

obligation or failing to provide a statement of the amount or method of computation of any charge that may be deducted from the amount of any rebate of such unearned finance charge that will be credited to the obligation or refunded to the customer, as required by Section 226.8(b)(7) of Regulation Z.

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, in the manner, form, and amount required by Sections 226.6, 226.7, 226.8, Section 226.9 and Section 226.10 of Regulation Z.

It is further ordered, That respondents shall deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the offering for sale and sale of respondents' products or services, and shall secure from each salesman or other person a signed statement acknowledging receipt of said order.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in respondents' business, such as assignment or sale resulting in the emergence of a successor business, corporate or otherwise, the creation of subsidiaries, or any other change which may affect compliance obligations arising out of the order.

It is further ordered, That the 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

S. L. SAVIDGE, INC.

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

Docket C-2018. Complaint, Aug. 24, 1971—Decision, Aug. 24, 1971

Consent order requiring a Seattle, Wash., corporation engaged in selling new and used automobiles to cease violating the Truth in Lending Act by failing to include in the finance charge the premiums for credit life insurance, failing to disclose the accurate annual percentage rate, and making other representations in violation of Regulation Z of said Act. Respondent is also forbidden to misrepresent that its credit terms are "easy" or that a buyer will be allowed to select his own credit terms.

Complaint

COMPLAINT

Pursuant to the provisions of the Truth in Lending Act and the implementing regulation promulgated thereunder, 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 S. L. Savidge, Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of said Acts and implementing 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 in that respect as follows:

PARAGRAPH 1. Respondent S. L. Savidge, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Washington with its principal office and place of business located at 9th and Lenora, Seattle, Washington.

PAR. 2. Respondent is now, and for some time last past has been engaged in the offering for sale, and sale of new and used automobiles and has engaged in the advertising of such in various media.

COUNT I

Alleging violations of the Truth in Lending Act and Regulation Z.

PAR. 3. In the ordinary course of its business as aforesaid, respondent regularly extends 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, in the ordinary course of its business as aforesaid, and in connection with its credit sales, as "credit sale" is defined in Regulation Z, respondent has entered into and is entering into contracts for the sale of respondent's goods and services. On these contracts, hereinafter referred to as "the contract," respondent provides certain consumer credit cost information, but does not provide its customers with other consumer credit cost disclosures.

By and through use of the contract, respondent:

1. Fails to include in the "finance charge" the amount of premiums for credit life insurance required by respondent to be purchased in connection with the credit sale, as required by Section 226.4(a)(5) of Regulation Z.

2. Fails to disclose the "annual percentage rate" accurately to the nearest quarter of one percent, in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.

Complaint

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PAR. 5. Pursuant to Section 103(k) of the Truth in Lending Act, respondent's aforesaid failures to comply with the provisions of Regulation Z constitute violations of the Act and, pursuant to Section 108 thereof, respondent has thereby violated the Federal Trade Commission Act.

COUNT II

Alleging violations of the Federal Trade Commission Act.

PAR. 6. The allegations of Paragraphs One and Two are incorporated herein by reference in COUNT II as though fully set forth herein.

PAR. 7. Respondent has advertised in daily newspapers which circulate substantial numbers of copies outside of the State of Washington that "Easy Credit To Car Buyers Started With Savidge 45 Years Ago" thereby leading car buyers and potential car buyers to believe that consumer credit is extended without determining the debtor's financial ability to pay or his credit rating or that consumer credit is extended to persons whose ability to pay or credit rating is below typical standards of credit-worthiness.

PAR. 8. In truth and in fact, respondent does not extend credit without determining the debtor's financial ability to pay or his credit rating and credit is not regularly extended to persons whose ability to pay or credit rating is below typical standards of credit-worthiness.

PAR. 9. Respondent has advertised in daily newspapers which circulate substantial numbers of copies outside of the State of Washington that buyers can "Name Your Own Terms" thereby leading car buyers and potential car buyers to believe that the buyer would be allowed to select his own credit terms.

PAR. 10. In truth and in fact, respondent will not allow a car buyer to select his own credit terms, as, for example, respondent will not accept terms of no downpayment or time payments exceeding 48 months in duration.

PAR. 11. In the course and conduct of their business, and at all times mentioned herein, respondent has been, and now is, in substantial competition with corporations, firms and individuals in the sale of products of the same general kind and nature as that sold by respondent.

