

IN THE MATTER OF

ALDENS, INC.

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

Docket C-2940. Complaint, Nov. 30, 1978 — Decision, Nov. 30, 1978

This consent order requires a Chicago, Ill. mail order house to cease discriminating against credit applicants on basis of sex or marital status, and to cease failing to timely provide rejected applicants with the reasons for such adverse action. Further, when denial of credit is based on consumer credit reports, the firm is required to furnish affected parties with the names and addresses of reporting companies.

Appearances

For the Commission: *C. Lee Peeler and Sally Gold.*

For the respondent: *Lawrence F. Henneberger and Christopher Smith, Arent, Fox, Kintner, Plotkin & Kahn, Chicago, Ill.*

COMPLAINT

Pursuant to the provisions of the Equal Credit Opportunity Act, as amended, its implementing regulation, Regulation B, the Fair Credit Reporting Act and the Federal Trade Commission Act, and by virtue of the authority vested in it by such Acts, the Federal Trade Commission, having reason to believe that Aldens, Inc., a corporation, has violated the provisions of said Acts and 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 as follows:

PARAGRAPH 1. For the purposes of this complaint the following definitions are applicable:

1. The terms "account," "applicant," "application," "contractually liable," "credit," "creditor," "credit transaction," "discriminate against an applicant because of sex or marital status," "marital status" and "open-end credit" shall be defined as provided in Section 202.3 of Regulation B (12 C.F.R. 202.3 (1976)).

2. The terms "consumer report" and "consumer reporting agency" shall have the same meaning as provided in Sections 603(d) and 603(f), respectively, of the Fair Credit Reporting Act (15 U.S.C. 1681, 1681a(d) and (f)(1970)).

3. "Joint account" shall mean an account where the nonapplicant spouse will be contractually liable or will be an authorized user

on the account or where the applicant has relied on the spouse's income or on community property to support the extension of credit. "Separate account" shall mean an account where the nonapplicant spouse will neither be contractually liable nor an authorized user on the account and where the applicant does not rely on the spouse's income or on community property to support the extension of credit.

4. "Regulation B" shall refer to that version of Regulation B (12 C.F.R. 202) in effect from October 28, 1975 through March 22, 1977. "Amended Regulation B" shall refer to that version of Regulation B in effect on or after March 23, 1977.

PAR. 2. Respondent Aldens, Inc. (hereinafter referred to as "Aldens" or "respondent") 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 5000 West Roosevelt Road, Chicago, Illinois.

PAR. 3. Respondent is engaged in the direct mail sale of consumer products in interstate commerce. In the regular course of its business, respondent finances the sale of its products by extending credit to its customers through the use of its open end credit plan (Aldens Charge Account).

COUNT I

Alleging violations of the Equal Credit Opportunity Act, the allegations of Paragraphs One, Two and Three heretofore are incorporated by reference into Count I as if fully set forth verbatim.

PAR. 4. As part of its procedures for evaluating applicants for Aldens Charge Accounts, respondent has formulated written instructions to its employees which set forth the criteria to be applied in selecting applicants to be granted credit. Subsequent to October 28, 1975 and pursuant to respondent's written instructions concerning the evaluation of occupational categories, respondent has automatically rejected applications from "waitresses" without any further evaluation of the applicants' qualifications. During the same period, respondent has not automatically rejected applications from "waiters" but has proceeded to evaluate such applications on the basis of the applicants' qualification.

PAR. 5. By and through use of the practices described in Paragraph Four, above, respondent has discriminated against female applicants for credit on the basis of sex. Therefore, respondent has violated Sections 205.5(f) and 202.2 of Regulation B.

PAR. 6. In a substantial number of instances subsequent to November 20, 1975 pursuant to respondent's initial screening process, respondent has automatically rejected applicants for credit

whose source of income is child support without evaluating the applicants' other qualifications.

PAR. 7. By and through the practice described in Paragraph Six, above, respondent has failed to consider child support payments as income to the extent that such payments are likely to be consistently made. Therefore, respondent has violated Sections 202.5(d)(2) and 202.2 of Regulation B.

PAR. 8. Subsequent to June 30, 1976, in the ordinary course of business, respondent has required persons who wish to obtain an Aldens Charge Account to fill out an Aldens Charge Application form. (A typical example of respondent's "Aldens Charge Application" is attached hereto as Exhibit A.) The Aldens Charge Application may be used, inter alia, by a married person to apply for a separate account or to apply for a joint account.

