thereof, respondents 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 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 Martin Industries, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 2 E. Gregory Blvd., Kansas City, Mo.

Respondent Cattle Buyers, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at 2 E. Gregory Blvd., Kansas City, Mo.

Respondent Educational Finance Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at 2 E. Gregory Blvd., Kansas City, Mo.

Respondent Daniel M. Martin, Jr. is an officer of said corporations and George C. Kopp, III, was an officer of said corporations until Sept. 1, 1974. Prior to Sept. 1, 1974, respondents formulated, directed and controlled the policies, acts and practices of said corporations. Subsequent to Sept. 1, 1974, respondent Daniel M. Martin, Jr., has formulated, directed and controlled the policies, acts and practices of said corporations. Respondents' principal office and place of business prior to Sept. 1, 1974, was 2 E. Gregory Blvd., Kansas City, Mo.

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

COUNT I

It is ordered, That respondents Martin Industries, Inc., Cattle Buyers, Inc., and Educational Finance Corp., corporations, their successors and assigns, and their officers, and Daniel M. Martin, Jr., and George C. Kopp, III, individually and as officers of each of said corporations and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale, or distribution of courses of study, training, or instruction in the field of livestock buying or any other course of instruction, or product, or service, in any field in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Respresenting orally, in writing, or in any other manner, directly or by implication, that:

(a) Persons who enroll in any course(s) of instruction offered by respondents will be employed as buyers in the livestock industry or any other industry.

(b) Respondents offer employment in the livestock industry or any other industry.

(c) Respondents assist or are able to assist any person in securing employment as a buyer in the livestock industry or in any other position.

(d) There is a demand for persons completing the course offered by respondents in the area of cattle buying, selling, or trading.

2. Failing to disclose clearly and conspicuously, in all advertising and promotional material, that respondents are seeking prospective purchasers for their course(s) of instruction and do not offer employment or assistance in obtaining employment.

3. Failing to send by certified mail, return receipt requested, to each person who contracts for the sale of any course of instruction, a notice, in a form approved by the Commission, which shall disclose the following information and none other:

(a) The title "**IMPORTANT INFORMATION**" printed in bold face type across the top of the form.

(b) A paragraph reciting the following affirmative disclosures:

(1) A statement disclosing that most persons enrolling in respondents' course(s) of livestock buying will not be employed in the livestock buying industry during or after completion of said course(s) of instruction.

(2) A statement disclosing that respondents do not offer or assist their students in obtaining employment.

(3) A statement disclosing the total number of students who have enrolled in each course of instruction offered by respondents for each of the three (3) preceding calendar years.

(4) A statement disclosing the total number of students who have graduated from each course of instruction offered by respondents for each of the three (3) preceding calendar years.

(5) A statement disclosing the total number of students which respondents can affirmatively show have become employed as a result of completing any of respondents course(s) of instruction for each of the three (3) preceding calendar years.

(6) An explanation of the cancellation procedure provided in this order, namely, that any contract or other agreement may be cancelled within three (3) days after receipt by the customer, via the United States mails, of this notice.

(7) Said notice shall contain a detachable form which the person may use as a notice of cancellation, which indicates the proper address for