

for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

IX.

It is further ordered, That respondent shall, within sixty (60) days after service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

IN THE MATTER OF

DILLARD DEPARTMENT STORES, INC.

Docket 9269. Interlocutory Order (Summary), March 7, 1996

ORDER

On February 12, 1996, complaint counsel moved that the Commission dismiss the complaint in this matter based on a change in law. The central allegation in the complaint is that Dillard violated Section 133 of the Truth in Lending Act, 15 U.S.C. 1643, and Section 226.12(b) of Regulation Z, 12 CFR 226.12(b), by placing "unreasonable burdens" on cardholders who make claims of unauthorized use. Unauthorized use of a credit card occurs when a card is used without the authority of the cardholder, such as use after a card has been lost or stolen. The complaint alleges that Dillard imposed unreasonable burdens by conducting investigations of claims of unauthorized use in which cardholders were required to: (1) complete an affidavit; (2) have the affidavit notarized; (3) swear that they do not know who made the unauthorized charges, or identify and testify against the person who did; (4) file police or postal reports; or (5) appear in person at a Dillard store to answer questions about the asserted unauthorized use.

Congress "has specifically designated the Federal Reserve Board and staff as the primary source for interpretation of truth-in-lending law." *Ford Motor Credit Co. v. Milhollin*, 444 U.S. 555, 556 (1980). Because the standard for investigation of claims of unauthorized use in the amended Federal Reserve Board Official Staff Commentary appears to differ from the standard reflected in the complaint in this proceeding, the Commission concludes that it is not in the public interest to continue to prosecute the complaint against Dillard.

Accordingly, *It is ordered*, That this matter be, and it hereby is, dismissed.

Complaint

121 F.T.C.

IN THE MATTER OF

THE DANNON COMPANY, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3643. Complaint, March 18, 1996--Decision, March 18, 1996*

This consent order prohibits, among other things, a New York-based frozen yogurt manufacturer from misrepresenting the amount of fat, calories, or cholesterol in any frozen yogurt products. The consent order requires the respondent to pay \$150,000 to the U.S. Treasury. This action settles allegations stemming from nutritional claims made in advertisements for Dannon's Pure Indulgence frozen yogurt.

*Appearances*For the Commission: *Peter Metrinko* and *Justin Dingfelder*.For the respondent: *Stuart M. Pape* and *Mark A. Heller*, *Patton Boggs*, Washington, D.C.

COMPLAINT

The Federal Trade Commission, having reason to believe that The Dannon Company, Inc., a corporation, ("respondent"), has violated Section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)), and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondent is a Delaware corporation, with its office and principal place of business located at 120 White Plains Road, Tarrytown, NY.

PAR. 2. Respondent has manufactured, advertised, promoted, offered for sale, sold and distributed a frozen yogurt known by the product name Pure Indulgence. This product is a "food" within the meanings of Sections 12 and 15 of the Federal Trade Commission Act.

PAR. 3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.