

IN THE MATTER OF
CITICORP FINANCIAL, INC.

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

Docket C-3057. Complaint, April 18, 1973—Decision, March 4, 1981*

This consent order requires, among other things, a Towson, Md. financial organization to cease issuing any unsolicited credit card, except in renewal of or in substitution for an accepted credit card. Respondent is additionally required to maintain prescribed records for specified periods.

Appearances

For the Commission: *Frederick D. Clements.*

For the respondent: *Lucian C. Jones, Shearman & Sterling, New York City.*

DECISION AND ORDER

The Commission having heretofore issued its decision and order in Docket No. C-2383 in the matter of Arlen Realty & Development Corp., a corporation, also doing business as Korvettes, a division, and NAC Credit Corporation, a corporation, on April 18, 1973, which provides that said order shall apply to "successors and assigns" of said respondents; and

Citicorp Financial, Inc., having succeeded to a substantial part of the assets of NAC Credit Corporation, a corporate respondent in Docket No. C-2383, and to the management and operation of the NAC Charge Plan formerly managed and operated by NAC Credit Corporation; and

Citicorp Financial, Inc., and counsel for the Commission having executed an agreement containing a consent order, an admission by Citicorp Financial, Inc., of the jurisdiction of the Federal Trade Commission of the subject matter of this proceeding and of Citicorp Financial, Inc., as a successor of NAC Credit Corporation, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by Citicorp Financial, Inc., that it has violated the law as alleged in the Arlen Realty & Development Corp., *et al.* Complaint (Docket No. C-2383),

* Complaint previously published at 82 F.T.C. 1234.

and waivers and other provisions as required by the Commission's 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 2.34 of its Rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent Citicorp Financial, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 7720 York Road, Towson, Maryland.

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

ORDER

It is ordered, That respondent Citicorp Financial, 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 the issuance of credit cards, as "credit card" is defined in Regulation Z (12 CFR 226) of the Truth in Lending Act, as amended, (P.L. 90-321, 15 U.S.C. 1601, *et seq.*), shall forthwith cease and desist from:

Issuing any credit card, other than a credit card issued in renewal of or in substitution for an accepted credit card, as "accepted credit card" is defined in Section 226.13(a) of Regulation Z, unless:

1. In response to the recipient's separate signed, affirmative and specific written request or written application therefor.

Or

2. In response to the recipient's specific oral request obtained pursuant to oral solicitation, *provided*, that the following procedures are employed:

- a) The person making the oral solicitation must state the following, or words of similar meaning and import, at the very outset of the conversation with the person being solicited:

The purpose of this telephone call [or conversation] is to find out if you would like to have a NAC [or other specific name, as applicable] credit card.

And

b) A detailed log of all oral solicitations is maintained for a period of at least two years, such log to include:

- (1) The name of the individual who made the oral solicitation;
- (2) The name of the person with whom the solicitor spoke;
- (3) The time and date of the solicitation; and
- (4) Whether or not a credit card was requested.

A. *It is further ordered*, That for a period of five (5) years from the date of entry of this order respondent shall:

1. Maintain records of all oral and written complaints it receives concerning its solicitation programs; provide those records to the staff of the Federal Trade Commission upon request; reflect in those records, in the case of each such oral complaint, the name and address of the complainant together with a brief identification of the nature of the complaint, and to include in those records, in the case of each such written complaint, a copy of the complaint.

2. Maintain a copy of each contract between it and any other party pursuant to which that party will solicit new holders for any credit card issued by Citicorp Financial, Inc., and to provide those copies to the staff of the Federal Trade Commission upon request.

3. Take steps to insure that a full consumer credit report on any applicant solicited during any new account solicitation program is not obtained by Citicorp Financial, Inc. (or by any person soliciting new accounts on behalf of Citicorp Financial, Inc.) during the period of time commencing on the date on which such applicant is first contacted, orally or in writing, by Citicorp Financial, Inc. (or by any person soliciting new accounts on behalf of Citicorp Financial, Inc.) and ending on the earlier of (i) the date on which the applicant submits a written request for the credit card or (ii) the date on which the applicant first uses the credit card.

B. *It is further ordered*, That respondent shall forthwith deliver a copy of this order to cease and desist to all persons engaged in the solicitation or issuance of respondent's credit cards, whether or not employed by respondent, and that respondent secure a signed statement acknowledging receipt of said order from each such person.

C. *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, 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.

D. *It is further ordered*, That the respondent herein shall within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Interlocutory Order

97 F.T.C.

IN THE MATTER OF

GROLIER, INCORPORATED

*Docket 8879. Interlocutory Order, March 10, 1981*ORDER GRANTING DISCOVERY IN PART; DENYING DISCOVERY IN PART
AND "CLARIFYING" SEPTEMBER 12, 1980 ORDER

On September 12, 1980, we issued an order reopening this proceeding to comply with the mandate of the Court of Appeals for the Ninth Circuit in *Grolier, Inc. v. FTC*, 615 F.2d 1215 (9th Cir. 1980). On November 6, 1980,¹ respondent Grolier, Incorporated ("Grolier"), filed motions for discovery and "clarification" of our Order. The memorandum ("Resp. Memo.") accompanying the motions argued that the Commission had issued an order that "contradicts" the mandate of the Ninth Circuit (Resp. Memo. 6) and sought to justify extensive discovery. On November 26, 1980, complaint counsel filed an answer ("Answer"), with accompanying affidavits, which contends that additional discovery is not necessary. Finally, on December 22, 1980, Grolier filed a motion for leave to file a reply memorandum and a request for additional discovery.

Upon review it is difficult to escape the conclusion that Grolier's motion for "clarification" is largely designed to delay this proceeding. The only "clarification" sought is whether the September 12 Order requires "Grolier to follow a procedure different from what the Ninth Circuit mandated." Resp. Memo. at 6.² The answer is that it does not. As noted above, the Ninth Circuit's remand was premised on the fact that it believed Grolier was improperly denied any knowledge of Judge von Brand's prior participation in this case. The Court of Appeals, however, was unaware that an FOIA request, identical to Grolier's original discovery motion, had yielded all but 28 documents prior to remand. Our Order (Order at 2) invited the parties to comment on whether the release of those documents rendered the original discovery motion moot. Grolier chose not to comment. We, therefore, hold that, with our action today, Grolier's original discovery request for documents has been granted in its entirety. We do not believe the Court of Appeals intended the

¹ By the terms of the Commission's order of September 12, 1980, Grolier was allowed to renew its motion to disqualify Judge von Brand if it desired, and required to present the Commission with specified evidence on questions relevant to the motion by October 23, 1980. On September 29, 1980, Grolier sought additional time purportedly to review the documents it had possessed for several years by virtue of a FOIA request, before responding to the Commission's order.

² In seeking additional time on September 29, 1980, Grolier did not allude to any uncertainty as to what the Commission had ordered it to do and suggested to the Commission only that the additional time it requested was necessary to examine the documents it had received years ago under the FOIA, so that it could point to specific facts that demonstrated Judge von Brand should be disqualified.