

Interlocutory Order

92 F.T.C.

IN THE MATTER OF

EXXON CORPORATION, ET AL.

Docket 8934. Interlocutory Order, August 1, 1978

Clarification of Commission's position in adopting after modification of ALJ's protective order.

ORDER

On January 31, 1977, the Commission adopted, with modification, Paragraph 9 of the protective order issued by the administrative law judge, which paragraph had been certified to the Commission. [89 F.T.C. 107]

It has come to the Commission's attention that certain respondents who are appealing a District Court judgment enforcing the subpoenas issued to them in this matter (*FTC v. Anderson*, No. 77-1032 (D.C. Cir.)) have raised on appeal an issue concerning the scope of the protective order as adopted by the Commission. The issue, which they did not raise before the Commission or before the District Court, is whether the Commission has committed itself to give ten days' notice before disclosing respondents' "confidential" documents *sua sponte* or in response to requests not explicitly named in the order, such as requests that are not made pursuant to the Freedom of Information Act.

Paragraph 9 of the administrative law judge's protective order originally provided:

9. Notwithstanding any of the foregoing provisions, in the event of a Freedom of Information Act request or an official request from any Congressional committee or subcommittee for disclosure of any document designated "Confidential" hereunder or any information contained therein, authorized representatives of the Commission's Office of General Counsel may inspect the document for purposes of advising the Commission on the request and defending the Commission's interests in court. Furthermore, the Commission shall provide the party which supplied a confidential document with ten (10) days' notice prior to releasing the document in response to such a request or otherwise. [Emphasis added.]

In modifying Paragraph 9 to provide for qualified notice in the event of certain congressional requests or judicial compulsory process, it was the Commission's intent to affirm and retain the administrative law judge's language providing an unconditional ten days' notice before disclosing documents in response to Freedom of Information

Act requests "or otherwise." In other words, in adopting the order the Commission committed itself, as it has on other occasions,¹ to provide ten days' notice before disclosing confidential documents *sua sponte* or in response to requests that do not come within the specified qualifications as to disclosure in response to congressional and judicial requests.

¹ See, e.g., the protective order issued July 12, 1978, by the Commission in *Tenneco, Inc.*, Dkt. 9097, p. 181 herein.

Complaint

92 F.T.C.

IN THE MATTER OF
CAPITAL BUILDERS, INC., ET AL.

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

Docket 9041. Complaint, July 15, 1975¹ — Decision, Aug. 8, 1978

This order, among other things, requires a Charleston, W. Va. home improvements firm to cease misrepresenting or failing to make relevant disclosures regarding prices, interest rates, savings, discounts and financing arrangements. Further, the firm must cease failing to furnish consumers, in connection with the extension of credit, those materials and disclosures required by Federal Reserve System regulations. The company is additionally required to establish a \$35,000 escrow account for making restitution to entitled customers, and to effectuate such restitution in a manner prescribed in the order.

Appearances

For the Commission: *Aaron H. Bulloff, Allan M. Huss and Sharon J. Devine.*

For the respondent: *Stanley E. Preiser, Preiser & Wilson, Charleston, W. Va.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and of 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 Capital Builders, Inc., a corporation, and Jerome Finn and Richard Landman, individually and as officers of said corporation, hereinafter sometimes referred to as respondents, have violated the provisions of said Acts and of 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 Capital Builders, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the Commonwealth of Virginia, with its principal office and

¹ Complaint reported as amended by Commission order dated November 18, 1975.