

Complaint

89 F.T.C.

IN THE MATTER OF

RICHARD D. JONES MORTGAGE SERVICES, INC., ET
AL.CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION AND TRUTH IN LENDING
ACTS*Docket C-2785. Complaint, Mar. 25, 1977 — Decision, Mar. 25, 1977*

Consent order requiring a La Mesa, Calif., finance 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 disclosures as are required by Federal Reserve System regulations.

Appearances

For the Commission: *Paul R. Roark.*

For the respondents: *Michael M. Anello, Wingert, Grebing & Anello*, San Diego, Calif.

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 Richard D. Jones Mortgage Services, Inc., a corporation, and Richard D. Jones, individually and as an officer of said corporation, hereinafter sometimes 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 Richard D. Jones Mortgage Services, 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 8580 La Mesa Boulevard, La Mesa, Calif.

Respondent Richard D. Jones is an individual and 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 arranging for the extension of 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 as 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 or offer to extend or arrange for the extension of such 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 and conduct of their business as aforesaid, respondents arrange for the extension of loans which are not a credit sale. In these transactions, respondents:

1. Fail to make the disclosures required by Section 226.8 of Regulation Z clearly, conspicuously and in meaningful sequence, as required by Section 226.6(a) of Regulation Z.

2. Fail to determine accurately the finance charge, by failing to include service, transaction, activity or carrying charges, loan fees, points, finder's fees or similar charges, as required by Section 226.4(a) of Regulation Z.

3. Fail to include in the finance charge fees for title examination, abstract of title, title insurance, preparation of deeds, settlement statements, other documents, appraisal fees and credit reports, in excess of reasonable amounts, as required by Section 226.4(e) of Regulation Z.

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

5. Disclose additional information or explanation stated, utilized and placed so as to mislead or confuse the customer and to contradict, obscure and detract attention from the information required to be disclosed by Section 226.8 of Regulation Z, as proscribed by Section 226.6(c) of Regulation Z.

6. Fail to preserve, for two years, evidence of compliance with the disclosure requirements of Regulation Z, other than the advertising requirement under Section 226.10, as required by Section 226.6(i) of Regulation Z.

7. Fail to make the disclosures required by Section 226.8 of

Regulation Z on either (1) the note or instrument evidencing the obligation on the same side of the page and above or adjacent to the place for the customer's signature; or (2) one side of a separate statement which identifies the transaction, as required by Section 226.8(a) of Regulation Z.

8. Fail to disclose the annual percentage rate accurately to the nearest quarter of one percent, computed in accordance with Section 226.5 of Regulation Z, using the term "annual percentage rate," as required by Section 226.8(b)(2) of Regulation Z.

9. Fail to disclose the due dates or periods of payment scheduled to repay the indebtedness as required by Section 226.8(b)(3) of Regulation Z.

10. Fail, in arranging for the extension of credit for loans secured by other than first liens or equivalent security interest on a dwelling made to finance the purchase of that dwelling, to disclose the sum of all the periodic payments and fail to use the term "total of payments" to describe said sum as required by Section 226.8(b)(3) of Regulation Z.

11. Fail, where a payment is more than twice the amount of an otherwise regularly scheduled equal payment, to identify the amount of such payment by using the term "balloon payment," as required by Section 226.8(b)(3) of Regulation Z.

12. Fail to disclose the amount, or method of computing the amount, of any default, delinquency or similar charges payable in the event of late payments, as required by Section 226.8(b)(4) of Regulation Z.

13. Fail to describe the penalty charge that may be imposed by the creditor or his assignee for prepayment of the principal of the obligation with an explanation of the method of computation of such penalty and the conditions under which it may be imposed, as required by Section 226.8(b)(6) of Regulation Z.

14. Fail to identify the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation and a statement of the amount or method of computation of any charge that may be deducted from the amount of any rebate of such unearned finance charge that will be credited to the obligation or refunded to the customer, as required by Section 226.8(b)(7) of Regulation Z.

15. Fail to identify the amount of credit which will be paid to the customer or for his account or to another person on his behalf, including all charges, individually itemized, which are included in the amount of credit extended out which are not part of the finance

charge, using the term "amount financed," as required by Section 226.8(d)(1).

