

IN THE MATTER OF
PROVIDERS BENEFIT COMPANY, ET AL.

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

Docket C-2911. Complaint, Nov. 8, 1977 — Decision, Nov. 8, 1977

This consent order, among other things, requires a Philadelphia, Pa. consumer credit corporation and its subsidiaries to cease failing to provide consumers, in connection with the extension of credit, such material and disclosures as are required by Federal Reserve Board regulations; and to cease misrepresenting or failing to inform customers of the optional nature of credit insurance. Further, the order requires firms to offer customers the opportunity to cancel such insurance and to make appropriate refunds as specified.

Appearances

For the Commission: *Salvatore F. Sangiorgi.*

For the respondents: *Sheldon Feldman, Weil, Gotshal & Manges,*
Washington, D.C.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and the Truth in Lending Act and the regulation promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission having reason to believe that the parties identified in the caption hereof, and herein more particularly described and collectively 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 Providers Benefit Company is the parent corporation of Provident Credit Corp., a wholly-owned subsidiary. Provident Consumer Discount Company, Inc. is a wholly-owned subsidiary of Provident Credit Corp. All three corporations are organized, existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania. The office and principal place of business of Providers Benefit Company is located at 8045 West Chester Pike, Upper Darby, Pennsylvania. The office and principal place of business of Provident Consumer Discount Company, Inc. and Provident Credit Corp. is located at 42 South 15th St., Philadelphia, Pennsylvania.

PAR. 2. Respondents Frederick I. Robinson and George Billings are officers of corporate respondents Provident Consumer Discount Company, Inc. and Provident Credit Corp. They formulate, direct and control the policies, acts and practices of said corporation, including the acts and practices hereinafter set forth.

PAR. 3. Respondents are now, and for some time last past have been engaged in the offering to extend, and the extension of consumer credit to the public in the Commonwealth of Pennsylvania and the State of New Jersey.

PAR. 4. In the ordinary course and conduct of its business, as aforesaid, respondents regularly extend 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. 5. Subsequent to July 1, 1969, in extending consumer credit, respondents execute an "Installment Sale and Security Agreement" on which disclosures were made which failed to conform to the terminology required, and made certain other cost of credit disclosures, including the dollar amount of the finance charge, without disclosing the "annual percentage rate," thereby failing to comply with the disclosure requirements of the Truth in Lending Act as defined and set forth in Sections 226.8(a), (b), and (c) of Regulation Z. In addition, respondents furnish their customers with a separately executed "Federal Disclosure Statement" which makes disclosures under Section 226.8(d) "Loans and other non-sale credit," rather than furnishing disclosures as required by Section 226.8(c), consistent with the definition of a "credit sale" as that term is defined in Section 226.2(t) of Regulation Z.

By and through their use of the separate disclosure statements and in conjunction with a credit sale, respondents:

1. Fail to make required disclosures in a clear and conspicuous manner using the terminology as required by Section 226.6(a) of Regulation Z.
2. Fail to print the term "finance charge" more conspicuously than other terminology as required by Section 226.6(a) of Regulation Z.
3. Fail to make all of the required disclosures together on either the contract or other instrument evidencing the obligation on the same side of the page, or one side of a separate statement which identifies the transaction, as required by Sections 226.8(a)(1) or 226.8(a)(2) of Regulation Z.
4. Fail to accurately disclose the finance charge expressed as an

annual percentage rate, using the term "annual percentage rate" as required by Section 226.8(b)(2) of Regulation Z.

5. Fail to disclose the sum of the payments scheduled to repay the indebtedness using the term "total of payments" as required by Section 226.8(b)(3) of Regulation Z.

6. Fail to use the term "cash price" to describe the price at which the creditor offers, in the ordinary course of business, to sell for cash the property or services which are the subject of the consumer credit transaction as required by Section 226.8(c)(1) of Regulation Z.

7. Fail to use the term "cash downpayment" to describe the amount of the downpayment of money, using the term "cash downpayment" as required by Section 226.8(c)(2) of Regulation Z.

8. Fail to use the term "total downpayment" to describe the sum of cash downpayment in money and the downpayment in property, using the term "total downpayment" as required by Section 226.8(c)(2) of Regulation Z.

9. Fail to use the term "unpaid balance of cash price" to describe the difference between the cash price and total downpayment, as required by Section 226.8(c)(3) of Regulation Z.