PAR. 12. The use by respondent of the aforesaid unfair and false, misleading and deceptive statements, representations and practices, as aforesaid, has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were, and are, true and complete, and into the purchase of substantial quantities of said products by reason of said erroneous and mistaken belief.

PAR. 13. The aforesaid acts and practices of respondent, as herein alleged in COUNT II, were and are all to the prejudice and injury of the public and of respondent's competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

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 respondent with violation of the Federal Trade Commission Act and the Truth in Lending Act.

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 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 respondent has violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent S. L. Savidge, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Washington with its principal office and principal place of business located at 9th and Lenora, Seattle, Washington.

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

ORDER

It is ordered, That respondent S. L. Savidge, Inc., a corporation and its officers, and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with any consumer credit sale, as "consumer credit" and "credit sale" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 *et seq.*), do forthwith cease and desist from:

1. Failing to include in the "finance charge" the amount of premiums for credit life insurance required by respondent to be purchased in connection with the credit sale, as required by Section 226.4(a)(5) of Regulation Z.

2. Failing to disclose the annual percentage rate accurately to the nearest quarter of one percent, in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.

3. Engaging in any consumer credit transactions or disseminating any advertising within the meaning of Regulation Z of the Truth in Lending Act without making all disclosures that are required by Sections 226.6, 226.8, and 226.10 of Regulation Z in the amount, manner and form specified therein.

It is further ordered, That respondent S. L. Savidge, Inc., a corporation, respondent's officers, representatives, employees and agents, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of automobiles or any other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that respondent's terms of credit are lenient, including, but not limited to the representation that respondent offers "easy credit."

2. Representing, directly or by implication, that respondent will allow a buyer to select his own credit terms, including, but not limited to the representation "Name Your Own Terms."

It is further ordered, That respondent deliver a copy of this order to cease and desist to all present and future personnel of respondent engaged in the consummation of any extension of consumer credit or in any aspect of preparation, for sale or sale of any product, and that respondent secure a signed statement acknowledging receipt of said order from each such person.

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 effect compliance obligations arising out of the order.

It is further ordered, That the respondent 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 the order to cease and desist contained herein.

IN THE MATTER OF

BONNE BELL, INC.

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

Docket C-2019. Complaint, Aug. 25, 1971—Decision, Aug. 25, 1971

Consent order requiring a Lakewood, Ohio, manufacturer and distributor of cosmetic and toilet products to cease fixing the retail price of its products, soliciting the spying of one retailer on another, requiring resale of unsold merchandise to respondent, using marked packages to trace merchandise, terminating business with any dealer for failure to observe any prohibited practice, and to reinstate any former dealer which has failed to comply with the prohibited terms of this order.

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 the party respondent named in the caption hereof and hereinafter more particularly described, has been, and is now, violating the provisions of Section 5 of the Federal Trade Commission Act (15 U.S.C. Sec. 45) 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 with respect thereto as follows:

PARAGRAPH 1. Respondent, Bonne Bell, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its main office and principal place of business at 18515 Detroit Avenue, Lakewood, Ohio.

PAR. 2. Respondent has been and is now engaged in the manufacture,

sale and distribution of cosmetic and toilet products with net sales in 1967 in excess of \$9,500,000.

Respondent manufactures all of its products, with the exception of lipstick which it obtains from other manufacturers, in Lakewood, Ohio. It sells these products under the trade names of Bonne Bell and Ten-O-Six to approximately 8,000 franchised dealers located in various States of the United States and the District of Columbia.

The terms "Bonne Bell products" or "products" are hereinafter used to designate and mean the shampoos, moisture lotions, medicated makeups, creams and lotions, lipstick and eye makeups, and other cosmetic and toilet products sold and distributed by respondent.

PAR. 3. In the course and conduct of its business respondent has engaged and is now engaging in commerce, as "commerce" is defined in the Federal Trade Commission Act. Respondent has caused and now causes its products to be shipped from its place of business in the State of Ohio to other states and the District of Columbia for resale through its franchised dealers.

PAR. 4. Except to the extent that competition has been hindered, frustrated, lessened, and eliminated as set forth in this complaint, respondent has been and is now in competition with other corporations, individuals and partnerships engaged in the manufacture, sale and distribution of cosmetic and toilet products.

