

IN THE MATTER OF
CITY STORES COMPANY

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

Docket C-2910. Complaint, Nov. 1, 1977 — Decision, Nov. 1, 1977

This consent order, among other things, requires a New York City retail department store chain to cease imposing unauthorized collection fees on delinquent charge accounts and to provide such disclosures and refunds as are set forth in the order.

Appearances

For the Commission: *Richard H. Gateley and Russell A. Benghiat*,
Consumer Protection Specialist.

For the respondent: *Stuart M. Rosen, Weil, Gotshal & Manges*,
New York City.

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 City Stores Company, 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:

PARAGRAPH 1. Respondent City Stores Company 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 500 Fifth Ave., New York, New York. Respondent, through its divisions and wholly-owned subsidiaries, operates approximately one hundred forty-nine (149) department, specialty, and home furnishing stores, as well as certain collection agencies.

PAR. 2. Respondent City Stores Company is responsible for the formulation, control, and direction of the policies and practices of its divisions and subsidiaries, including the acts and practices hereinafter set forth.

PAR. 3. Respondent City Stores Company sells and distributes merchandise in commerce by operating and controlling retail department, specialty and home furnishing stores in a number of states, and by causing merchandise to be shipped from its warehouses and retail department stores for distribution to, and purchase by,

the general public located in states other than those from which such shipments originate. By these and other practices, respondent maintains, and at all times mentioned herein has maintained, a substantial course of business in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the ordinary course and conduct of its aforesaid business, respondent permits many customers of its retail stores to charge purchases. Customers charge their purchases pursuant to a credit agreement with respondent, which provides, among other things, for payment by the customer of attorney's fees and court costs if the customer's account is referred to an attorney who is not a salaried employee of respondent for collection.

PAR. 5. Respondent customarily provides to each charge account customer a monthly statement setting forth the amount of the balance in the account. In some instances, respondent's charge account customers have failed to make timely payments on their accounts. Respondent's Franklin Simon and Lit Brothers divisions, after internal collection efforts, in certain instances have added a twenty percent (20%) collection fee to accounts upon referring accounts to a collection agency (other than to an attorney who is not a salaried employee of respondent). The collection fee was imposed contrary to the terms of respondent's agreement with the customer since the account had not been referred to an independent attorney for collection. Respondent has, through such acts and practices, collected various amounts from customers.

PAR. 6. The aforesaid acts and practices of respondent have had, and now have, the capacity and tendency to mislead members of the purchasing public into the payment of a collection fee contrary to the terms of respondent's charge account agreement with customers. Respondent has thereby caused certain of its charge account customers to be deprived of substantial sums of money rightfully theirs.

PAR. 7. The aforesaid acts and practices of respondent, set forth in Paragraphs Five and Six above, were and are all to the prejudice and injury of the public and of respondent's competitors, and constituted, and now constitute, unfair methods of competition in or affecting commerce and unfair or deceptive acts and practices in or affecting commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption

hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Cleveland Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent 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 the respondent 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 respondent has violated the said Act, 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 City Stores Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 500 Fifth Ave., New York, New York.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding, and of the respondent, and the proceeding is in the public interest.

ORDER

For the purpose of this order, the term "unauthorized collection fee" refers to any fee, penalty or default charge which was collected by respondent prior to the date on which this order becomes final and which did not meet the requirements of subparagraphs (A) and (B) of paragraph (1) of this order.

It is ordered, That the respondent, City Stores Company, a corporation, and its successors and assigns, and its officers, representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the handling of customer charge accounts, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Imposing any fee, penalty or default charge on accounts which respondent considers delinquent or uncollectable or with respect to which collection procedures have been instituted unless:

(A) the imposition of the fee, penalty or charge is authorized by law; and

(B) the amount, or method of computing the amount of the fee, penalty or charge has been clearly and conspicuously disclosed to the customer in the Retail Installment Credit Agreement, or other credit agreement, prior to the consummation of the transaction.

Provided, that, the disclosure requirements of this paragraph are not applicable to any fee, penalty or charge awarded by a court or imposed by a judgment entered by a court.

(2) 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, 12 C.F.R. 226.8(b)(4), in the manner and form required by that regulation.

