

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.

and practices hereinafter set forth. His business 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 the offering for sale, sale, delivery, and installation of residential home improvements including, but not limited to, siding materials, storm windows, plumbing fixtures, and cabinetry, to the public at retail.

PAR. 3. In the ordinary course and conduct of their business as aforesaid, respondents have arranged, and continue to arrange, for the extension of consumer credit, or offer to extend or arrange for the extension of such 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. 4. Subsequent to July 1, 1969, respondents, in the ordinary course and conduct of their business and in connection with their credit sales, as "credit sale" is defined in Section 226.2(n) of Regulation Z, have been, and continue to be, engaged in the extension of credit, as the term "credit" is defined in Section 226.2(1) of Regulation Z.

Respondents many times have caused, and are now causing, their customers to execute a document entitled "Offer of Purchase," hereinafter sometimes referred to as "the sales contract," and one or more promissory notes for the purchase and installation of home improvements to the residence of the customer.

Respondents provide certain consumer credit cost information as part of this sales contract. Respondents provide no other consumer credit cost disclosures to their customers.

PAR. 5. Respondents many times, in the ordinary course of their business, negotiate to third parties the sales contracts or other instruments of indebtedness executed in connection with credit purchases.

PAR. 6. By and through the use of the sales contract, respondents:

(1) Have in certain instances failed to disclose the annual percentage rate, as required by Section 226.8(b)(2) of Regulation Z, computed with an accuracy at least to the nearest one quarter of one percent, as prescribed by Section 226.5(b) of Regulation Z.

(2) Have in certain instances failed to preserve evidence of compliance with the requirements of Regulation Z for a period of not less than two years after the date each disclosure was required to be made, as required by Section 226.6(i) of Regulation Z.

(3) Have in certain instances failed to make the disclosures

prescribed by Section 226.8 of Regulation Z before the transaction is consummated, as required by Section 226.8(a) of Regulation Z.

(4) Have in certain instances failed to furnish customers with a duplicate of the instrument or a statement by which the disclosures prescribed by Section 226.8 of Regulation Z are made, and on which the creditor is identified, as required by Section 226.8(a) of Regulation Z.

(5) Have in certain instances failed 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.

(6) Have in certain instances failed to provide a description or identification of the type of any security interest held or to be retained or acquired by the creditor in connection with the extension of credit, as required by Section 226.8(b)(5) of Regulation Z.

(7) Have in certain instances failed to give clear identification of the property to which the security interest relates, as required by Section 226.8(b)(5) of Regulation Z.

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

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

PAR. 7. By and through the use and acceptance of the sales contract, and by virtue of the work performed on a customer's residence, respondents have retained or acquired, or will retain or acquire, a security interest, as "security interest" is defined in Section 226.2(z) of Regulation Z, in real property which is used or is expected to be used as the principal residence of the customer. Respondents' retention or acquisition of such security interest in said real property gives their customers who are extended consumer credit, as "consumer credit" is defined in Section 226.2(k) of Regulation Z, the right to rescind the transaction until midnight of the third business day following the date of consummation of the transaction or the date of delivery of all disclosures required by Regulation Z, whichever is later, pursuant to Section 226.9(a) of Regulation Z.

PAR. 8. In connection with the aforesaid consumer credit transactions, as set forth in Paragraph Seven, respondents, in certain instances:

(1) Have failed to give notice to the customer of his right to rescind the credit transaction by furnishing him with the "notice to customers required by federal law," described in Section 226.9(b) of Regulation Z, as required by Section 226.9(b) of Regulation Z.

(2) Have failed to delay performance of any of the following actions until after the rescission period has expired, and they have reasonably satisfied themselves that the customer has not exercised his right of rescission, as required by Section 229.9(c) of Regulation Z:

- a. The disbursement of monies other than in escrow;
- b. The making of any physical changes in the property of the customer;
- c. The performance of any work or service for the customer; or
- d. The making of any deliveries to the residence of the customer if the creditor has retained or will retain or will acquire a security interest other than one arising by operation of law.

PAR. 9. Respondents have stated, utilized, or placed information or explanations not required by Regulation Z in the various versions of their sales contracts, in a manner which misleads or confuses the customer or contradicts, obscures, or detracts attention from the information required to be disclosed by Regulation Z, in violation of Section 226.6(c) of Regulation Z.

PAR. 10. By the aforesaid actions, respondents have failed 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, 15 U.S.C. 1601, *et seq.*, respondents' aforesaid failures to comply with Regulation Z constitute violations of that Act and, pursuant to Section 108 thereof, respondents have thereby violated the Federal Trade Commission Act (15 U.S.C. 41, *et seq.*).

DECISION AND ORDER

The Commission having heretofore issued its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the Truth in Lending Act, and the implementing regulation promulgated thereunder, and the respondents having been served with a copy of that complaint, together with a proposed form of order; 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 complaint as issued herein, 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 withdrawn this matter from adjudication in accordance with Section 3.25 of its Rules; and

The Commission having considered the matter 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 3.25(f) of its Rules, the Commission hereby makes the following jurisdictional findings, and enters the following order:

1. Respondent Coventry Builders, Inc. is a corporation formerly organized, existing, and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business formerly located at 13015 Larchmere, in the City of Shaker Heights, State of Ohio.