10. Fail to use the term "unpaid balance" to describe the sum of the unpaid balance of cash price and all other charges which are included in the amount financed but which are not part of the finance charge, as required by Section 226.8(c)(5) of Regulation Z.

11. Fail to use the term "amount financed" to describe the amount of credit of which the customer will have actual use determined in accordance with Section 226.8(c)(7) of Regulation Z.

12. Fail to disclose the method of computing any unearned portion of the finance charge in the event of prepayment in full of an obligation which includes precomputed finance charges, 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 an obligation or refunded to the customer, and if no rebate of unearned finance charges upon prepayment in full is made, the disclosure of such fact.

PAR. 6. In the further course and conduct of their business as aforesaid, respondents have charged and are now charging a substantial number of consumers for credit life and/or credit disability insurance, written in connection with consumer credit transactions.

Typical and illustrative but not all inclusive, of the circumstances in which such insurance charges are incurred by consumers are the following:

1. Prior to presenting the credit disclosure statement to the

consumer, respondents automatically include the cost of credit life and/or credit disability insurance on such statement, and unless the consumer specifically objects to the inclusion of the charges for such insurance, the coverage becomes part of the credit transaction.

2. In most instances, respondents have placed a checkmark, or "x" mark or some other mark next to blank lines on the credit disclosure statement to obtain obligor's signatures for credit life and credit disability insurance and/or have placed the date in the designated position in the insurance disclosure portion of said statement without permission or authority of the consumer.

3. Respondents record the charges for credit life and credit disability insurance as disbursements and these charges become part of the amount financed, but are excluded from the finance charge in computing the annual percentage rate, as "finance charge" and "annual percentage rate" are defined in Regulation Z.

PAR. 7. By and through the acts and practices described in Paragraph Six, and others of similar import, meaning and consequence but not specifically set forth herein, respondents, in a substantial number of instances, and particularly in connection with the sale of credit life and credit disability insurance, obtain consumers' signatures through acts and practices which operate, directly or indirectly, to defeat the elective language on the credit disclosure statements by obscuring from consumers knowledge about the option. In some instances, respondents lead consumers to believe that their signatures are necessary solely for the purpose of obtaining credit. In other instances, respondents allow consumers to sign the credit disclosure statement, electing insurance, in the mistaken belief that such insurance is required by respondents. Respondents also discourage the declination of the insurance coverage when it is questioned. These acts and practices have the effect of preventing substantial numbers of consumers from exercising their own independent, voluntary choice whether to obtain credit life and credit disability insurance.

Therefore, respondents, in a substantial number of instances, induce consumers to incur charges for credit life and credit disability insurance without said consumers making a knowing, affirmative election to have such insurance and, thereby, respondents fail to obtain from each of their customers a "specifically dated and separately signed affirmative written indication of [their] desire" to obtain such insurance, as required by Section 226.4(a)(5) of Regulation Z, in spite of the existence of language to the contrary in the credit disclosure statement.

PAR. 8. By and through the acts and practices described in

Paragraphs Six and Seven hereof, respondents fail to include the charges for credit life and credit disability insurance in the finance charge when a specific dated separately signed affirmative written indication of the consumer's desire for such insurance has not been obtained, as required by Section 226.4(a)(5) of Regulation Z, and thereby respondents:

1. Fail to compute and disclose accurately the "finance charge" as required by Sections 226.4 and 226.8 of Regulation Z; and
2. Fail to compute and disclose accurately the "annual percentage rate" accurately to the nearest quarter of one percent, in accordance with Section 226.5, as required by Section 226.8 of Regulation Z.

PAR. 9. In the further course and conduct of their business and particularly in connection with their extensions of consumer credit, respondents have charged a substantial number of consumers for automobile medical insurance and/or automobile club plan membership. The charge for this coverage is imposed directly or indirectly by respondents as an incident to or as a condition of the extension of credit. The charges or premiums are usually paid by the consumer from the proceeds of the credit transaction to the respondents. Respondents do not include the charge or premium for said coverage in the finance charge.

Therefore, respondents are violating Sections 226.4 and 226.8 of Regulation Z, by failing to include the charges for "Automobile Medical Insurance" and/or "Automobile Club Plan Membership" in the finance charge and by failing to specifically disclose such charges as an element of the finance charge.

