

COMMERCIAL INVESTORS, INC., ET AL.

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

Docket C-2668. Complaint, May 12, 1975--Decision, May 12, 1975

Consent order requiring a Hampton, Va., loan broker, 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: *Bernard Rowitz, Alice C. Kelleher and Thomas J. Keary.*

For the respondents: *Philip L. Avis, Newport News, Va.*

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 Commercial Investors, Inc., a corporation, Virginia Mortgage and Loan Association, Inc., a corporation, and John L. Lane, Jr., individually and as an officer of said corporations, 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 Commercial Investors, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Virginia with its principal office and place of business located at 2000 Kecoughtan Rd., Hampton, Va.

Said respondent controls and dominates the acts and practices of respondent Virginia Mortgage and Loan Association, Inc., a wholly-owned subsidiary which is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Virginia with its principal office and place of business located at 2000 Kecoughtan Rd., Hampton, Va.

Respondent John L. Lane, Jr. is an officer of the corporate respondents. He formulates, directs and controls the acts and practices of the corporate respondents including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondents.

All of the aforementioned respondents cooperate and act together in the carrying out of the acts and practices hereinafter set forth.

PAR. 2. Respondents are now, and for some time last past have been, engaged as brokers in the arranging and securing of loans for the general public.

PAR. 3. In the ordinary course and conduct of their business as aforesaid, respondents regularly arrange for the extension of 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, in the ordinary course of business as aforesaid, respondents' customers are provided with consumer credit cost disclosure statements.

By and through the use of the aforesaid consumer credit cost disclosures respondents:

1. Fail to include the broker's fee or finder's fee in the determination of the finance charge, as required by Section 226.4(a)(3) of Regulation Z.

2. Fail to disclose the broker's fee or finder's fee as a prepaid finance charge, as required by Section 226.8(e)(1) of Regulation Z, using the term "prepaid finance charge," as required by Section 226.8(d)(2) of Regulation Z.

3. Fail to itemize the components of the finance charge, as required by Section 226.8(d)(3) of Regulation Z.

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

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

6. Fail to disclose clearly the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation, as required by Section 226.6(a) of Regulation Z.

7. Fail to identify the broker as a creditor, as "creditor" is defined in Section 226.2(m) of Regulation Z, as required by Section 226.6(d) of Regulation Z.

8. Fail to make full consumer credit cost disclosures before the transaction is consummated, as required by Section 226.8(a) of Regulation Z.

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 the 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 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 Commercial Investors, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Virginia, with its office and principal place of business located at 2000 Kecoughton Rd., Hampton, Va.

Said respondent controls and dominates the acts and practices of respondent Virginia Mortgage and Loan Association, Inc., a wholly-owned subsidiary which is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Virginia with its office and principal place of business located at 2000 Kecoughtan Rd., Hampton, Va.

Respondent John L. Lane, Jr. is an officer of the corporate respondents. He formulates, directs and controls the acts and practices of the corporate respondents including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondents.

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 Commercial Investors, Inc., a corporation, its successors and assigns, and its officers, and Virginia Mortgage and Loan Association, Inc., a corporation, its successors and assigns, and its officers, and John L. Lane, Jr., individually and as an officer of said corporations, 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 advertisement to aid, promote or assist, directly or indirectly, any extension or arrangement for the extension of consumer credit, as "consumer credit" and "advertisement" 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:

1. Failing to include the broker's fee or finder's fee in the determination of the finance charge, as required by Section 226.4(a)(3) of Regulation Z.

2. Failing to disclose the broker's fee or finder's fee as prepaid finance charge, as required by Section 226.8(e)(1) of Regulation Z, using the term "prepaid finance charge," as required by Section 226.8(d)(2) of Regulation Z.

3. Failing to itemize the components of the finance charge, as required by Section 226.8(d)(3) of Regulation Z.

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

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

6. Failing to disclose clearly the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation, as required by Section 226.6(a) of Regulation Z.

7. Failing to identify the broker as a creditor, as "creditor" is defined in Section 226.2(m) of Regulation Z, as required by Section 226.6(d) of Regulation Z.

8. Failing to provide the borrower complete consumer credit cost disclosures before consummation of the transaction, as required by Section 226.8(a) of Regulation Z.

9. 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, 226.8, 226.9 and 226.10 of Regulation Z.

It is further ordered, That respondents prominently display no less than two signs on the premises which will clearly and conspicuously state that a customer must receive a complete copy of the consumer credit cost disclosures, as required by the Truth in Lending Act, in any transaction which is financed, before the transaction is consummated.

It is further ordered, That the respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

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 any successor corporations, the creation or dissolution of

Order

85 F.T.C.

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

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 arranging for the extension of consumer credit and that respondents secure a signed statement acknowledging receipt of said order from each such person.

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 affiliations with a new business or employment. Such notice shall include respondent's current business addresses 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.