With respect to applications for both separate and joint accounts, the Aldens Charge Application instructs the applicant to disclose the "spouse's first name." In a substantial number of instances subsequent to June 30, 1976, married applicants who applied for separate accounts have disclosed the first name of their spouse pursuant to respondent's instructions.

PAR. 9. In a substantial number of instances subsequent to October 28, 1975, respondent has ordered and evaluated consumer reports on the spouses of married female applicants for separate accounts but has not ordered and evaluated consumer reports on the applicants. In a substantial number of these instances, respondent has denied the applications on the basis of information from a consumer report on the applicant spouse. Respondent does not, in the normal course of business, order consumer reports on the spouses of married male applicants for separate accounts.

PAR. 10. By and through the practices described in Paragraphs Eight and Nine, above, respondent has requested subsequent to June 30, 1976, information about the spouse of an applicant where the applicant was not relying on income, alimony, child support or separate maintenance payments from a spouse or former spouse or on community property to support the extension of credit and where the spouse would neither be contractually liable on the account nor an authorized user on the account. Therefore, respondent has violated Section 202.5(b)(3) of Regulation B.

PAR. 11. By and through the practices described in Paragraph Eight, above, respondent has asked the applicant's marital status where the applicant has applied for an unsecured separate account in a non-community property state except as required to comply with state law governing permissible finance charges or loan

ceilings. Therefore, respondent has violated Section 202.4(c)(1) of Regulation B.

PAR. 12. By and through the practices described in Paragraph Nine, above, respondent has used information requirements and investigatory procedures which have the effect of discriminating against married females who apply for separate accounts. Therefore, respondent has violated Section 202.2 of Regulation B.

PAR. 13. In the ordinary course of its business subsequent to October 28, 1975, respondent has ordered and considered in connection with the evaluation of Aldens Charge Applications consumer reports from "Credit Index," a subsidiary of Hooper-Homes Bureau, Inc., which consist of adverse credit information concerning persons residing at the applicant's address who have the same last name as the applicant. Pursuant to respondent's written instructions, respondent has rejected applications for separate credit where a Credit Index report contains adverse information on any person who has the same last name as the applicant at the applicant's address.

PAR. 14. By and through the practices described in Paragraph Thirteen, above, respondent has imposed information requirements and investigatory procedures which have the effect of discriminating against married applicants. Therefore, respondent has discriminated against married applicants in violation of Section 202.2 of Regulation B.

PAR. 15. Subsequent to November 30, 1975, in the ordinary course of business respondent has refused to extend joint accounts to married couples where the wife uses her birth given surname or a combined surname rather than her husband's surname.

PAR. 16. By and through the practices described in Paragraph Fifteen, above, respondent has prohibited female applicants from opening or maintaining an account in a birth given first name and surname or a birth given first name and a combined surname. Therefore, respondent has violated Section 202.4(e) of Regulation B.

PAR. 17. Subsequent to November 30, 1975, in the ordinary course of business respondent has refused to extend joint accounts to creditworthy unmarried persons on the basis of marital status.

PAR. 18. By and through the practices described in Paragraph Seventeen, above, respondent has discriminated against applicants on the basis of marital status. Therefore, respondent has violated Section 202.2 of Regulation B.

PAR. 19. In the ordinary course of its business, subsequent to November 20, 1976, respondent has failed to retain for fifteen months after the date respondent notified the applicant of action

taken on an application, the following written or recorded information used by respondent in evaluating applications for credit: (1) written consumer reports received from consumer reporting agencies, (2) worksheets on which information given orally by a consumer reporting agency concerning an applicant's credit history was recorded by respondent's employees, (3) worksheets on which information concerning the applicant derived from telephone calls to various natural persons, corporations and partnerships was recorded by respondent's employees and (4) written documents on which the points assigned to applicants' answers to various items on the Aldens Charge Application by respondent's point scoring system were recorded by respondent's employees.

PAR. 20. By and through the practices described in Paragraph Nineteen above, respondent has failed to retain as to each applicant all written and recorded information used in evaluating the applicant for the period ending fifteen months after the date respondent gave the applicant notice of action on the application. Therefore, respondent has violated Section 202.9 of Regulation B.

PAR. 21. Subsequent to January 31, 1976, a substantial number of applicants for Aldens Charge Accounts failed to satisfy respondent's standards of creditworthiness and were informed that credit was denied by means of one of respondent's form rejection letters "2102", "2103" or "2104" (see Exhibits B, C and D) stamped with the following statement:

YOUR FILE NO. _____

IF YOU HAVE ANY QUESTIONS CONCERNING OUR DECISION PLEASE RETURN THIS LETTER AND YOUR ORDER, OR REFER TO YOUR FILE NUMBER.