PAR. 10. By and through respondents' failure to include the charges for "Automobile Medical Insurance" and/or "Automobile Club Plan Membership" in the finance charge as described in Paragraph Nine, respondents:

1. Fail to compute and disclose accurately the "finance charge" as required by Sections 226.4 and 226.8 of Regulation Z; and
2. Fail to compute and disclose accurately the "annual percentage rate" accurately to the nearest quarter of one percent in accordance with Section 226.5, as required by Section 226.8 of Regulation Z.

PAR. 11. Pursuant to Section 103(s) 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(c) 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 New York 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

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 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(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Providers Benefit Company is the parent corporation of Provident Credit Corp., a wholly-owned subsidiary. Provident Consumer Discount Company, Inc. is a wholly-owned subsidiary of Provident Credit Corp. All three corporations are organized, existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania. The office and principal place of business of Providers Benefit Company is located at 8045 West Chester Pike, Upper Darby, Pennsylvania. The office and principal place of business of Provident Consumer Discount Company, Inc. and Provident Credit Corp. is located at 42 South 15th St., Philadelphia, Pennsylvania.

2. Respondents Frederick I. Robinson and George Billings are officers of corporate respondents Provident Consumer Discount Company, Inc. and Provident Credit Corp. They formulate, direct and control the policies, act and practices of said corporations.

3. The Federal Trade Commission has jurisdiction of the subject

matter of the proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

For purposes of this order, the following definitions of terms shall apply:

(a) "Consumer credit transactions in open status" refers to those consumer credit transactions in which payments at least totaling the amount of one regular monthly payment have been made by the obligor in the last six months.

(b) "Delinquent account" refers to those accounts which are more than 30 days past due for an amount which equals the amount of one regular monthly payment.

(c) "Penetration rate" refers to the percentage of all transactions eligible for credit insurance on which charges for such insurance are made.

(d) "Refund method" refers to an accounting method to compute refunds of insurance premiums in connection with cancellation of insurance coverage which method makes use of both the Rule of 78 and a pro rata computation. As an example, the Rule of 78 would operate on a 12-month obligation as follows: The numbers 1 through 12 added together provide the figure 78. This is the denominator. The sum of the months expired at the date of cancellation supplies the numerator. The first month of a 12-month obligation is considered as 12 because the outstanding balance is 12 times as large during the first month as it is for the last month. The second month is 11, and so on to 1. The portion of insurance premiums which must be refunded, is for cancellation during the first month, $78/78-12/78$ or second month $66/78-11/78$ or $55/78$; and so on down to the 12th month. The numerator for a 24-month contract is obtained by beginning with 24, instead of 12, as for a 12-month contract, or 36 in the case of a 36-month contract or any other number denoting the total number of months or periods in a particular contract. To the amount of any refund due in connection with any credit transaction as determined by use of the Rule of 78 will be added an amount which is equal to 40 percent of the difference between said Rule of 78 amount and that amount which would be due if said refund were to be computed on a pro rata basis. Said pro rata amount refers to an amount which shall be at least as great a proportion of the total insurance premiums collected by respondents in connection with any credit transaction as the number of remaining monthly payments, scheduled to follow the installment date nearest the date of cancellation as explained below,

bears to the total number of monthly payments scheduled by the obligor's contract. Any cancellation made on or before the fifteenth day following an installment date shall be deemed to have been made on the installment date immediately preceding the date of cancellation. Any cancellation made after the fifteenth day following an installment date shall be deemed to have been made on the installment date immediately following the date of cancellation. Any obligor making cancellation on or before the fifteenth day following consummation of the transaction shall receive a refund or credit for the full amount of insurance premiums in connection with said transaction. Cancellation for purposes of computing the amount of any refund or credit due shall be as of the date of receipt by respondents of the notice set forth in Attachment C of this order or as of the date of receipt by respondents of any other communication from the borrower under the terms of this order indicating his desire to cancel his insurance coverage.

(e) "Time of closing" refers to that period of time during which credit agreements are presented to the customer for consummation of a credit transaction whereby the customer becomes obligated to make payments to respondents to satisfy said transactions.

