

IN THE MATTER OF
TAYLOR & KIMBROUGH REALTY COMPANY, ET AL.
CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION AND TRUTH IN LENDING
ACTS

Docket C-2750. Complaint, Oct. 28, 1975--Decision, Oct. 28, 1975

Consent order requiring a Memphis, Tenn., realty company, 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: *Truett M. Honeycutt.*

For the respondents: *William Bartholomew, Memphis, Tenn.*

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 Taylor & Kimbrough Realty Company, a corporation, and Lloyd R. Taylor, individually and as an officer of said corporation, 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 Taylor & Kimbrough Realty Company is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Tennessee, with its principal office and place of business located at 3255 White Brook Plaza, Bldg. C, Suite 100, Memphis, Tenn.

Respondent Lloyd R. Taylor is President of the corporate respondent. He formulates, directs and controls the policies, acts and practices of said corporation. 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 as brokers and agents selling real estate to the public.

PAR. 3. In the ordinary course and conduct of their business as aforesaid, respondents have caused, and are now causing advertisements, as "advertisement" is defined in Section 226.2(b) of Regulation Z, to be placed in various media for the purpose of aiding, promoting, or assisting, directly or indirectly, extensions or arrangements of consumer credit in conjunction with the sale of residential real estate, as "consumer credit" is defined in Section 226.2(k) of Regulation Z.

PAR. 4. Subsequent to July 1, 1969, respondents have caused advertisements referred to in Paragraph Three to be published. Certain of said advertisements:

1. Stated the rate of finance charge without expressing that rate as an "annual percentage rate," using that term, in violation of Section 226.10(d)(1) of Regulation Z.

2. Stated the amount of the downpayment (either in dollars or as a percentage), and the number of installments, without also stating, as required by Section 226.10(d)(2) of Regulation Z, in terminology prescribed under Section 226.8 of Regulation Z, all of the following:

- a. the amount of the loan;
- b. the number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended; and
- c. the amount of the finance charge expressed as an annual percentage rate.

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 promulgat-

ed 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 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 Taylor & Kimbrough Realty Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Tennessee, with its office and principal place of business located at 3255 Whitebrook Plaza, Bldg. C, Suite 100, Memphis, Tenn.

2. Respondent Lloyd R. 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.

3. 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 Taylor & Kimbrough Realty Company, a corporation, its successors and assigns, and its officers, and Lloyd R. 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 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:

1. Stating the rate of a finance charge unless such rate is expressed

as an annual percentage rate, using the term "annual percentage rate," as "finance charge" and "annual percentage rate" are defined in Section 226.2 of Regulation Z, 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 amount of the loan;
- b. the number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended; and
- c. the amount of the finance charge expressed as an annual percentage rate.

3. 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 deliver a copy of this order to cease and desist 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 copy of this 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 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 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 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.