PAR. 22. In a substantial number of instances subsequent to January 30, 1976 Aldens responded to applicants' requests for the reasons for denial which were accompanied by the reference number, by advising such applicants that it could not provide the reason for the denial by means of the "CLTD" letter (see Exhibit E), set forth in relevant part below:

Your letter was referred to me for personal attention. We are unable to determine the exact reason your application was not approved. Records are kept by us to facilitate answering letters by our customers, but unfortunately we cannot locate any information regarding your recent application.

In fact, respondent was capable of locating the application and furnishing the reason for denial.

PAR. 23. In a substantial number of instances subsequent to January 30, 1976, when an applicant asked respondent for the

reasons for denial, respondent obtained a consumer report on the applicant.

In some instances respondent approved the application after evaluating the consumer report. In such cases, respondent did not provide the applicant with the reasons for the initial denial.

In other instances, where positive information in the consumer report did not justify reevaluation of the decision to deny the application, respondent advised the applicant by means of a "CBY", "CBX" or "CBRM" letter (see Exhibits F, G and H), set forth in relevant part below, that:

We regret very much we were unable to open a credit account for you This decision was based upon information contained in a Consumer Credit Report we requested from

In fact, respondent's initial decision to deny such applications was not based upon information derived from a consumer credit report from the consumer reporting agency named by respondent, but was based on the applicant's failure to meet respondent's initial screening requirements or on the applicant's failure to achieve a minimum qualifying score under respondent's point scoring system.

PAR. 24. On and after January 31, 1976 respondent refused to provide the reasons for a denial of an application upon the oral request of its applicants.

PAR. 25 By and through the practices described in Paragraphs Twenty-Two, Twenty-Three and Twenty-Four respondent has failed to establish and maintain suitable procedures to provide each applicant who is denied credit or whose account is terminated the reasons for denial, upon the request of the applicant. Therefore, respondent has violated Section 202.5(m)(2) of Regulation B.

PAR. 26. Pursuant to Section 702(g) of the Equal Credit Opportunity Act, respondent's aforesaid failures to comply with Regulation B as alleged in Paragraphs Five, Seven, Ten, Eleven, Twelve, Fourteen, Sixteen, Eighteen, Twenty and Twenty-Five above, constitute violations of that Act and pursuant to Section 704(c) thereof, respondent has violated Section 5(a)(1) of the Federal Trade Commission Act.

COUNT II

Alleging violations of the Fair Credit Reporting Act, the allegations of Paragraphs One, Two and Three heretofore are incorporated by reference into Count II as if fully set forth verbatim.

PAR. 27. Respondent in the ordinary course and conduct of its business, obtains consumer reports from consumer reporting agen-

cies. Respondent uses in whole or in part information contained in these consumer reports to deny applications for Aldens Charge Accounts.

PAR. 28. In a substantial number of instances subsequent to April 25, 1971 respondent has rejected applications for Aldens Charge Accounts based in whole or in part on information concerning the individual applicant, or other individuals at the same address with the same or similar last names, or other individuals at the same address but with different last names, obtained from consumer reports from the "Credit Index," a subsidiary of Hooper-Holmes Bureau, Inc. which is a consumer reporting agency defined by Section 603(f) of the Fair Credit Reporting Act. In other instances, respondent has rejected applicants based in whole or in part on information contained in a consumer report obtained from consumer reporting agencies other than Credit Index which varied, contradicted or failed to confirm information on the face of an application. In other instances, respondent has rejected such applications based in whole or in part on the fact that the consumer report obtained from consumer reporting agencies other than Credit Index failed to provide sufficient information regarding the applicant's creditworthiness.

In each of the instances described above, respondent notified applicants of the rejection of their application by means of either the "2102", "2103" or "2104" form rejection letters (see Exhibits B, C and D). Each of these letters provides in relevant part as follows:

We certainly appreciate . . .

Your desire to open an Aldens Credit Account and wish it were possible to do this for you at this time. Your application was reviewed and at the present time we are unable to open an account for you. Our decision was according to our usual policies and was based solely on the information you supplied to us.

PAR. 29. By and through the use of the practices described in Paragraph Twenty-Eight, above, respondent has denied consumer credit for personal, family or household purposes based in whole or in part on information contained in a consumer report without so advising the consumer and without supplying the name and address of the consumer reporting agency making the report. Therefore, respondent has violated the provisions of Section 615(a) of the Fair Credit Reporting Act.