16. Fail to disclose, except in the case of a loan secured by a first lien or equivalent security interest on a dwelling and made to finance the purchase of that dwelling, the total amount of the finance charge using the term "finance charge," as required by Section 226.8(d)(3) of Regulation Z.

17. Fail, in the case of transactions in which a security interest is or will be retained or acquired in any real property which is used or expected to be used as the principal residence of the customer, except in the case of the creation, retention or assumption of a first lien or equivalent security interest as provided in Section 226.9(g) of Regulation Z, to:

a. disclose that the customer has a right to rescind the transaction by midnight of the third business day following the transaction, as required by Section 226.9 of Regulation Z;

b. set forth along with the notice contemplated by Section 226.9(b) of Regulation Z, Section 226.9(d) of Regulation Z, as required by Section 226.9(b) of Regulation Z; and

c. delay performance of respondents' obligations under contract until the rescission period has expired, as required by Section 226.9(c) of Regulation Z.

PAR. 5. 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 the 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 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 and of the Truth in Lending Act and the implementing regulation promulgated thereunder;

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 the said Acts and implementing regulation, 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 Richard D. Jones Mortgage Services, 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 8580 La Mesa Boulevard, La Mesa, Calif.

Respondent Richard D. Jones is an officer of said corporation. He formulates, directs and controls the policies, act and practices of said corporation, and his 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 Richard D. Jones Mortgage Services, Inc., a corporation, its successors and assigns, and its officers, and Richard D. Jones, 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, as "consumer credit" is defined in Regulation Z (12 C.F.R. 226) of the implementing regulation of the Truth in Lending Act, [15 U.S.C. 1601-1665 (1970), as amended, 15 U.S.C. 1601-1665(a), (Supp. IV, 1974)], do forthwith cease and desist from:

1. Failing to make the disclosures required by Section 226.8 of

Regulation Z clearly, conspicuously and in a meaningful sequence, as required by Section 226.6(a) of Regulation Z.

2. Failing to include in the finance charge the service, transaction, activity or carrying charges, loan fees, points, finder's fees and similar charges as required by Section 226.4(a) of Regulation Z.

3. Failing to include in the finance charge fees for title examination, abstract of title, title insurance, preparation of deeds, settlement statements, other documents, appraisal fees and credit reports, in excess of reasonable amounts, as required by Section 226.4(e) of Regulation Z.

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

5. Disclosing additional information or explanation stated, utilized or so placed so as to mislead or confuse the customer or to contradict, obscure or detract attention from the information required to be disclosed by Section 226.8 of Regulation Z, including, but not limited to, setting forth any rate of interest or annual percentage rate in percentage terms which is not the true annual percentage rate required to be disclosed by Regulation Z and this order, as required by Section 226.6(c) of Regulation Z.

6. Failing to preserve, for two years, evidence of compliance with the disclosure requirements of Regulation Z, other than the advertising requirements under Section 226.10, as required by Section 226.6(i) of Regulation Z.

7. Failing to make the disclosures required by Section 226.8 of Regulation Z on either (1) the note or instrument evidencing the obligation on the same side of the page and above or adjacent to the place for the customer's signature; or (2) on one side of a separate statement which identifies the transaction, as required by Section 226.8(a) of Regulation Z.

8. Failing to disclose the annual percentage rate accurately to the nearest quarter of one percent, computed in accordance with Section 226.5 of Regulation Z, using the term "annual percentage rate," as required by Section 226.8(b)(2) of Regulation Z.

9. Failing to disclose the due dates or periods of payment scheduled to repay indebtedness, as required by Section 226.8(b)(3) of Regulation Z.

10. Failing, in arranging for the extension of credit loans secured by other than a first lien or equivalent security interest on a dwelling made to finance the purchase of that dwelling, to disclose the sum of all payments and failing to use the term "total of payments" to describe said sum, as required by Section 226.8(b)(3) of Regulation Z.

11. Failing, in transactions where a payment is more than twice the amount of an otherwise regularly scheduled equal payment, to identify the amount of such payment by using the term "balloon payment," as required by Section 226.8(b)(3) of Regulation Z.