I

It is ordered, That respondents Provident Benefit Company, Provident Consumer Discount Company, Inc. and Provident Credit Corp., corporations, their successors and assigns, and their officers and Frederick I. Robinson and George Billings, individually and as officers of Provident Consumer Discount Company, Inc. and Provident Credit Corp., and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension of consumer credit subject to the provisions of Regulation Z (12 CFR 226) of the Truth in Lending Act (Pub. Law 90-321, 15 U.S.C. 1601-65 (1970), as amended 15 U.S.C. 1601-65a, (Supp. IV, 1974)), do forthwith cease and desist from:

1. In connection with a credit sale, as applicable:

(a) Failing to make required disclosures in a clear and conspicuous manner using the terminology as required by Section 226.6(a) of Regulation Z.

(b) Failing to print the term "finance charge" more conspicuously than other terminology as required by Section 226.6(a) of Regulation Z.

(c) Failing to make all of the required disclosures together on either the contract or other instrument evidencing the obligation on

the same side of the page, or on one side of a separate statement which identifies the transaction, as required by Sections 226.8(a)(1) or 226.8(a)(2) of Regulation Z.

(d) Failing to accurately disclose the finance charge expressed as an annual percentage rate, using the term "annual percentage rate" as required by Section 226.8(b)(2) of Regulation Z.

(e) Failing to disclose the sum of the payments scheduled to repay the indebtedness using the term "total of payments" as required by Section 226.8(b)(3) of Regulation Z.

(f) Failing to use the term "cash price" to describe the price at which the creditor offers, in the ordinary course of business, to sell for cash the property or services which are the subject of the consumer credit transaction as required by Section 226.8(c)(1) of Regulation Z.

(g) Failing to use the term "cash downpayment" to describe the amount of the downpayment of money, using the term "cash downpayment" as required by Section 226.8(c)(2) of Regulation Z.

(h) Failing to use the term "total downpayment" to describe the sum of cash downpayment in money and the downpayment in property, using the term "total downpayment" as required by Section 226.8(c)(2) of Regulation Z.

(i) Failing to use the term "unpaid balance of cash price" to describe the difference between the cash price and total downpayment, as required by Section 226.8(c)(3) of Regulation Z.

(j) Failing to use the term "unpaid balance" to describe the sum of the unpaid balance of cash price and all other charges which are included in the amount financed but which are not part of the finance charge, as required by Section 226.8(c)(5) of Regulation Z.

(k) Failing to use the term "amount financed" to describe the amount of credit of which the customer will have actual use determined in accordance with Section 226.8(c)(7) of Regulation Z.

(l) Failing to disclose the method of computing any unearned portion of the finance charge in the event of prepayment in full of an obligation which includes precomputed finance charges, 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 an obligation or refunded to the customer, and if no rebate of unearned finance charges upon prepayment in full is made, the disclosure of such fact.

2. Failing, when the charges for credit life insurance, credit disability insurance, automobile medical insurance and/or club plan are not included in the finance charge for a consumer credit transaction.

(a) To present to the obligor as the first document at the time of closing, which document shall be the first document to be completed by respondents and the first document to be signed by the obligor(s) at the time of said closing in respondents' offices, or to mail to the obligor, who is consummating his credit transaction through the mail, at the same time as consummation papers are to be mailed, a separate, written, personal insurance authorization form which sets forth clearly and conspicuously:

(i) the obligor has received credit approval up to a specified amount;

(ii) the obligor's decision with regard to the various forms of insurance coverage available through respondents is not considered in granting the credit;

(iii) the purchase of any form of credit insurance is optional and is not required by the creditor, in connection with the credit transaction.

(iv) the amount of the total premium for credit life insurance, the amount of the total premium for credit disability insurance, the amount for automobile medical insurance and the amount for automobile club plan (which if elected will be added to the "amount financed");

(v) the amount financed options applicable to the transaction would result from the obligor's election to consummate the credit transaction, set forth in the following order from left to right across the document: (1) without either credit life insurance or credit disability insurance, (2) with credit life insurance only, (3) with credit disability insurance only, (4) with both credit life insurance and credit disability insurance, (5) with other available forms of credit insurance offered by respondent, except that, in addition to providing the required information for the above-stated four options, respondent need only provide the required information for one other option if the obligor has indicated an interest in such an option;

(vi) a signature and date line for each option set forth in (v) above for the obligor(s) to indicate his election;

(vii) the obligor authorizes respondents on behalf of the obligor to pay the insurance premiums to the insurance company for such insurance coverage which has been chosen.