Complaint

92 F.T.C.

PLEASE DETACH AND RETAIN THIS NOTICE FOR YOUR FILES

1. The Federal Equal Credit Lending Act requires that all credit contracts be made on a non-discriminatory basis. The Act prohibits discrimination on the basis of race, color, sex, religion, marital status, or national origin. The Act also prohibits discrimination on the basis of age, provided that the age of the borrower is not a factor in the determination of the creditworthiness of the borrower. The Act requires that all credit contracts be made on a non-discriminatory basis, without regard to sex or marital status. The Federal agency which administers companies with this law concerning this company is the Federal Trade Commission, Washington, D.C. 20580.

[illegible]

OPENING 10% DEPOSITS CHARGE ACCOUNT (easy monthly payments or 30 day charge).

ONLY 11 C. WILL SEE CREDIT TERMS ON PAGE 445. (1) Complete Charge Application below and sign.

*** Payment on reverse side. (1) Use Order Form below to place your first charge order for \$10 or more.**
(2) Send for: Evans, Chicago, Illinois, 60607. *We can not open an account without a minimum first charge order of \$10 or more.

[illegible][illegible]

1. My Name Is _____ Address _____ City _____ State _____ Zip _____
 2. ☐ Married ☐ Divorced ☐ Single ☐ Widowed ☐ Other _____
 3. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 4. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 5. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 6. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 7. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 8. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 9. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 10. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 11. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 12. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 13. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 14. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 15. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 16. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 17. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 18. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 19. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 20. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 21. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 22. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 23. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 24. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 25. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 26. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 27. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 28. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 29. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 30. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 31. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 32. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 33. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 34. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 35. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 36. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 37. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 38. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 39. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 40. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 41. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 42. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 43. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 44. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 45. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 46. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 47. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 48. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 49. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 50. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 51. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 52. ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer ☐ Other _____
 53. ☐ Yes

☐ If you have paid-up your account within the past 6 months, please check this box.
☐ If you are now paying on an Aldens Chase Account, please check this box.

AREA CODE PHONE NUMBER (P)
CITY/STATE/ZIP (C)

[illegible]

DO NOT WRITE IN THIS SPACE	Merchandise will be shipped by the best means of transportation possible	TOTAL \$
	Allowing computer delivery and handling charges for change of address, 5-15% tax on goods shipped to "M" only.	

THE UNIVERSITY OF CHICAGO LIBRARY

DEFINITION
Aluens Charge Application

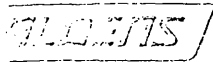


901

Complaint

EXHIBIT B

"2102 Letter"



5000 WEST ROOSEVELT ROAD / CHICAGO, ILLINOIS 60607

We certainly appreciate . . .

your desire to open an Aldens Credit Account and wish it were possible to do this for you at this time.

Your application for credit was reviewed and at the present time we are unable to open an account for you. Our decision was according to our usual policies, and was based solely on information you supplied to us.

Since you undoubtedly want some or all of the merchandise you selected, why not send us a cash order . . . as many of our customers do . . . for everything you need now. This will enable you to take advantage of the excellent values you selected.

Thanks again for thinking of Aldens.

ALDENS, INC.

Charles Arthur

CHARLES ARTHUR
New Account Manager

2102 APP

CA:TDA

enc: c.o.

YOUR FILE NO. _____

If you have any questions concerning our decision, please return this letter and your order, or refer to your file number.

Complaint

92 F.T.C.

EXHIBIT C

"2103 Letter"

we certainly appreciate . . .

your desire to open an Aldens credit account and wish it were possible to do this for you at this time.

Your application for credit has been reviewed and at the present time we may not open an account for you. Our decision was according to our usual policies, and was based solely on information you supplied to us.

Meanwhile, you undoubtedly want some or all of the merchandise you selected. Why not send us a cash or C.O.D. order (25% down payment required on C.O.D. orders). . . as so many of our customers do . . . for everything you need now. This will enable you to take advantage of the excellent values you selected.

Thanks again for thinking of Aldens.

ALDENS, INC.

Charles Arthur

CHARLES ARTHUR
New Account Manager

2103

CA:TD

Enc: C.O.

YOUR FILE NO. _____

If you have any questions concerning our decision, please return this letter and your order, or refer to your file number.

