

IN THE MATTER OF
CLOVER JEWELERS BLVD., INC., ET AL.

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

Docket C-2795. Complaint, Feb. 23, 1976—Decision, Feb. 23, 1976

Consent order requiring a Las Vegas, Nev., seller of jewelry and small appliances, 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: *Gerald E. Wright.*

For the respondents: *Pro se.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, 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 Clover Jewelers Blvd., Inc., a corporation, and Michael S. Leffert and Bonnie Nolan Leffert, individually and as officers of said corporation, hereinafter sometimes referred to as respondents, have violated the provisions of said Acts, 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 Clover Jewelers Blvd., Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nevada with its principal office and place of business located at 3498 Maryland Pkwy., Las Vegas, Nevada.

Respondents Michael S. Leffert and Bonnie Nolan Leffert 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 advertising and sale to the public of jewelry and small appliances.

PAR. 3. In the ordinary course and conduct of their business as aforesaid, respondents regularly extend and for some time last past

have regularly extended 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, respondents, in the ordinary course of business as aforesaid, and in connection with credit sales, as "credit sale" is defined in Section 226.2(n) of Regulation Z, respondents have caused and are now causing customers to enter into contracts for the purchase of respondent's jewelry and small appliances. In these contracts, hereinafter referred to as "the contract" respondents have provided some, but not all, of the consumer credit cost information required by Regulation Z. Respondents do not provide these customers with any other consumer credit cost information.

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

1. Failed to compute and disclose the annual percentage rate accurately to the nearest quarter of one percent in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.

2. Failed to identify the method of computing any unearned portion of the finance charge in the event of a prepayment of the obligation, as required by Section 226.8(b)(7) of Regulation Z.

3. Failed to disclose that refunds of amounts paid toward the cash price will not be made to the customer upon default as required by Section 226.8(b)(4) 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 San Francisco 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 as amended and 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, and 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 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 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Clover Jewelers Blvd., Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nevada, with its principal place of business and office located at 3498 Maryland Pkwy., Las Vegas, Nevada.

Individual respondents Michael S. Leffert and Bonnie Nolan Leffert are the principal officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation and their business 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 Clover Jewelers Blvd., Inc., a corporation, and its successors and assigns, and its officers, and Michael S. Leffert and Bonnie Nolan Leffert, 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 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 (15 U.S.C. §1601, *et seq.*), do forthwith cease and desist from:

1. Failing to compute and disclose the annual percentage rate to the nearest quarter of one percent in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.

2. Failing to identify the method of computing any unearned portion of the finance charge in the event of prepayment as required by Section 226.8(b)(7) of Regulation Z.

3. Failing to disclose that refunds of amounts paid toward the cash price will not be made to the customer upon default as required by Section 226.8(b)(4) of Regulation Z.

4. 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 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 sale or 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 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 a description of their duties and responsibilities.

It is further ordered, That 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.

IN THE MATTER OF
AMREP CORPORATION

Docket 9018. Order, Feb. 24, 1976

Commission affirms administrative law judges's denial of respondent's motion to stay proceeding.

Appearances

For the Commission: *Perry W. Winston, Jon R. Calhoun and George E. Schulman.*

For the respondent: *Solomon Friend, Theodore Schaeier and I. David Parkoff, In-house General Counsel for Amrep Corporation, N.Y. Morton M. Maneker, Proskauer, Rose, Goetz & Mendelsohn, New York City.*

ORDER AFFIRMING ADMINISTRATIVE LAW JUDGE'S DENIAL OF
STAY

This matter is before us upon respondent's application for review of the administrative law judge's order of January 15, 1976, disposing of respondent's motion to stay this proceeding pending the trial of a criminal fraud case, *United States v. Amrep Corp.*, 75 Cr. 1023, scheduled to commence on October 5, 1976 in the United States District Court for the Southern District of New York. The law judge, after concluding that respondent's motion called chiefly for the exercise of administrative discretion and was, therefore, outside of his authority, see *Philip Morris, Inc.*, 79 F.T.C. 1023 (1971), certified the motion to the Commission with his recommendation that the motion be denied. Rules of Practice, Section 3.22(a). The law judge also ruled that, in the event that the motion should be treated as involving questions of law or judicial discretion and was, therefore, within the scope of his authority, the motion was denied. The judge granted respondent permission to take an immediate interlocutory appeal from the ruling. Rules of Practice, Section 3.23(b).¹

Since the basis of respondent's motion is that a stay is "necessary to protect respondent's right to due process and to safeguard its substantive right to defend itself" in both the criminal and administrative proceedings, Memorandum of Law in Support of Respondent's Motion to Stay Proceedings at 1, the Commission believes that the

¹ On January 15, 1976, the United States District Court for the Southern District of New York ordered a stay of the Commission proceeding after July 30, 1976, until one month after the entry of the jury's verdict in the criminal trial. On January 27, 1976, the United States Court of Appeals for the Second Circuit granted a stay of the Commission proceeding pending determination of Amrep's appeal from the portion of the district court's order permitting this proceeding to continue through July 30, 1976.