

Complaint

92 F.T.C.

IN THE MATTER OF
NATIONAL INDEMNITY COMPANY, ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION AND FAIR CREDIT REPORTING
ACTS

Docket C-2932. Complaint, Oct. 18, 1978 — Decision, Oct. 18, 1978

This consent order, among other things, requires an Omaha, Nebraska insurance company and its subsidiaries to cease failing to provide insurance applicants with required disclosures regarding preparation of investigative consumer reports and the nature and scope of such investigations.

Appearances

For the Commission: *Rena Steinzor.*

For the respondents: *William D. Lyons, Omaha, Neb.*

COMPLAINT

Pursuant to the provisions of the Fair Credit Reporting Act and the Federal Trade Commission Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that National Indemnity Company, a corporation, and its subsidiaries: Cornhusker Casualty Company, Home and Automobile Insurance Company, Lakeland Fire and Casualty Company, Texas United Insurance Company, Insurance Company of Iowa and Kansas Fire and Casualty Company, 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 National Indemnity Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nebraska, with its principal office and place of business located at 3024 Harney St., Omaha, Nebraska.

Respondent Cornhusker Casualty Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nebraska, with its principal office and place of business located at 105 North 31st Ave., Omaha, Nebraska.

Respondent Home and Automobile Insurance Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 101 South Wacker Drive, Chicago, Illinois.

Respondent Lakeland Fire and Casualty Company is a corporation organized, existing and doing business under the laws of the State of Minnesota, with its principal office and place of business located at 6700 France Ave. South, Minneapolis, Minnesota.

Respondent Texas United Insurance Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas, with its principal office and place of business located at 4415 Piedras Drive West, San Antonio, Texas.

Respondent Insurance Company of Iowa is a corporation organized, existing and doing business under and by virtue of the laws of the State of Iowa with its principal office and place of business located at Box 130, Des Moines, Iowa.

Respondent Kansas Fire and Casualty Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kansas with its principal office and place of business located at 400 Kansas Ave., Suite 211, Topeka, Kansas.

Respondent National Indemnity Company has the authority to control the acts and practices of its subsidiaries, as described herein.

PAR. 2. Respondent National Indemnity Company is now and for some time in the past has been engaged in the underwriting and sale to the public of property and liability insurance in forty-five of the fifty states. Each of the other respondents is now and for some time in the past has been engaged in the underwriting and sale to the public of property and liability insurance primarily in the state in which it is incorporated.

PAR. 3. In the ordinary course and conduct of their business, as aforesaid, respondents regularly procure or cause to be prepared "investigative consumer reports" from "consumer reporting agencies" as these terms are defined in Section 603(e) and 603(f), respectively, of the Fair Credit Reporting Act, 15 USC 1681a(e) and (f) (1970).

PAR. 4. When respondent National Indemnity Company first issues an insurance policy to an individual, Form NI-1583 labeled "Important Notice" is either attached to the face of the policy or mailed under separate cover immediately upon binding of coverage. This notice is typical and illustrative of the notices used under the same circumstances by the other respondents named herein. No report is actually ordered until the time of issue of the policy. Form NI-1583 reads:

IMPORTANT NOTICE

Dear Policyholder:

Thank you for considering the National Indemnity Company as your insurance

carrier. As part of our underwriting procedure, a routine inquiry may be made to obtain applicable information concerning character, general reputation, personal characteristics, and mode of living. Upon written request, additional information as to the nature and scope of the report, if one is made, will be provided.

This notice is provided in all cases unless the type of policy involved definitely will not require an investigative consumer report.

Respondents send no other notice informing the applicant that an investigative report may be prepared and stating his right to inquire further into the nature and scope of such a report, although wording identical to that of Form NI-1583 is contained in the application itself.

PAR. 5. By and through the use of the practices described in Paragraph Four, above, respondents have failed to inform consumers that: (1) an "investigative consumer report" may be prepared in connection with their applications for insurance; (2) the information contained in the report may be obtained through personal interviews with neighbors, friends or others with whom the consumer is acquainted; and (3) upon written request, a complete and accurate disclosure of the nature and scope of the investigative report will be provided. Therefore, respondent has violated the provisions of Section 606(a) of the Fair Credit Reporting Act.

PAR. 6. Once the applicant has received the Notice contained in Form NI-1583 and has written to respondent indicating a desire to receive "additional information as to the nature and scope of the report," respondent National Indemnity Company issues a follow-up form, numbered NI-1584. This notice is typical and illustrative of the notices used under the same circumstances by the other respondents named herein. This form reads:

This is in response to your request for additional information about an inquiry or report which may have been made in connection with your application for insurance.

- No report was requested in connection with your application.

- A report was requested. These reports are routine procedures which include such general identification information as residence verification, marital status, and number of children. As applicable, employment, occupation, general health (sic), habits, reputation and mode of living information may be included.

When insurance coverage for automobile(s), other personal property or real property is involved, applicable information may include a physical description of the property, its condition and uses, and any losses incurred. For automobile insurance, additional information concerning drivers and any physical impairments, losses or violations they may have suffered is also applicable.

NATIONAL INDEMNITY COMPANY

The above disclosure is provided in response to all consumer

requests for disclosure of the nature and scope of the investigation completed.

Respondents typically send no other letter to consumers who request additional information concerning investigative consumer reports which were procured or prepared about them.

