

IN THE MATTER OF
ARGONAUT INVESTMENTS, INC., ET AL.

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

Docket C-2781. Complaint, Jan. 19, 1976—Decision, Jan. 19, 1976

Consent order requiring a Hollywood, Calif., mortgage 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: *Robert C. Amador.*

For the respondents: *Erwin I. Grant*, Hollywood, Calif.

COMPLAINT

Pursuant to the provisions of the Truth in Lending Act and the implementing regulation promulgated thereunder, and of 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 Argonaut Investments, Inc., a corporation, and Barney Lieberman and Frank Williams, individually and as officers of said corporation, hereafter 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 Argonaut Investments, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 1680 North Vine St., Suite 309, Hollywood, California.

Respondents Barney Lieberman and Frank Williams are officers of the corporate respondent. They formulate, direct, and control the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. Their 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 business of arranging for the extension of consumer credit through the operation of a mortgage brokerage business, which

generally arranges, for a fee, for investors to lend money to consumers using real property for security for the performance of the obligation arising out of the transaction.

PAR. 3. In the ordinary course and conduct of their business as aforesaid, respondents regularly arrange for the extension of consumer credit, as "arrange for the extension of credit" and "consumer credit" are 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.

PAR. 4. Subsequent to July 1, 1969, in the ordinary course of business as aforesaid, respondents have provided customers with credit cost disclosure statements which fail to disclose the annual percentage rate computed accurately to the nearest quarter of one percent, as is required by Section 226.5(b) of Regulation Z.

PAR. 5. By and through the use of respondents' real estate loan agreement, a security interest, as "security interest" is defined in Section 226.2(z) of Regulation Z, is or will be retained or acquired in real property which is used or expected to be used as the principal residence of the respondents' customers. Respondents' retention or acquisition of such security interest in said real property thereby entitles their credit customers to be given the right to rescind that transaction until midnight of the third business day following the consummation of the transaction or the date of delivery of all the disclosures required by Regulation Z, whichever is later.

Respondents have in some instances failed to give their credit customers the right to rescind until midnight of the third business day following the consummation of the transaction or the date of delivery of all disclosures, whichever is later, and have failed to set forth the "effect of rescission" in the rescission notice to their customers as required by Sections 226.9(a) and (b).

Further, respondents have caused or permitted the disbursement of money, other than in escrow, prior to the expiration of the three-day rescission period. Respondents' failure to refrain from disbursing any money, other than in escrow, pursuant to rescindable contracts before the rescission period has expired is in violation of Section 226.9(c) of Regulation Z.

PAR. 6. Subsequent to July 1, 1969, in the ordinary course of business as aforesaid, respondents have caused or attempted to cause, a customer to modify or waive his right to rescind a transaction subject to Section 226.9 of Regulation Z by and through the use of a preprinted form entitled *Notice of Nonexercise of Right to Rescission* in violation of Section 226.9(e) of Regulation Z.

PAR. 7. Subsequent to July 1, 1969, in the ordinary course of business

as aforesaid, respondents have provided customers with additional information or explanation which is stated, utilized, or placed so as to mislead or confuse the customer or contradict, obscure, or detract attention from the information required by Section 226.9 of Regulation Z by and through the use of respondents' preprinted form entitled *Notice of Nonexercise of Right of Rescission*. Said use of such inconsistent disclosures is a violation of Section 226.6(c) of Regulation Z.

PAR. 8. By and through the acts and practices set forth above, respondents have failed and are now failing to comply with the requirements of Regulation Z, the implementing regulation of the Truth in Lending Act, 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 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 the copy of a draft of complaint which the Los Angeles 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 Federal Trade Commission Act, the Truth in Lending Act and the implementing regulation promulgated thereunder; 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 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 of its Rules, the Commission hereby issues

its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Argonaut Investments, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 1680 North Vine St., Suite 309, Hollywood, California.

Respondents Barney Lieberman and Frank Williams are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation, and their principal office and place of business is located at the above-stated address.

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 Argonaut Investments, Inc., a corporation, its successors and assigns, and its officers, and Barney Lieberman and Frank Williams, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device in connection with any extension of, or arrangement for the extension of, consumer credit as "consumer credit" is 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 compute and disclose the annual percentage rate accurately to the nearest quarter of one percent, as required by Sections 226.5(b) and 226.8(b)(2) of Regulation Z.

2. Failing, in any transaction in which a security interest is or will be retained or acquired in any real property which is used or is expected to be used as the principal residence of the customer, to provide each customer with two copies of the notice of the right to rescind, as set forth in Section 226.9 of Regulation Z, in the form and manner specified by Section 226.9(b) of Regulation Z.

3. Causing or permitting the disbursement of any monies, other than in escrow, until after the rescission period has expired, as required by Section 226.9(c)(1) of Regulation Z.

4. Causing or permitting a customer to modify or waive his right to rescind a transaction subject to Section 226.9 of Regulation Z, unless:

(a) the extension of credit is needed in order to meet a bona fide immediate personal financial emergency of the customer;

(b) the customer has determined that a delay of three (3) business days in performance of the respondents' obligation under the transaction will jeopardize the welfare, health or safety of natural persons or

endanger property which the customer owns or for which he is responsible; and

(c) the customer furnishes the respondents with a separate dated and signed personal statement describing the situation requiring immediate remedy and modifying or waiving his right of rescission.

5. Causing or requiring a customer to execute any document that indicates, expressly or by implication, that said customer's right of rescission period as set forth by Section 226.9(a) of Regulation Z has expired and the creditor may proceed with his obligation.

6. Failing, in any transaction in which respondents retain or acquire a security interest in real property which is used or expected to be used as the principal residence of the customer, to comply with all requirements regarding the right of rescission set forth in Section 226.9 of Regulation Z.

7. Failing in any consumer credit transaction 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 and 226.8 of Regulation Z.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions and to all present and future personnel of respondent engaged in the consummation of any 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 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 respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which they are engaged as well as the description of their 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.

Complaint

87 F.T.C.

IN THE MATTER OF
FRED MEYER, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-2782. Complaint, Jan. 20, 1976—Decision, Jan. 20, 1976

Consent order requiring a West Coast retail food and general line merchandise store chain operating in Oregon, Washington and Montana, among other things to cease misrepresenting the availability of merchandise; and misrepresenting the price at which merchandise may be purchased. Further, respondent is required to prominently display the location and price of items advertised below the regular price and to post a notice to consumers and a copy of the advertisement near entrances to its stores; and to issue rainchecks for any advertised items temporarily out of stock.

Appearances

For the Commission: *Dennis McFeely* and *Sarah J. Hughes*.

For the respondent: *Robert L. Ridgley, Davies, Biggs, Strayer, Stoel & Boley*, Portland, Oreg.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Fred Meyer, Inc., a corporation, hereinafter sometimes referred to as respondent, has violated the provisions of said 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:

COUNT I

Alleging violations of Sections 5 and 12 of the Federal Trade Commission Act.

PARAGRAPH 1. Respondent Fred Meyer, 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 3800 S.E. 22nd, Portland, Oregon.

PAR. 2. All allegations made in the present tense include the past tense.

PAR. 3. Respondent is engaged in the operation of a chain of retail stores selling food, drug, variety and other general merchandise. Respondent operates such stores in Oregon, Montana and Washington.