Respondent Louis Galiano, Sr. was an officer of said corporation. He formulated, directed, and controlled the policies, acts, and practices of said corporation. His address is 231 - 174th St., North Miami Beach, Florida.

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

I

It is ordered, That respondents Coventry Builders, Inc., a corporation, its successors and assigns, and its officers, and Louis Galiano, Sr., 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 the extension of consumer credit or advertisements to aid, promote, or assist, directly or indirectly, in the extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 C.F.R. 226) of the Truth in Lending Act (15 U.S.C. 1601, *et seq.*), do forthwith cease and desist from:

(1) Failing to disclose the "annual percentage rate," computed in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.

(2) Failing to retain evidence of compliance with the requirements of Regulation Z for a period of not less than two (2) years after the date each disclosure was required to be made, as required by Section

226.6(i) of Regulation Z. Evidence of compliance shall include, but not be limited to, copies of all disclosure statements and rescission statements required by Regulation Z, which pertain to contracts ultimately rescinded, modified, renegotiated, or otherwise not accepted either by respondents or by the consumer.

(3) Failing to furnish customers with the disclosures prescribed by Section 226.8 of Regulation Z before the transaction is consummated, as required by Section 226.8(a) of Regulation Z.

(4) Failing to furnish customers with a duplicate of the instrument or a statement by which the disclosures prescribed by Section 226.8 of Regulation Z are made, and on which the creditor is identified, as required by Section 226.8(a) of Regulation Z.

(5) 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.

(6) Failing to disclose a description or identification of the type of security interest held or to be retained or acquired by the creditor in connection with the extension of credit, as required by Section 226.8(b)(5) of Regulation Z.

(7) Failing to clearly identify the property to which the security interest relates, as required by Section 226.8(b)(5) of Regulation Z.

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

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

(10) Supplying any information, explanation, or contract clause not required to be disclosed by Regulation Z in a manner which misleads or confuses the customer or contradicts, obscures, or detracts attention from the information required to be disclosed by Regulation Z, in violation of Section 226.6(c) of Regulation Z.

(11) Failing to provide consumers having the right to rescind a transaction pursuant to Section 226.9 of Regulation Z with two copies of the "Notice to the Consumer Required by Federal Law," in the manner and form required by Section 226.9(b) of Regulation Z.

(12) Failing to delay performance until after the period of time allowed for rescission by the consumer has expired and respondents herein have reasonably satisfied themselves that the customer has not exercised his right of rescission, as required by Section 226.9(c) of

Regulation Z. In this regard, respondents shall not perform, or cause or permit to be performed, during the rescission period, any of the following actions:

- (a) The disbursement of monies other than in escrow;
- (b) The making of any physical changes in the property of the customer;
- (c) The performance of any work or service for the customer; or
- (d) The making of any deliveries to the residence of the customer if the creditor has retained or will retain or will acquire a security interest other than one arising by operation of law.

(13) Failing, in any consumer credit transaction or advertisement, to make all disclosures determined in accordance with Section 226.4 and Section 226.5 of Regulation Z at the time and in the manner, form, and amount required by Sections 226.6, 226.7, 226.8, 226.9, and 226.10 of Regulation Z.

It is further ordered, That respondents deliver a copy of this order to all present and future sales and office personnel whose services are engaged by respondents, 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, voluntary bankruptcy, assignment, the creation or dissolution of subsidiaries, which may affect compliance obligations arising out of this order, or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business or employment in which he is engaged, as well as a description of his duties and responsibilities.

It is further ordered, That respondents shall, within sixty (60) days after the effective date of this order, file with the Commission a report setting forth the manner in which they have complied with the provisions of this order, and any future compliance reports in the form and manner which the Commission may order.

Complaint

92 F.T.C.

IN THE MATTER OF

MOORE & ASSOCIATES, INC., ET AL., TRADING AS UNI-CHECK, ETC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION AND FAIR CREDIT REPORTING
ACTS*Docket C-2933. Complaint, Oct. 24, 1978 — Decision, Oct. 24, 1978*

This consent order, among other things, requires a Honolulu, Hawaii firm engaged in providing various businesses with consumer credit information and other services, to cease furnishing reports containing obsolete, inaccurate, or disputed information; providing such reports for improper purposes; or otherwise failing to comply with statutory requirements.

Appearances

For the Commission: *Harold G. Sodergren.*

For the respondent: *Peter G. Wheelon, Honolulu, Hawaii.*

COMPLAINT

I

Pursuant to the provisions of the Federal Trade Commission Act, as amended, and the Fair Credit Reporting Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Moore & Associates, Inc., a corporation, doing business as Uni-Check, and Rentcheck, and R. Donald Moore, individually and as an officer of said corporation, hereinafter 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 Moore & Associates, Inc. is a Hawaii corporation, with its principal office at 677 Ala Moana Boulevard, Suite 211, Honolulu, Hawaii.

Respondent R. Donald Moore is 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.

II

PAR. 2. A. Respondents, in the ordinary course and conduct of their