PAR. 5. In the course and conduct of its business, respondent has for many years pursued a policy, the purpose of which is and has been to establish, maintain, fix and control the retail prices at which Bonne Bell products are advertised, offered for sale or sold in the United States.

In furtherance of this policy, respondent has engaged and still engages in one or more of the following acts and practices, but not necessarily limited thereto, in one or more of the various States of the United States and the District of Columbia:

(a) Entering into written agreements with its dealers which require the dealers to adhere to resale prices established by respondent;

(b) Soliciting, inviting and obtaining from dealers in Bonne Bell products cooperation and assistance in ascertaining information pertaining to dealers or others who resell such products and fail to maintain resale prices established by respondent;

(c) Conducting special retail sales of Bonne Bell products through its dealers in which respondent fixes the time and duration of such sales and establishes the retail prices at which such products may be advertised and sold;

(d) Requiring its dealers to return all unsold sale merchandise at the end of each retail sale conducted by respondent;

(e) Entering into cooperative advertising agreements with its dealers in which respondent reserves the right to refuse payments for dealer newspaper advertisements of Bonne Bell products which contain retail prices not conforming with those established or suggested by respondent;

(f) Refusing earned cooperative advertisement payments to dealers who advertise Bonne Bell products at retail prices less than those established or suggested by respondent;

(g) Sending merchandise order sheets, invoices, brochures, sales bulletins, advertising or promotional aids and material to its dealers, in which established retail prices for Bonne Bell products are set forth;

(h) Prohibiting its dealers from reselling, bartering, transferring or transshipping Bonne Bell products to any other retailer, wholesaler, distributor or manufacturer;

(i) Attaching numbers to the packages or containers of Bonne Bell products sold to its dealers for the purpose of tracing sales or deliveries of such products to unauthorized retail outlets;

(j) Terminating business relationships with Bonne Bell dealers who fail to adhere to respondent's established or suggested resale prices or who divert Bonne Bell products to other retail outlets.

PAR. 6. The capacity, tendency and effect of respondent's use of the acts, practices, and courses of conduct hereinabove alleged has been and may be substantially to restrain, lessen, injure, and prevent competition, including price competition, in the marketing, sale, and distribution of Bonne Bell products by, and between and among respondent's dealers. Respondent's use of said acts, practices, and courses of conduct has been and is to the prejudice and injury of the public and constitutes unfair methods of competition in commerce and unfair acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

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 Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with a violation of 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 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 respondent has violated the said Act, 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 thirty (30) days, now in further conformity with the procedure 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, Bonne Bell, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its main office and principal place of business at 18515 Detroit Avenue, Lakewood, Ohio.

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

I. *It is ordered*, That respondent Bonne Bell, Inc., a corporation, its officers, agents, representatives and employees, successors and assigns, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of any products including, but not limited to, cosmetic and toilet products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Engaging in any one or more of the following acts or practices:

1. Entering into, maintaining or enforcing any contract, agreement, understanding or arrangement with its dealers which has the purpose or effect of fixing, establishing or maintaining the prices at which its products are advertised or resold.

2. Fixing, establishing, controlling or maintaining the prices at which its dealers advertise, promote, offer for sale or sell its products.

3. Requiring prospective dealers to agree, through direct or indirect means, that they will adhere to established or suggested resale prices for respondent's products.

B. Requesting, soliciting or encouraging any dealer to supply information or to report to respondent regarding the failure of any other dealer to adhere to established or suggested resale prices for respondent's products.

C. Announcing dates other than suggested dates for the advertising, commencement or conclusion of any reduced resale price sale of respondent's products.

D. Requiring any dealer to resell to respondent any unsold stock of respondent's products.

E. Refusing earned cooperative advertising payments to dealers who advertise its products at prices other than established or suggested resale prices.

F. Including in its own advertising, or in any advertising or promotional aids or material supplied or sold to its dealers, any price or prices at which respondent's products may be resold by its dealers, or publishing, disseminating or circulating to any dealer any merchandise order sheet, invoice, or other material indicating any price or prices at which respondent's products may be resold by its dealers, unless it is clearly and conspicuously stated that such prices are "suggested prices only."

