
IN THE MATTER OF
HEFTLER REALTY SALES, INC., ET AL.

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

Docket C-2715. Complaint, Aug. 13, 1975-Decision, Aug. 13, 1975

Consent order requiring a Miami, Fla., marketer of condominiums and single-family homes, 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: *H. Robert Ronick* and *Hong S. Dea.*

For the respondents: *Pro se.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and of the Truth in Lending Act and the implementing regulation, as

amended, promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Heftler Realty Sales, Inc., a corporation, and Clyde M. Taylor, 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, as amended, 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 Heftler Realty Sales, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its principal office and place of business located at 9450 Sunset Dr., Miami, Fla.

Respondent Clyde M. Taylor 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 the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale and sale of condominium units and single family homes to members of the public.

PAR. 3. In the regular course and conduct of their business as aforesaid, respondents regularly advertise the availability and cost of consumer credit and offer to extend or arrange for the extension of such credit, as "consumer credit" is defined in Section 226.2 of Regulation Z, the implementing regulation of the Truth in Lending Act, as amended, duly promulgated by the Board of Governors of the Federal Reserve System.

PAR. 4. Subsequent to July 1, 1969, respondents, in the ordinary course of business as aforesaid, have caused, and are causing to be published, advertisements, as "advertisement" is defined in Section 226.2 of Regulation Z, which advertisements aid, promote or assist, directly or indirectly, the extension of other than open end credit.

PAR. 5. Respondents, in certain of these advertisements, have stated, and are stating, the rate of a finance charge, as "finance charge" is defined in Section 226.2 of Regulation Z, and have not expressed said rate as an annual percentage rate, using the term "annual percentage rate," as "annual percentage rate" is defined in Section 226.2 of Regulation Z, in violation of Section 226.10(d)(1) of Regulation Z.

PAR. 6. Respondents, in certain of these advertisements, have stated, and are stating, the amount of the downpayment required, that no downpayment is required, or that the downpayment is a certain

percentage of the stated sales price without also stating all of the following items, in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) thereof:

- 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 if the credit is extended; and
- d. the amount of the finance charge expressed as an annual percentage rate.

PAR. 7. By and through the aforesaid failures to make disclosures, respondents have failed to comply with the requirements of Regulation Z, the implementing regulation of the Truth in Lending Act, as amended, 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 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 Atlanta 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 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 thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts and the implementing regulation promulgated thereunder, 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 in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Heftler Realty Sales, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its principal office and place of business located at 9450 Sunset Dr., Miami, Fla.

Respondent Clyde M. Taylor 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 respondents Heftler Realty Sales, Inc., a corporation, its successors and assigns, and its officers, and Clyde M. Taylor, 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 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. §226) of the Truth and Lending Act (Pub.L. 90-321; 15 U.S.C. §1601, *et seq.*), do forthwith cease and desist from:

1. Failing to state the rate of a charge for consumer credit expressed as an "annual percentage rate," using that term, as prescribed by Section 226.10(d)(1) of Regulation Z.

2. 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:

- 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 if the credit is extended; and
- d. the amount of the finance charge expressed as an annual percentage rate.

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3. Failing, in any advertisement, to make all disclosures as required by Section 226.10 of Regulation Z and in the manner prescribed therein.

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.

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.
