

IN THE MATTER OF
HEALTH SPA INTERNATIONAL, INC., ET AL.

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

Docket C-2655. Complaint, Apr. 11, 1975 - Decision, Apr. 11, 1975

Consent order requiring a Linwood, N.J., health spa and its Cherry Hill, N.J., credit arm, 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: *Phyllis L. Kaye.*

For the respondents: *Pro se.*

* On Feb. 27, 1975, counsel supporting the complaint requested that it be given until Mar. 31, 1975 to answer respondent "should the Commission desire same." Commission rules with respect to petitions for reconsideration do not provide for responses conditioned on invitation by the Commission and no such invitation was issued.

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 Health Spa International, Inc., and Concept Enterprises, Inc., corporations, and Jerry Katz, individually and as an officer of said corporations, hereinafter 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 Health Spa International, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its principal office and place of business located at 515 Hamilton Ave., Linwood, N.J.

Respondent Concept Enterprises, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 1702 Country Club Dr., Cherry Hill, N.J.

Respondent Jerry Katz is an individual and an officer of said corporations. He formulates, directs and controls the policies, acts and practices of the corporate respondents, and his principal business address is 515 Hamilton Ave., Linwood, N.J.

PAR. 2. Respondent Health Spa International, Inc., is now, and for some time last past, has been engaged in the advertising, offering for sale, and sale of figure improvement programs for men and women of the general public and in the general management and supervision of a figure salon located at 515 Hamilton Ave., Linwood, N.J.

Respondent Concept Enterprises, Inc., operating in its own name and through its division, Concept Credit Control, is now and for some time last past has been engaged in the financing of the purchase of figure improvement programs and the collection of patrons' accounts for respondent Health Spa International, Inc.

PAR. 3. In the ordinary course of their business as aforesaid, respondents regularly extend consumer credit and arrange for the extension of consumer credit, as "consumer credit" and "arrange for the extension of consumer credit" are defined in Sections 226.2(k) and 226.2(f) 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, in the ordinary course of their

business as aforesaid, and in connection with their credit sales, as "credit sale" is defined in Section 226.2(n) of Regulation Z, respondents have caused and are causing their customers to enter into contracts for the sale of respondents' services. On these contracts, hereinafter referred to as "the contract," respondents provide certain consumer credit cost information. Respondents do not provide these customers with any other consumer credit cost disclosures.

PAR. 5. By and through the use of the contract set forth in Paragraph Four respondents have:

1. Failed to accurately disclose the amount of the downpayment in money made in connection with the credit sale, and to describe that amount as the "cash downpayment" as required by Section 226.8(c)(2) of Regulation Z.

2. Failed to accurately disclose the difference between the cash price and the total downpayment, and to describe that amount as the "unpaid balance of cash price" as required by Section 226.3(c)(3) of Regulation Z.

3. Failed to accurately disclose the sum of all charges required by Section 226.4 of Regulation Z to be included in the finance charge and to describe that amount as the "finance charge" as required by Section 226.8(c)(8)(i) of Regulation Z.

4. Failed to accurately disclose, as "total of payments," the sum of the payments scheduled to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.

5. Failed to accurately disclose the "deferred payment price" as the sum of the cash price, all charges which are included in the amount financed but which are not part of the finance charge, and the finance charge, as required by Section 226.8(c)(8)(ii) of Regulation Z.

6. Failed to accurately disclose the annual percentage rate computed in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.

PAR. 6. 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 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 New York 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 Truth in Lending Act and the implementing regulation promulgated thereunder, and 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 Acts, 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, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Health Spa International, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 515 Hamilton Ave., Linwood, N.J.

Respondent Concept Enterprises, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 1702 Country Club Dr., Cherry Hill, N.J.

Respondent Jerry Katz is an individual and an officer of said corporations. He formulates, directs and controls the policies, acts and practices of the corporate respondents, and his principal business address is 515 Hamilton Ave., Linwood, N.J.

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 Health Spa International, Inc., and Concept Enterprises, Inc., corporations, their successors and assigns, and Jerry Katz, individually and as an officer of said corporations, and respondents' officers, agents, representatives and employees directly or through any corporation, subsidiary, division or other device in connection with any consumer credit sale or any advertisement to aid,

promote or assist directly or indirectly any extension of consumer credit as "consumer credit" and "advertisement" are defined in Regulation Z (12 C.F.R. Section 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 accurately disclose the amount of the downpayment in money made in connection with the credit sale, and to describe that amount as the "cash downpayment" as required by Section 226.8(c)(2) of Regulation Z.

2. Failing to accurately disclose the difference between the cash price and the total downpayment, and to describe that amount as the "unpaid balance of cash price" as required by Section 226.8(c)(3) of Regulation Z.

3. Failing to accurately disclose the sum of all charges required by Section 226.4 of Regulation Z to be included in the finance charge and to describe that amount as the "finance charge" as required by Section 226.8(c)(8)(i) of Regulation Z.

4. Failing to accurately disclose, as "total of payments," the sum of the payments scheduled to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.

5. Failing to accurately disclose the "deferred payment price" as the sum of the cash price, all charges which are included in the amount financed but which are not part of the finance charge, and the finance charge, as required by Section 226.8(c)(8)(ii) of Regulation Z.

6. Failing to accurately disclose the annual percentage rate computed in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.

7. 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, in the manner, form and amount required by Sections 226.6, 226.7, 226.8, 226.9 and 226.10 of Regulation Z.

It is further ordered, That respondent Health Spa International, Inc., prominently display the following notice in two or more locations in that portion of respondent's business premises most frequented by prospective customers, and in each location where customers normally sign consumer credit documents or other binding instruments. Such notice shall be considered prominently displayed only if so positioned as to be easily observed and read by the intended individuals:

NOTICE TO CREDIT CUSTOMERS

IF THE DEALER IS FINANCING OR ARRANGING THE FINANCING OF YOUR PURCHASE, YOU ARE ENTITLED TO CONSUMER CREDIT COST DISCLOSURES AS REQUIRED BY THE FEDERAL TRUTH IN LENDING ACT. THESE MUST BE PROVIDED TO YOU IN WRITING BEFORE YOU ARE ASKED TO SIGN ANY DOCUMENT OR OTHER PAPERS WHICH WOULD BIND YOU TO SUCH A PURCHASE.

It is further ordered, That respondents deliver a copy of this order to cease and desist to each operating division and 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 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 emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporations 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 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 no provision of this order shall be construed in any way to annul, invalidate, repeal, terminate, modify or exempt respondents from complying with agreements, orders or directives of any kind obtained by any other agency or act as a defense to actions instituted by municipal or State regulatory agencies. No provisions of this order shall be construed to imply that any past or future conduct of respondents complies with the rules and regulations of, or the statutes administered by the Federal Trade Commission.

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.