G. Preventing, restricting or hindering any of its dealers, by agreements or any other means, from reselling, transferring or transshipping respondent's products to any retailer, distributor, wholesaler or manufacturer.

H. Using numbers, letters or markings of any kind on or accompanying its products or on the containers, labelling or packaging of its products as a means of tracing sales of its products to particular dealers where the purpose or effect of such tracing is to implement any of the acts, practices, conditions, agreements or understandings prohibited in Paragraphs A and G above.

I. Discriminating or taking reprisals against or exerting pressure on any dealer to comply with any of the acts, practices, conditions, agreements or understandings prohibited in Paragraphs A and G above.

J. Terminating business relationships with any dealer because such dealer has failed to comply with any of the acts, practices, conditions, agreements or understandings prohibited in Paragraphs A and G above.

Nothing in this order shall be construed to prevent respondent from engaging in a legitimate fair trade program in those states having fair trade laws.

II. *It is further ordered*, That respondent shall reinstate any former dealer terminated since January 1, 1966, for failure to comply with one or more of the acts, practices, conditions, agreements or understandings prohibited in Paragraphs A and G of this order if such dealer desires reinstatement.

III. *It is further ordered*, That respondent shall within sixty (60) days after service upon it of this order, serve by mail a copy of this order on each of its dealers.

IV. *It is further ordered*, That respondent shall:

A. For a period of two years following the effective date of this order, serve a copy of this order upon each new dealer franchised by the respondent on the date the dealer becomes a franchisee of respondent.

B. Within thirty (30) days after service upon it of this order, serve a copy of this order by mail on each dealer terminated since January 1, 1966, together with a letter advising that such dealer, if eligible under the requirement set forth in Paragraph II above, may apply within thirty (30) days from receipt thereof for reinstatement as one of respondent's dealers.

C. Within ninety (90) days after service upon it of this order submit to the Commission (1) a list of all dealers terminated since January 1, 1966, (2) a list of all dealers who have been reinstated pursuant to Paragraph II above, and (3) a list of all dealers who have not been reinstated and the reason or reasons therefor.

V. *It is further ordered*, That 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.

VI. *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.

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IN THE MATTER OF

MR. BEEF, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE TRUTH IN LENDING ACTS*Docket C-2020. Complaint, Aug. 27, 1971—Decision, Aug. 27, 1971*

Consent order requiring a Toledo, Ohio, seller and distributor of meat and meat products to cease deceptively advertising and falsely guaranteeing its products, failing to disclose the weight loss of its untrimmed meat, discouraging the purchase of any of its advertised food, and failing to give notice to purchasers who sign promissory notes that such notes may be sold to third parties; the respondent is also required to cease violating the Truth in Lending Act by failing to use the terms cash price, downpayment, the number, amounts and due dates of the scheduled payments, the finance charge expressed as an annual percentage rate, and failing to make all other disclosures required by Regulation Z of said Act.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and the Truth in Lending Act and the regulations promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Mr. Beef, Inc., a corporation, and Donald Bevelheimer individually and as an officer of said corporation hereinafter referred to as respondents, have violated the provisions of said Acts and regulations, 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:

COUNT I

PARAGRAPH 1. Respondent Mr. Beef, 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 1928 Sylvania Avenue, Toledo, Ohio.

Respondent Donald Bevelheimer, is an officer of the corporate respondent. Said individual respondent formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His business address is 31503 Plymouth Rd., Livonia, Michigan.

PAR. 2. Respondents, for some time last past, have been engaged in the advertising, offering for sale, sale and distribution of meat and meat products, to members of the purchasing public. Said meat and

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meat products come within the classification of food, as "food" is defined in the Federal Trade Commission Act

PAR. 3. In the course and conduct of their business and at all times mentioned herein, respondents have disseminated advertising by various means in commerce as "commerce" is defined in the Federal Trade Commission Act, including advertising material for use in newspapers of general circulation, for the purpose of inducing, or which was likely to induce, directly or indirectly, the purchase of food as the term "food" is defined in the Federal Trade Commission Act; and have disseminated and caused the dissemination of advertisements by various means, including those aforesaid, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of food in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Among and typical of the statements and representations contained in said advertising disseminated as hereinabove set forth were the following:

U.S.D.A. Choice BEEF SIDES 48¢ lb.