PAR. 7. By and through the use of the practices described in Paragraph Six above, respondents have failed to inform the consumer of the name and address of the consumer reporting agency which prepared the investigatory report; the type of questions asked; and the number and type of persons interviewed. Therefore, respondents have violated the provisions of Section 606(b) of the Fair Credit Reporting Act.

PAR. 8. By its aforesaid failure to comply with Sections 606(a) and 606(b) of the Fair Credit Reporting Act, and pursuant to Section 621(a) thereof, respondent has thereby engaged in unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a)(1) of 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 Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Fair Credit Reporting Act and 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 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 procedures 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 National Indemnity Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nebraska, with its office and principal place of business located at 3024 Harney St., Omaha, Nebraska.

Respondent Cornhusker Casualty Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nebraska, with its principal office and place of business located at 105 North 31st Ave., Omaha, Nebraska.

Respondent Home and Automobile Insurance Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 101 South Wacker Drive, Chicago, Illinois.

Respondent Lakeland Fire and Casualty Company is a corporation organized, existing and doing business under the laws of the State of Minnesota, with its principal office and place of business located at 6700 France Ave. South, Minneapolis, Minnesota.

Respondent Texas United Insurance Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas, with its principal office and place of business located at 4415 Piedras Drive West, San Antonio, Texas.

Respondent Insurance Company of Iowa is a corporation organized, existing and doing business under and by virtue of the laws of the State of Iowa with its principal office and place of business located at Box 130, Des Moines, Iowa.

Respondent Kansas Fire and Casualty Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kansas with its principal office and place of business located at 400 Kansas Ave., Suite 211, Topeka, Kansas.

Respondent National Indemnity Company has the authority to control the acts and practices of its subsidiaries, as described herein.

2. The Federal Trade Commission has jurisdiction over the subject matter of this proceeding and over the respondents and the proceeding is in the public interest.

ORDER

It is ordered, That respondents, National Indemnity Company, a corporation, and its subsidiaries: Cornhusker Casualty Company, Home and Automobile Insurance Company, Lakeland Fire and Casualty Company, Texas United Insurance Company, Insurance Company of Iowa and Kansas Fire and Casualty Company, their

successors and assigns, and their officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with either the request for or the receipt or consideration of any "investigative consumer report," as that term is defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(e) (1970)), do forthwith cease and desist from:

(1) Failing, whenever respondents procure or cause to be prepared an investigative consumer report, to clearly and accurately disclose to the consumer that:

(A) an "investigative consumer report" may be made in connection with the application, including information regarding the consumer's character, general reputation, personal characteristics or mode of living;

(B) the information contained in the report will be obtained through personal interviews with neighbors, friends, or associates of the consumer or with others with whom the consumer is acquainted or who may have knowledge concerning any such items of information; and,

(C) the consumer has the right to request, within a reasonable period of time, a complete and accurate disclosure of the nature and scope of the investigative report, and that upon such request respondents shall make such disclosure in writing mailed or otherwise delivered to the consumer not later than five days after the date on which the request for such disclosure was received from the consumer or the investigative report was first requested, whichever is later.

(2) Failing, whenever an applicant requests additional information concerning an investigative consumer report to furnish the consumer with a complete and accurate disclosure of the nature and scope of the investigation requested including:

(A) the name and address of the consumer reporting agency which prepared the investigative report; and,

(B) a detailed written summary of the areas investigated and the types of questions asked which includes a description of all the information covered by the interview forms typically used to prepare the investigative consumer report. In lieu of a written summary, respondents may satisfy the requirements of this subsection by providing the consumer with a blank copy of any standardized form used to transmit information from the consumer reporting agency to the user, to the extent to which these forms itemize with specificity the questions to be asked and the areas to be investigated; and,

(C) if the investigative consumer report has been completed at the time the consumer makes his request, the number and type of

persons interviewed, if known, or, if not known, the usual number and type of persons interviewed. If the report has not been completed at the time of the request, the minimum number and type of persons normally interviewed in connection with such a report.

It is further ordered, That respondents shall preserve evidence of compliance with the requirements imposed under this order for a period of not less than 2 years after the date each required disclosure is made. Respondents shall upon request permit the Commission through its daily authorized representatives to inspect such records.

It is further ordered, That respondents shall deliver a copy of this order to cease and desist to all present and future employees engaged in reviewing or evaluating consumer reports or other third party information in connection with applications for insurance to be used for personal, family or household purposes.

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 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
COVENTRY BUILDERS, INC., ET AL.

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

Docket 9042. Complaint¹ July 15, 1975 — Decision, Oct. 23, 1978

This consent order, among other things, requires a Shaker Heights, Ohio home improvements firm to cease, in connection with the extension of credit, failing to provide consumers with those materials and disclosures required by Federal Reserve System regulations.

Appearances

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

For the respondents: *Leonard P. Gilbert, Cleveland, Ohio, Stanley M. Fischer and David A. Schaefer, Guren, Merritt, Sogg & Cohen, Cleveland, Ohio.*

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 Coventry Builders, Inc., a corporation, and Louis Galiano, Sr., individually and as an officer 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 Coventry Builders, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Ohio, with its principal office and place of business located at 1824 Coventry Road, Cleveland Heights, Ohio.

Respondent Louis Galiano, Sr. is an individual and is the president of respondent corporation. He formulates, directs, and controls the acts and practices of the corporate respondent, including the acts

¹ Reported as amended by the ALJ's order of March 5, 1976.