(3) Failing to disclose the conditions under which any charges other than finance charges may be imposed on an account and the method by which they will be determined as required by Section 226.7(a)(6) of Regulation Z, 12 C.F.R. 226.7(a)(6), in the manner and form required by that regulation.

(4) Failing to send the disclosures and make the refunds required by this order.

It is further ordered, That, with respect to each unauthorized collection fee in excess of one dollar (\$1.00) which respondent has at any time heretofore imposed on a customer and which has been collected from any such customer, on or after February 4, 1974, or which is collected at any time subsequent thereto:

1. Respondent shall refund to each such customer the full amount of such fee:

(i) within sixty (60) days of the date this order becomes final, respecting all fees heretofore collected (unless such fee has previously been refunded); and

(ii) within 30 days after receipt, respecting any such fees which may be collected subsequent to the date of this order; and

2. Respondent shall make a clear and conspicuous disclosure which shall state:

REFUND

The enclosed check represents a refund of a collection fee which you paid as part

of a previous bill. Since our account agreement with you does not provide for such a charge, we are refunding the amount of the collection fee.

Each refund shall be given to the customer either in person or by mail, and shall be in the form of a check payable to the order of the customer. The check shall be sent to the last known address shown in respondent's records for said customer. If any such check is returned to respondent with a notification to the effect that the customer to whom it was mailed is not located at the address to which it was sent, respondent shall remail the check, with an address correction request, to the Post Office unless respondent has already done so. If the check or statement which has been remailed is returned to respondent and the amount to be refunded exceeds fifteen dollars (\$15.00), respondent shall obtain from a credit bureau the most current address available for the customer in the credit bureau's files by means of an in-file report or other credit bureau report. If the customer is not located by the preceding methods, respondent shall thereafter be relieved of any further obligation to send any additional notice and/or any refund with respect to the collection fee in question; *provided, however*, that in the event said customer should subsequently request such refund, respondent shall, within thirty (30) days from the date of such request, provide the disclosures and refund the collection fee in accordance with the provisions of this order.

It is further ordered, That respondent shall, upon request, produce for the purpose of examination and copying by representatives of the Federal Trade Commission, all records pertinent to disclosures and refunds made pursuant to this order.

It is further ordered, That respondent shall forthwith distribute a copy of this order to each of its operating divisions and subsidiaries.

It is further ordered, That respondent 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 respondent shall, within sixty (60) days after the service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Complaint

90 F.T.C.

IN THE MATTER OF
STANDARD OIL COMPANY (OHIO)

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

Docket 8910. Complaint, Jan. 18, 1973 — Decision, Nov. 2, 1977

This consent order, among other things, requires a Cleveland, Ohio, manufacturer of petroleum and automotive products, to cease prohibiting its dealers from obtaining non-gasoline products from independent sources or requiring them to deal exclusively with Sohio for automotive accessories. The order requires the firm to offer its lessee dealers new agreements which comply with the terms of the order, or give notice that agreements will not be offered. Additionally, it provides that where Sohio seeks to cancel an agreement prior to its expiration for "good cause," dealer may request that determination of good cause be submitted to arbitration.

Appearances

For the Commission: *Frank Lipson and Jonathan Gaines.*

For the respondent: *Rufus S. Day, Jr., David A. Nelson and James H. Bodurtha, Squire, Sanders & Dempsey, George J. Dunn and Richard M. Donaldson, all of Cleveland, Ohio.*

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 The Standard Oil Company (Ohio), a corporation, hereinafter sometimes referred to as respondent or as Sohio, 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:

PARAGRAPH 1. Respondent The Standard Oil Company (Ohio) is a corporation organized, existing and doing business under the laws of the State of Ohio. Its executive office and principal place of business is located at the Midland Building, Cleveland, Ohio.

PAR. 2. The Standard Oil Company (Ohio) and its subsidiaries (herein collectively referred to as Sohio) engage in all phases of the petroleum business, including exploration for and production of crude oil and natural gas and the manufacture, transportation and marketing of petroleum products. Sohio also markets automobile supplies and accessories through its retail outlets. In addition, Sohio produces and sells coal, manufactures and markets plastic products