U.S.D.A. Choice BEEF HINDS 58¢ lb.

U.S.D.A. Choice STEAK LOINS 69¢ lb.

GUARANTEE If not completely satisfied return within 10 days and your order will be replaced.

90 Days Same as Cash.

PAR. 5. By and through the use of the aforesaid statements, and others of similar import and meaning not specifically set forth herein, respondents have represented directly or by implication that:

(1) Offers set forth in said advertisements were bona fide offers to sell beef sides, halves and other cuts described therein at the advertised prices.

(2) The advertised meats were guaranteed and a purchaser who was not satisfied with the product purchased by him would, upon request, receive a substitute order of meat weighing as much as the original order, upon tendering the balance of the unsatisfactory order.

(3) Persons purchasing on same as cash terms would be able to pay the balance owed on their accounts in any form at any time during the 90 day period, up to and including the 90th day, without any further obligation.

PAR. 6. In truth and in fact:

(1) The offers set forth in said advertisements and other offers not set forth in detail herein were not, and are not, bona fide offers to sell the meat products featured in said advertisements, but to the contrary were made to induce prospective purchasers to visit respondents' place

of business for the purpose of purchasing said advertised meat. When prospective purchasers, in response to said advertisements attempted to purchase the advertised products, respondents informed them that the advertised prices applied only to meat which would sustain large losses due to cutting, dressing and trimming. Respondents and their salesmen made no effort to sell such advertised meat but in fact described it in a manner calculated to discourage the purchase thereof, and attempted to and frequently did sell much higher-priced meats.

(2) The advertised guarantee failed to clearly and conspicuously set forth the nature and extent of said guarantee. Contrary to the representation appearing therein that the entire original order would be replaced at the request of an unsatisfied purchaser, any replacement was subject to limitations and conditions which were not clearly revealed in their advertising of said guarantees.

(3) Persons purchasing on same as cash terms were not free to pay the balance owed on their accounts in any form at any time but were required to pay the balance owed on their accounts in three monthly installments and failure to meet any installment resulted in further obligations on said persons.

PAR. 7. Respondents, by their advertising disseminated as aforesaid, have represented directly or by implication by failure to disclose the particular normal average percentage weight loss due to cutting, dressing and trimming of untrimmed meat offered for sale, that said meat advertised and sold would upon delivery to purchasers weigh approximately its advertised or purchased weight. Said representations were contrary to fact as the cutting, dressing and trimming of meat offered for sale materially reduced the total weight purchased and persons purchasing said meat did not realize a net quantity which was approximately equal to the total weight of the meat at the time of purchase.

Therefore, the advertisements referred to in Paragraphs Four and Seven were and have been misleading in material respects and have constituted "false advertisements" as that term is defined in the Federal Trade Commission Act, and the representations referred to in Paragraphs Five and Seven were and have been false, misleading and deceptive.

PAR. 8. In the course and conduct of their business and at all times mentioned herein, respondents have, without notice to their customers, negotiated to third parties conditional sales contracts, promissory notes and other instruments of indebtedness, with consequent limitation of the legal defenses of those customers resulting from such negotiation.

PAR. 9. Use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices have had the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were true and into the purchase of substantial quantities of the aforesaid products, including higher priced products than those advertised because of said mistaken and erroneous belief.

PAR. 10. The aforesaid acts and practices of respondents, as herein alleged, including the dissemination by respondents of false advertisements as aforesaid, were all to the prejudice and injury of the public and constituted unfair and deceptive acts and practices in commerce in violation of Sections 5 and 12 of the Federal Trade Commission Act.

COUNT II

PAR. 11. Paragraph One of COUNT I of this complaint is hereby set forth by reference and made a part of this Count as fully and with the same effect as if quoted here verbatim.

PAR. 12. Respondents are now and for some time last past have been engaged in the offering for sale, sale and distribution of meat and meat products to the purchasing public.

PAR. 13. In the ordinary course and conduct of their aforesaid business, respondents regularly extend or arrange for the extension of 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. 14. In the ordinary course of their aforesaid business, respondents caused advertisements to be published, as "advertisement" is defined in Regulation Z. These advertisements aid, promote or assist directly or indirectly extensions of consumer credit in connection with the sale of said products. By and through the use of the advertisements, respondents state that no down payment is required in connection with an extension of consumer credit, or that an extension of consumer credit is or may be payable in more than four installments without also stating all of the following items, in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d) (2) thereof:

- (i) The cash price;
- (ii) The number, amount and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;
- (iii) The amount of the finance charge expressed as an annual percentage rate; and
- (iv) The deferred payment price.