(b) To send to mail order obligors, at the same time and along with the papers to consummate said credit transaction, a separate written statement containing the notice, in no less than 12 point bold type and easily legible, which this order requires to be displayed at respondents' office.

(c) To make the disclosures required by subparagraph (a) above on a separate document which contains no other printed or written material.

(d) To make disclosures required by subparagraphs (i), (ii) and (iii) above in not less than 12 point bold type. A form substantially in conformance with Attachment A herein will be considered as in compliance with the provisions of subparagraphs (a), (b) and (c) above. Respondents shall maintain the original statement for two years following its execution and provide the customer with an executed copy thereof.

3. Making any marks or otherwise instructing an obligor where to sign or date the separate insurance authorization form required by subsection 2(a) above in advance of the obligor's free and independent choice for such insurance.

4. Misrepresenting, orally or otherwise, directly or by implication, that credit life insurance, credit disability insurance, automobile medical insurance and/or automobile club plan membership are required as a condition of obtaining credit from respondents.

5. Discouraging, by misrepresentation, oral or otherwise, directly or by implication, the declination of credit life insurance, credit disability insurance, automobile medical insurance and/or automobile club plan membership.

6. Misrepresenting, orally or otherwise, directly or indirectly, that the obligor's failure to elect credit insurance coverage will result in a delay in processing his credit transaction or in his receiving the proceeds thereof.

7. Failing, in any consumer credit transaction or advertisement, to make all disclosures 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.

II

It is further ordered, That respondents display at their place of business, at each booth, or at or near each desk or other location where transactions are consummated, in such a manner and in such dimensions so as to be easily viewed and read by the obligor from his seated or other normal position in such booth or at such desk or other location, and which shall not be in close proximity to any other written or display material, the following notice:

NOTICE TO CREDIT CUSTOMERS

THE PURCHASE OF CREDIT INSURANCE IS OPTIONAL. IT IS NOT

REQUIRED BY THIS COMPANY. YOUR DECISION IS NOT CONSIDERED IN THE GRANTING OR DENYING OF CREDIT TO YOU.

III

It is further ordered, That respondents maintain records on a state-by-state basis (covering each state in which they do business) of the penetration rate of (a) credit life insurance for transactions; and (b) credit disability insurance for transactions. Such records shall be maintained on a yearly basis and submitted to the Commission each year for a period of five years, and thereafter from time to time as the Commission may request.

IV

It is further ordered, That within forty-five (45) days after the date this order becomes final respondents mail to all existing obligors to whom credit life insurance, credit disability insurance, auto club membership and/or auto medical payment insurance, were sold prior to the date this order becomes final and the premium(s) or fee(s) for same were not included in the finance charge, and who did not receive death benefits or health benefits under said insurance policies, in connection with respondents' consumer credit transactions in open status on the date this order becomes final, notwithstanding the sale or assignment of any or all of said transactions to a third party, the two notices set forth in Attachments B and C of this order, together with a self-addressed postpaid, return envelope.

Provided, however, that: (1) respondents shall not be required to forward the two notices set forth in Attachments B and C of this order to any obligor who has already received the above-mentioned notices prior to the date this order becomes final, and where any and all follow-up provisions required by this order with respect to said notices, including the making of refunds or the crediting of accounts, where applicable, have been or will be accomplished by respondents within the time periods specified in this order; and (2) respondents shall not be required to forward the two notices set forth in Attachments B and C of this order to any obligor who, for any transaction consummated prior to the date this order becomes final, received from respondents during the time of closing of said transaction, the personal insurance authorization form required by Section 2(a) of this order and where any and all requirements connected with said form as required by this order have been accomplished by respondents.

V

It is further ordered, That a record of mailing by respondents of the notices set forth in Attachments B and C of this order be kept by respondents and that said record be available for examination by Commission personnel in connection with any compliance obligations arising out of this order. Respondents' obligations under Paragraph IV of this order shall not be fulfilled until each obligor affected by such paragraph has received the notices, or been contacted, as specified therein; *provided, however,* that respondents shall be deemed to have complied with said Paragraph IV if respondents can demonstrate that they expended reasonable efforts, in writing or orally, to deliver such notices or make such contact according to the terms of this order.