12. Failing to disclose the amount, or method of computing the amount, of any default, delinquency or similar charges payable in the event of late payments, as required by Section 226.8(b)(4) of Regulation Z.

13. Failing to describe the penalty charge that may be imposed by the creditor or his assignee for prepayment of the principal of the obligation with an explanation of the method of computing such penalty and the conditions under which it may be imposed, as required by Section 226.8(b)(6) of Regulation Z.

14. Failing to identify the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation and a statement of the amount or method of computation of any charge that may be deducted from the amount of any rebate of such unearned finance charge that will be credited to the obligation or refunded to the customer, as required by Section 226.8(b)(7) of Regulation Z.

15. Failing to identify the amount of the credit which will be paid to the customer or for his account or to another person on his behalf, including all charges, individually itemized, which are included in the amount of the credit extended but which are not part of the finance charge, using the term "amount financed," as required by Section 226.8(d)(1) of Regulation Z.

16. Failing to disclose, except in the case of a loan secured by a first lien or equivalent security interest on a dwelling and made to finance the purchase of that dwelling, the total amount of the finance charge, using the term "finance charge," as required by Section 226.8(d)(3) of Regulation Z.

17. Failing, in the case of a transaction in which a security interest is or will be retained or acquired in any real property which is used or expected to be used as the principal residence of the customer, except in the case of the creation, retention or assumption of a first lien or equivalent security interest, as set forth in Section 226.9(g) of Regulation Z, to:

a. Disclose that the customer has a right to rescind the transaction by midnight of the third business day following the transaction, as required by Section 226.9 of Regulation Z; and

b. Furnish the customer with two copies of the notice set forth at Section 226.9(b) of Regulation Z, as required by Section 226.9(b) of Regulation Z; and

c. Set forth, along with the notice contemplated and required by Section 226.9(b) of Regulation Z, Section 226.9(d) of Regulation Z, as required by Section 226.9(b) of Regulation Z; and

d. Delay performance of respondents' obligations under contract until the rescission period has expired, as required by Section 226.9(c) of Regulation Z.

18. Failing in any consumer credit transaction to make all disclosures determined in accordance with Section 226.4 and 226.5 of Regulation Z at the time and in the manner, form, and amount required by Sections 226.6, 226.8, and 226.9 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 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 the 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.

It is further ordered, That the individual respondent named herein shall promptly notify the Commission of each change in his business or employment status, including discontinuance of his present business or employment, and each affiliation with a new business or employment for a period of ten years following the effective date of this order. Such notice shall include the address of the business or employment with which respondent is newly affiliated and a description of the business or employment as well as a description of the respondent's duties and responsibilities in that business or employment.

IN THE MATTER OF

NATIONAL MERIDIAN SERVICES, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 9027. Complaint, Mar. 25, 1975 — Decision, Mar. 28, 1977*

Consent order requiring a Woodbury, N.Y., marketer of a basement waterproofing and termite control process, among other things to cease misrepresenting the size, extent and nature of its business; misrepresenting the qualifications and abilities of its employees; misrepresenting the effectiveness, performance, durability and uniqueness of its products and services. Further, respondents are required to maintain adequate records for a period of three years; make prescribed disclosures regarding limitations of their waterproofing; and respond to requests for maintenance or service within seven days. Additionally, the terms of the order require respondents to provide a three-day cooling-off period during which customers may cancel their contracts and receive prompt refunds of monies paid; maintain a reasonable customer relations department and institute a surveillance program designed to insure compliance with the provisions of the order.

Appearances

For the Commission: *Michael E. K. Mpras and Jerry W. Boykin.*

For the respondents: *Jack Lipson and Stephen Sacks, Arnold & Porter, Washington, D.C.*

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 National Meridian Services, Inc., a corporation, and Meridian Waterproofing Corporation, a corporation, and Michael C. Pascucci, individually and as an officer and director of said corporations, and Austin Royle, individually and as an officer of Meridian Waterproofing Corporation, and as an officer and director of National Meridian Services, Inc., have 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:

PAR. 1. Respondent National Meridian Services, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its principal office and place of business located at 151 East Jericho Turnpike, Mineola, New York.

Said respondent controls and dominates the acts and practices of