MEMBER OF THE INTERNATIONAL CONSUMER CREDIT ASSOCIATION

Complaint

EXHIBIT D

555 WEST ROOSEVELT ROAD / CHICAGO, ILLINOIS 60607

EXHIBIT D
"2104 Letter"

We certainly appreciate . . .

your desire to open an Aldens credit account and wish it were possible to do this for you at this time.

Your application for credit has been reviewed and at the present time we may not open an account for you. Our decision was according to our usual policies, and was based solely on information you supplied to us.

Since we are unable to open an account for you and you undoubtedly want some or all of the merchandise you selected, we will accept a cash or a C.O.D. order (25% down payment required on C.O.D.) for everything you need now. This will enable you to take advantage of the excellent values you selected.

Thanks again for thinking of Aldens.

ALDENS, INC.

*Charles Arthur*CHARLES ARTHUR
New Account Manager

2104 BP

CA:TDA
ENC: c.o.

YOUR FILE NO. _____

If you have any questions concerning our decision, please return this letter and your order, or refer to your file number.

MEMBER OF THE INTERNATIONAL CONSUMER CREDIT ASSOCIATION

Complaint

92 F.T.C.

EXHIBIT E
"CLTD Letter"

[ALDENS]

ALDENS, INC. 1000 17TH AVENUE NEW YORK, N.Y. 10036

Your recent letter was referred to me for personal attention.

We are unable to determine the exact reason why your application was not approved. Records are kept by us to facilitate answering letters from our customers, but unfortunately, we cannot locate any information regarding your recent application.

Therefore, won't you please fill out the enclosed application, including your order and return it to us in the postage free envelope enclosed. It will be a real pleasure to process your application and order. Notification will be sent promptly with regard to disposition of your request for an account.

We would like to thank you for bringing this matter to our attention and are awaiting your reply.

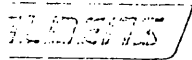
ALDENS, INC.

*Charles Arthur*CHARLES ARTHUR
New Account ManagerCA:CT
CLTDENC: Application
BRE

P.S. Please return this letter with your original order and application.

MEMBER OF THE INTERNATIONAL CONSUMER CREDIT ASSOCIATION

EXHIBIT F
"CBX Letter"



5050 WEST ROOSEVELT ROAD : CHICAGO, ILLINOIS 60647

We regret very much that we were unable to open a Credit Account for you with the enclosed order.

This decision was based upon information contained in a Consumer Credit Report we requested from:

Meanwhile, as you undoubtedly want some or all of the merchandise you selected, why not send us a cash order as so many of our customers do. This will still enable you to take advantage of our excellent values.

Your interest in Aldens is sincerely appreciated and we hope to serve you in the near future.

ALDENS, INC.

Charles Arthur

CHARLES ARTHUR
New Account Manager

FILE NO. _____

CA:CBX

RECD:010.

2170

CR 00

IN FILE

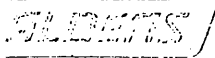
MEMBER OF THE INTERNATIONAL ASSOCIATION OF RETAILERS

Complaint

92 F.T.C.

EXHIBIT "C"

"CBY Letter"



5000 WEST ROOSEVELT ROAD CHICAGO, ILLINOIS 60647

We regret very much that we were unable to open a Credit Account for you with the enclosed order.

This decision was based upon information contained in a Consumer Credit Report we requested from the Western Cook County Credit Bureau - AMO, P.O. Box 2121, Oak Park, Illinois. They obtained the report from:

Meanwhile, as you undoubtedly want some or all of the merchandise you selected, why not send us a cash order as so many of our customers do. This will still enable you to take advantage of our excellent values.

Your interest in Aldens is sincerely appreciated and we hope to serve you in the near future.

ALDENS, INC.

CHARLES ARTHUR
New Account Manager

IN FILE NO. _____

CALL 227
OR HAVE ANY QUESTIONS
CALL 227. OR 227. OR 227.
227. OR 227. OR 227.
YOUR ORDER OR RETURN
YOUR FILE NUMBER.

EXHIBIT F

"CBRI Letter"

we regret very much that

Credit Account for you with the enclosed order.

This decision was based upon information contained in a Consumer Credit Report we requested from The Western Cook County Credit Bureau - AMO, P.O. Box 2121, Oak Park, Illinois. They obtained the report from:

Meanwhile, as you undoubtedly want some or all of the merchandise you selected, why not send us a cash or C.O.D. order (25% down payment required on C.O.D. orders) as so many of our customers do. This will still enable you to take advantage of our excellent values.

Your interest in Aldens is sincerely appreciated and we hope to serve you in the near future.

ALDENS, INC.