VI

It is further ordered, That all requests for refunds of credit life insurance and/or credit disability insurance premiums under the terms of this order be calculated by respondents based on the "Refund Method" as defined in subpart (d) of the definitions of this order; and all requests for refunds of premiums for auto club and auto medical insurance coverage be calculated by respondents on a pro rata basis; and that said refunds be accomplished by respondents within thirty (30) days of receipt by respondents, within the time period specified in this order, of the notice set forth in Attachment C of this order or receipt by respondents of any other form of communication from obligors indicating their desire to cancel their coverage.

VII

It is further ordered, That respondents shall make refunds in cash to all obligors requesting refunds, except those obligors whose accounts are "delinquent accounts." Respondents shall have the option to either make refunds to delinquent accounts in accordance with the terms of this order to credit said accounts for the full amount of any refund due.

VIII

It is further ordered, That respondents, when making cash refunds or when crediting any account with the full amount of any refund due following receipt of the notice set forth in Attachment C of this order, mail or deliver the refund or credit said account within thirty

(30) days of the receipt by respondents of said notice. The above-mentioned credit shall be reflected on the next account status statement to be sent to the obligor following the above-mentioned crediting of his account.

Provided, however, that respondents shall not be required to make refunds or to credit accounts with respect to any cancellation notice, as so set forth in Attachment C of this order, or any cancellation request, received by respondents later than sixty (60) days following the date of said notice's receipt by the obligor or later than sixty (60) days from the date that respondents otherwise notified the obligor of his cancellation prerogatives.

IX

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents involved in consummating consumer credit obligations, and that respondents secure a signed statement acknowledging receipt of said copy of this order from each such person.

X

It is further ordered, That no provision of this order shall apply to an entity which is neither related to nor has any continuity of interest with any respondents named herein, other than being assignee or holder of respondents' consumer credit transactions.

Provided, however, that the provisions of this paragraph shall not be interpreted to excuse any assignee of any liability imposed by Section 115 of the Truth in Lending Act, or to excuse any respondent from complying with any obligation imposed by this order with regard to the consumer credit transactions so assigned.

XI

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents 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.

XII

It is further ordered, That each individual respondent named herein promptly notify the Commission of each change in the respondent's business or employment status, which includes discon-

tinuance of the respondent's present business or employment, and each affiliation with a new business or employment, for five (5) years following the effective date of this order. Such notice shall include the address of and a description of the business or employment with which each respondent is newly affiliated as well as a description of each respondent's duties and responsibilities in connection with that business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

XIII

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.

ATTACHMENT A

PERSONAL CREDIT INSURANCE AUTHORIZATION

YOUR APPLICATION FOR CREDIT HAS BEEN APPROVED IN THE AMOUNT OF _____

CREDIT LIFE OR CREDIT ACCIDENT & HEALTH (DISABILITY) INSURANCE IS NOT REQUIRED IN CONNECTION WITH THIS EXTENSION OF CREDIT TO YOU AND YOUR DECISION WITH REGARD TO THE PERSONAL INSURANCE WILL NOT AFFECT THE TOTAL AMOUNT OF CREDIT WHICH HAS ALREADY BEEN APPROVED FOR YOU.

IF YOU ELECT CREDIT INSURANCE THESE PREMIUMS WILL BE ADDED TO THE AMOUNT OF CREDIT APPROVED FOR YOU.

Credit Life \$ _____ (For term of transaction)

Credit A & H (Disability) \$ _____ (For term of transaction)

I have received a fully completed and executed copy of this form. I have reviewed the amount financed options set forth below and understand that if I choose an amount financed option that includes any of the insurance coverages I am authorizing the creditor to pay the insurance premiums on my behalf. I have voluntarily chosen the following amount financed option:

Option 1	Option 2	Option 3	Option 4
Amount Financed Without Personal Credit Insurance	Amount Financed With Credit Life Only	Amount Financed With Credit A & H (Disability) Only	Amount Financed With Credit Life and A & H (Disa- bility)
\$ _____	\$ _____	\$ _____	\$ _____

Decision and Order

90 F.T.C.

No. of Months	No. of Months	No. of Months	No. of Months
_____	_____	_____	_____
(Borrower)	(Borrower)	(Borrower)	(Borrower)
_____	_____	_____	_____
(Borrower)	(Borrower)		
_____	_____	_____	_____
(Date)	(Date)	(Date)	(Date)

ATTACHMENT B

Name of Creditor
Address of Creditor

Dear Customer:

