

IN THE MATTER OF
HALLBERG HOMES, INC., ET AL.

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

Docket C-2653. Complaint, Mar. 17, 1975 - Decision, Mar. 17, 1975

Consent order requiring a Portland, Oreg., residential real property construction and development firm, 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: *Dean A. Fournier* and *Michael A. Katz*.

For the respondents: *Milton G. Lankton, Black, Kendell, Tremaine, Boothe [Higgins*, Portland, Oreg.

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 Hallberg Homes, Inc., a corporation, and Ray C. Hallberg, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and implement-

ing 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 Hallberg Homes is a corporation organized, existing and doing business under and by virtue of the laws of the State of Oregon, with its principal office and place of business located at 1718 Northeast 82nd Ave., Portland, Oreg.

Respondent Ray C. Hallberg is an individual and an officer of the corporate respondent. He formulates, directs and controls the policies, 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 construction, development and sale of residential real property to the public.

PAR. 3. In the ordinary course and conduct of their business as aforesaid, respondents have caused to be published various advertisements, as "advertisement" is 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. These advertisements have aided, promoted or assisted directly or indirectly the extension of consumer credit (as "consumer credit" is defined in Regulation Z) in connection with respondents' sales of residential real property.

PAR. 4. Subsequent to July 1, 1969, certain of the advertisements referred to in Paragraph Three above have stated the amount of the downpayment required or that no downpayment is required, without also stating, as required by Section 226.10(d)(2) of Regulation Z, in terminology prescribed under Section 226.8 of Regulation Z, and in the manner and form prescribed under Section 226.6(a) of Regulation Z, all of the following:

- A. the cash price;
- B. the amount of the downpayment required or that no downpayment is required, as applicable;
- C. the number, amount, and due dates or period of payments scheduled to repay the indebtedness;
- D. the amount of the finance charge expressed as an annual percentage rate; and
- E. except in the case of the sale of a dwelling or a loan secured by a first lien on a dwelling to purchase that dwelling, the deferred payment price or the sum of the payments, as applicable.

PAR. 5. Pursuant to Section 103(q) of the Truth in Lending Act, respondents' aforesaid failures to comply with the provisions of

Regulation Z constitute 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 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:

A. Respondent Hallberg Homes, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Oregon, with its principal office and place of business located at 1718 Northeast 82nd Ave., Portland, Oreg.

Respondent Ray C. Hallberg is an individual and 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.

B. 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 Hallberg Homes, Inc., a corporation, its successors and assigns, and its officers, and Ray C. Hallberg,

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 any extension or arrangement for the extension of consumer credit, or any advertisement to aid, promote or assist, directly or indirectly any extension of consumer credit, as "advertisement" and "consumer credit" are 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:

A. Representing in any such advertisement, directly or by implication, that no downpayment is required, the amount of the downpayment or the amount of any installment payment, either in dollars or as a percentage, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless all of the following items are clearly and conspicuously stated, in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) of Regulation Z:

1. the cash price;
2. the amount of the downpayment required or that no downpayment is required, as applicable;
3. the number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;
4. the amount of the finance charge expressed as an annual percentage rate; and
5. except in the case of the sale of a dwelling or a loan secured by a first lien on a dwelling to purchase that dwelling, the deferred payment price or the sum of the payments, as applicable.

B. Failing, in any consumer credit 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 Sections 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 any aspect of the preparation, creation or placing of advertising, to all persons engaged in reviewing the legal sufficiency of advertising, and to all present and future agencies engaged in preparation, creation or placing of advertising on behalf of respondents, and that respondents secure from each such person and agency a signed statement acknowledging receipt of said order.

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

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subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment, and/or of his affiliation with any other business which extends, arranges or advertises consumer credit, in the event of such discontinuance or affiliation within ten (10) years after the effective date of this order. Such notice shall include the 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 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.