Charles Arthur

CHARLES ARTHUR

New Account Manager

CA:CBRI

YOUR FILE NO. _____

ENC:C.O.

2149

If you have any questions concerning our decision, please return this letter and your order, or refer to your file number.

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 Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the respondent with violation of the Equal Credit Opportunity Act, the Fair Credit Reporting Act and 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 respondent that the facts as alleged in the complaint are true or that any law has been violated, 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 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, and having duly considered the comments filed thereafter by interested persons pursuant to Section 2.34 of its rules, 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:

Proposed respondent Aldens, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 5000 West Roosevelt Road, Chicago, Illinois.

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

ORDER

Definitions: For the purposes of this order the following definitions are applicable:

(a) "Regulation B" shall refer to that version of Regulation B (12 C.F.R. 202) of the Equal Credit Opportunity Act, 15 U.S.C. 1691-

1691e, as amended by Pub. Law No. 94-239, in effect on and after March 23, 1977.

(b) The terms "account," "applicant," "application," "contractually liable," "consumer credit," "creditor," "credit transaction," "discriminate against an applicant," "inadvertent error," "marital status" and "open end credit" shall be defined as provided by Section 202.2 of Regulation B.

(c) The terms "consumer report" and "consumer reporting agency" shall be defined as provided in Sections 603(d) and 603(f), respectively, of the Fair Credit Reporting Act (15 U.S.C. 1681a(d) and (f)(1970)).

ORDER I

It is ordered, That respondent Aldens, Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with every application for consumer credit do forthwith cease and desist from:

1. Discriminating against applicants for credit on the basis of sex or marital status with respect to any aspect of a credit transaction in violation of Section 202.4 of Regulation B.

2. Taking sex or marital status into account in a credit scoring system or other method of evaluating applications in violation of Section 202.6 (b)(1) of Regulation B.

3. Failing to consider child support payments, where disclosed by the applicant as income in evaluating applications, to the extent that such payments are likely to be consistently made, as required by Section 202.6(b)(5) of Regulation B.

4. Requesting, where the applicant applies for an unsecured separate account in a state other than a community property state, the name of the applicant's spouse in violation of Section 202.5(d)(1) of Regulation B.

5. Requesting or considering information concerning an applicant's spouse (or former spouse under (e) below) unless:

- (a) the spouse will be permitted to use the account; or
- (b) the spouse will be contractually liable upon the account; or
- (c) the applicant is relying in the spouse's income as a basis for repayment of the credit requested; or
- (d) the applicant resides in a community property state or property upon which an applicant is relying as a basis for repayment of the credit requested is located in such a state; or
- (e) the applicant is relying on alimony, child support or separate

maintenance payments from a spouse or former spouse as a basis of repayment of the credit requested,

in violation of Section 202.5 (c) of Regulation B.

6. Failing to preserve records including (1) written consumer reports received from consumer reporting agencies, (2) worksheets on which information given orally by a consumer reporting agency concerning the applicant's credit history was recorded by respondent's employees, (3) worksheets on which information concerning the applicant derived from telephone calls to various natural persons, corporations and partnerships was recorded by respondent's employees and (4) written documents on which the points assigned by respondent's point scoring system to applicant's answers to various items on the Aldens charge application were recorded by respondent's employees, as required by Section 202.12 of Regulation B.

7. Failing to provide applicants against whom adverse action is taken with a statement of specific reasons for the action taken, either at the time of notifying the applicant of such action or within 30 days of receiving an oral or written request for the reasons from the applicant within 60 days of notification of adverse action, as required by Section 202.9 of Regulation B.

(a) *Provided*, that if respondent cannot locate the applicant's file after good faith efforts because the applicant did not supply the file number assigned to that application, the respondent shall be deemed to be in compliance with the provisions of this paragraph only if it had clearly and conspicuously advised the applicant in the notification of adverse action of the file number and that the respondent will be unable to furnish the reason(s) for denial unless the applicant furnishes the file number with the request for reasons. Where respondent is unable to locate the applicant's file as a result of the applicant's failure to supply the file number with the request for reasons, the respondent shall so notify the applicant of that fact.

(b) Respondent shall not be deemed to have violated the requirements of this paragraph if it cannot locate the applicant's file after good faith efforts because of an inadvertent error; *provided*, that, (1) the respondent so notifies the applicant, and (2) upon discovering the error the respondent corrects it as soon as possible and commences compliance with this paragraph.