As part of your current credit transaction with us charges were made for credit life insurance, credit disability insurance, auto medical payment insurance and auto club membership [mention as applicable], in the following amounts:

TYPE OF COVERAGE	AMOUNT CHARGED
Credit Life Insurance	\$ _____
Credit Disability Insurance	\$ _____
Auto Medical Payments Insurance	\$ _____
Auto Club Membership	\$ _____

Because many of our customers may not have been fully aware of the voluntary nature of this insurance coverage [and membership] at the time they purchased it, we are offering you the opportunity to cancel your insurance coverage [and membership]. If you decide to cancel your insurance [and/or membership], the company will credit your account with the balance of the premiums or fees due if your account is delinquent. If your account is current we will make a cash refund of the balance due. This amount will be based on a schedule which takes into account the remaining time period on your transaction and the protection which you have already received. If you cancel this insurance, your protection will end as of the date we receive your written notice of cancellation.

If you desire to cancel your insurance coverage [and/or membership], please complete the enclosed form and return it within two weeks in the enclosed envelope which requires no stamp. If you want your insurance [and membership] to remain in force, you need not return the enclosed form or take any other action in connection with this matter.

Sincerely,

ATTACHMENT C

From [Name of Borrower]:

To [Name of Creditor]:

At the time I entered into my credit transaction, I did not understand that credit insurance [and other benefits listed below] were voluntary. Please cancel the benefits

checked below and refund to me the applicable portion of the premium(s) and/or fee(s) shown on this form. I understand that the company reserves the right to credit my account with such refund if my account is in delinquent status.

CHECK COVERAGE TO BE CANCELLED

- | | |
|--|------------|
| ☐ cancel my credit life insurance | [list |
| ☐ cancel my credit disability insurance | applicable |
| ☐ cancel my auto medical payments insurance | coverages] |
| ☐ cancel my auto club membership | |

(NOTE: DO NOT SIGN OR RETURN THIS FORM IF YOU WANT YOUR BENEFITS TO REMAIN IN FORCE)

DATE _____

Obligor

Interlocutory Order

90 F.T.C.

IN THE MATTER OF

EXXON CORPORATION, ET AL.

Docket 8934. Interlocutory Order, Nov. 10, 1977

Granting in part and denying in part of motion by complaint counsel for leave to modify pending application for interlocutory review and to obtain expedited decision on modified application.

ORDER GRANTING IN PART AND DENYING IN PART COMPLAINT
COUNSEL'S MOTION FOR LEAVE TO MODIFY PENDING
APPLICATION FOR INTERLOCUTORY REVIEW AND TO OBTAIN AN
EXPEDITED DECISION ON THE MODIFIED APPLICATION

Complaint counsel on February 20, 1976, filed with the Administrative Law Judge a motion for issuance of subpoenas *duces tecum* to respondents. The motion exceeded 1,800 pages and included approximately 700 numbered specifications¹ which, according to complaint counsel, "request[ed] a vast number of documents' quite likely numbering in the millions or tens of millions."² This was to be complaint counsel's first effort to secure documents of a substantive nature from respondents. In July 1976, respondents filed individual and joint objections to the motion and in September complaint counsel filed a reply which included a revised subpoena request. The reply contained 950 pages, including over 300 pages of specifications, definitions and instructions and 300 pages of analyses thereof. The revised request was hardly the shadow of complaint counsel's former request; it contained approximately 550 numbered specifications.³

By his order of November 11, 1976, the ALJ questioned the practicality of complaint counsel's discovery strategy. He noted that complaint counsel had made "what appear to be plausible arguments why the various avenues of investigation would or might produce relevant information or might be fruitful in uncovering leads to relevant information. However, when all of the avenues of investigation are taken together they add up to an overwhelming and unreasonable burden upon respondents and an unmanageable case."⁴ Accordingly, he denied a major portion of complaint counsel's motion but authorized the issuance of more limited subpoenas calling for the production of introductory materials concerning

¹ Order Denying Major Portion of, but Granting in Part, Complaint Counsel's Motion for Issuance of Subpoenas *Duces Tecum* to Respondents and Establishing Guidelines as to any Further such Motions, November 11, 1976, at 5.

² Motion by Complaint Counsel for Issuance of Subpoenas *Duces Tecum* to Respondents, February 20, 1976, at 10.

³ Order, November 11, 1976, at 8, 20.

⁴ *Id.* at 24.