(c) *Provided further*, that where an application for credit is denied by respondent based on the failure of the applicant to obtain a sufficient number of points under a point scoring system, a

statement of the specific reasons for the action taken complies with this paragraph only if it includes:

(i) A brief explanation of respondent's point scoring system which informs the applicant that: (1) the system assigns a value to a number of different creditworthiness criteria taken from the face of the application or other sources, (2) the applicant's total score on all criteria determines whether respondent will grant or deny credit, and (3) the factor(s) disclosed are those which most significantly affected the respondent's decision (an example of an explanation that complies with this subparagraph is set forth in Appendix A; an explanation which is substantially similar to Appendix A will be considered to be in compliance with the provisions of this subparagraph to the extent to which it accurately describes respondent's scoring system); and

(ii) the criteria, not fewer than four (4), in respondent's point scoring system which most significantly affected respondent's adverse decision, except that (1) disclosure of a single criterion complies with this paragraph if that criterion would cause an adverse decision were the applicant to achieve a maximum rating on the other criteria used in evaluating applicants, and (2) respondent shall not disclose a criterion on which the applicant scored the maximum number of points even if this results in the disclosure of fewer than four criteria. For the purpose of this paragraph (7) the term "criterion" means any item of information to which the respondent assigns points, for example, "length of employment" and "no telephone at residence." The most significant criteria are to be determined by selecting the criteria which produced the greatest differential between the applicant's score and the maximum number of points obtainable for each criterion. Respondent shall not be deemed to have violated the requirements of this paragraph if it does not list the criteria which most significantly affected respondent's adverse decision because of an inadvertent error.

(d) Respondent shall notify the Commission if within ten (10) years from the effective date of this order it changes the credit scoring system in use at the time of execution of this order in a manner which would materially affect the accuracy of the reasons provided under subparagraph 7(c)(ii); *provided*, that any changes in respondent's credit scoring system (*e.g.*, addition or deletion of specific criteria, increase or reduction of the points assigned to specific criteria) which are made in good faith to adjust respondent's bad debt losses, to reduce respondent's operating expenses, or to increase the availability of credit shall be presumed not to materially affect the accuracy of reasons given under subparagraph 7(c)(ii).

(e) *Provided further*, that subsequent approval of an application which respondent initially denied shall not relieve respondent of its obligation to provide the statement of specific reasons for the initial denial as required by Section 202.9 of Regulation B and this paragraph.

8. Failing to provide a statement of the reason(s) for denial as set forth in Paragraph 7, above, to all applicants who were denied credit and requested the reason(s) for denial during the period January 31, 1976 through March 22, 1977.

(a) *Provided*, that if respondent subsequently opened an account for any applicant who was denied credit and requested the reason(s) for denial during the period from January 31, 1976 through March 22, 1977, respondent shall not be required to furnish such applicants the reason(s) for denial provided for in this paragraph if the applicant expressly accepted the account through acceptance of merchandise ordered on the account or submission of subsequent orders for merchandise.

9. Failing to review the applications of all persons employed as waitresses who were denied credit during the period October 28, 1975, through March 22, 1977, and send such applicants by first-class mail a notice in the language and form shown in Appendix B, which shall contain as an enclosure a current Aldens Charge Application. Respondent shall review the charge applications which are mailed to the company in response to the notice letter (Appendix B) according to the credit granting standards in effect at the time that the charge application is received and in effect on August 1, 1976, except that no less than two (2) points shall be awarded for occupation. Respondent shall open accounts for those applicants who qualify under either set of credit granting standards. If the applicant qualifies under both standards, the applicant shall be granted the higher of the two credit limits. Respondent shall send each such applicant a notification of action taken as required by Section 202.9 of Regulation B and a notification of the amount of the credit limit, if any, established on the account.

ORDER II

It is further ordered, That respondent, Aldens, Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device in connection with any application for credit that is primarily for personal, family or household purposes, and in connection with either the receipt or consideration of any consumer report, do forthwith cease and desist from:

1. Failing whenever credit for personal, family or household purposes involving the consumer is denied either wholly or partly because of information contained in a consumer report from a consumer reporting agency, to so advise the consumer against whom such adverse action has been taken and to supply the name and address of the consumer reporting agency making the report as required by section 615(a) of the Fair Credit Reporting Act.

(a) *Provided*, that respondent shall not be liable for a civil penalty for any violation of this paragraph if:

(i) respondent shows by a preponderance of the evidence that the violation was caused by inadvertent error; and

(ii) upon discovery of the violation the respondent corrects it as soon as possible by sending the notice required by this section to the consumer.

2. Failing to advise each applicant who was denied credit for personal, family or household purposes involving the consumer based in whole or in part on information contained in a consumer report from a consumer reporting agency, for a period of three (3) years prior to the date of execution of this order, of such action and to supply the name and address of the consumer reporting agency making the report as required by section 615(a) of the Fair Credit Reporting Act.

(a) *Provided*, that to the extent that respondent's records reflect that the notice required by section 615(a) of the Fair Credit Reporting Act was previously given to the applicant respondent shall be deemed in compliance with the provision as to such applicants.

(b) *Provided further*, that where the applicant was denied credit on the basis of a "Credit Index" report, respondent shall also advise the applicant that the information used may have concerned items of adverse information relating not to the applicant but to individuals residing at the applicant's address.

It is further ordered, That respondent shall preserve evidence of compliance with the requirements imposed under this order for a period of not less than 25 months after respondent notifies each applicant of the reasons for denial pursuant to Paragraph 8 of Order I, above, the action taken on applications for new accounts pursuant to Paragraph 9 of Order I, above, and the name and address of any consumer reporting agency pursuant to Paragraph 2 of Order II, above. Respondent shall upon request permit the Commission through its duly authorized representatives to inspect such records.

It is further ordered, That respondent shall deliver a copy of this order to cease and desist to all present and future supervisory

employees engaged in reviewing, evaluating or otherwise processing applications for credit.

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, arrangement or sale resulting in the emergence of successor corporations, 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 service upon it of this order, file with the Commission a written report setting forth in detail the manner and form in which it has complied with this order. Respondent shall also within one-hundred twenty (120) days after service upon it of this order file with the Commission a supplemental written report setting forth in detail the manner and form in which it has complied with Paragraph 9 of Order I of this order.

APPENDIX A

In reviewing your application Aldens used a credit scoring system that is based on our experience with other applicants. This system assigns points to various items of information on your application [and, as applicable, other sources of the information scored, such as credit reports]. We scored the information which you supplied in your application [or, as applicable, other sources], totaled the points and found that you did not achieve the minimum score required for purchases in the amount requested by your order.

We have listed below the four factors which most significantly affected our decision to deny your application for credit.

APPENDIX B

Ms.
[Street Address]
[City, State]

Dear Ms. _____:

We regret that due to an oversight in our initial evaluation of your recent application for credit, we were unable to open an account for you. Aldens has now modified its credit granting standards and would appreciate the opportunity to review your application for credit again.

Should you desire to open an Aldens Credit Account, please complete and send us the enclosed charge application. We'll evaluate your application and notify you of our decision as soon as possible.

Thank you for considering Aldens.

ALDENS, INC.

CHARLES ARTHUR
New Account Manager

Complaint

92 F.T.C.

IN THE MATTER OF

SAMUEL E. WOMACK, ET AL. T/A NURSERY BARN,
ETC.

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

Docket C-2939. Complaint, Dec. 1, 1978 — Decision, Dec. 1, 1978

This consent order, among other things, requires three McMinnville, Tenn. firms engaged in the advertising and mail order sale of viable trees and nursery stock, to cease misrepresenting or making unsubstantiated claims regarding the growth, survival and maturity of their stock; or the existence of government standards and inspections for such products. They are required to make specified disclosures in future advertising; include all conditions and qualifications attached to advertised guarantees; enclose a copy of such guarantee with each purchase; fulfill obligations under those guarantees promptly; and make full refunds to customers whose orders have not been shipped in time for the planting cycle. The order additionally requires the companies to make proper restitution to eligible customers from July 1, 1975, whose orders had never been sent or had failed to survive shipment.

Appearances

For the Commission: *Ronald C. Cougill.*

For the respondents: *Jack Paller, McMinnville, Tenn.*

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 S.W. Advertising Company, Inc. (formerly Savage-Womack Advertising Company, Inc.), Morrison Nursery Advertising Company, Inc., and individuals Samuel E. Womack, as an officer of S.W. Advertising Company, Inc. (formerly Savage-Womack Advertising Company, Inc.), and James E. Savage, as an officer of Morrison Nursery Advertising Company, Inc., and Samuel E. Womack and James E. Savage further doing business as Nursery Barn, Savage Farms Nursery, McMinnville Tree Farm, American Nursery and Seed Company, and Morrison Nursery Company, have violated provisions of said Act, and 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. Corporate respondent S.W. Advertising Company, Inc. (formerly Savage-Womack Advertising Company, Inc.), was a corporation organized, existing and doing business under and by virtue of the laws of the State of Tennessee with its principal office