PAR. 15. Pursuant to Section 103(q) of the Truth in Lending Act, respondents' aforesaid failures to comply with the provisions of Regulation Z constitute violations of the Act and, pursuant to Section 108(c) thereof respondents have thereby violated the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging Mr. Beef, Inc., a corporation and Donald Bevelheimer individually and as an officer of said corporation, respondents herein, with violation of the Federal Trade Commission Act, the Truth in Lending Act and the implementing regulation promulgated thereunder; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the complaint to issue 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 set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Mr. Beef, Inc., is a corporation 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 located at 1928 Sylvania Avenue, Toledo, Ohio.

Respondent Donald Bevelheimer is an officer of respondent corporation. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is 31503 Plymouth Road, Livonia, Michigan.

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

It is ordered, That respondent Mr. Beef, Inc., a corporation and its officers, and Donald Bevelheimer, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with

the offering for sale, sale or distribution of meat or other food products, do forthwith cease and desist from:

1. Disseminating, or causing the dissemination, by means of United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, of any advertisement which represents directly or by implication:

(a) That any products are offered for sale, when the purpose of such representations is not to sell the offered products, but to obtain prospects for the sale of other products at higher prices.

(b) That any product is offered for sale when such an offer is not a bona fide offer to sell such product.

(c) That any product is guaranteed unless the nature, conditions and extent of the guarantee and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed in immediate conjunction therewith.

2. Disseminating or causing the dissemination, of any advertisement by means of United States mails, or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which fails to clearly and conspicuously disclose the particular normal average percentage of weight loss of each untrimmed piece of meat offered for sale therein.

3. Discouraging the purchase of, or disparaging in any manner, or encouraging, instructing or suggesting that others discourage or disparage any meat or other food products which are advertised or offered for sale in advertisements, disseminated or caused to be disseminated by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act.

4. Misrepresenting in any manner the terms of payment available to purchasers of respondents' meat or other food products.

5. Disseminating or causing the dissemination of advertisements by any means, including those aforesaid, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food in commerce, as "commerce" is defined in the Federal Trade Commission Act, which contains any of the representations prohibited in Paragraph 1 or the misrepresentations prohibited in Paragraph 4, or fails to comply with the disclosure requirements of Paragraph Two hereof.

6. Failing to incorporate the following statement on the face of all contracts executed by respondents' customers with such con-

spicuousness and clarity as is likely to be observed, read and understood by the purchaser:

“Important Notice”

“If you are obtaining credit in connection with this contract, you will be required to sign a promissory note. This note may be purchased by a bank, finance company or any other third party. If it is purchased by another party, you will be required to make your payments to the purchaser of the note. You should be aware that if this happens you may have to pay the note in full to the new owner of the note even if this contract is not fulfilled.”

It is further ordered, That respondents and respondents’ agents, representatives and employees directly or through any corporate or other device in connection with any advertisement of consumer credit sale of bulk beef or other meat products as “advertisement” and “credit sale” are defined in Regulation Z of the Truth in Lending Act do forthwith cease and desist from:

1. Stating directly or indirectly in any advertisement the amount of the down payment required or that no down payment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless all of the following items are stated, in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10 (d) (2) of Regulation Z:

- (i) The cash price or the amount of the loan, as applicable;
- (ii) The amount of the down payment required or that no down payment is required, as applicable;
- (iii) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;
- (iv) The amount of the finance charge expressed as an annual percentage rate;
- (v) Except in connection with the sale of a dwelling, on a first lien loan to purchase a dwelling, the deferred payment price or the sum of the payments, as applicable.

2. Failing, in any consumer credit transaction or advertisement, to make all disclosures in the manner and form required by Sections 226.8 and 226.10 of Regulation Z.

It is further ordered, That a copy of this order to cease and desist be delivered to all operating divisions of the corporate respondent, and to

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all officers, managers, and salesmen thereof, both present and future, and to any other person now engaged or who becomes engaged in the sale of meat or other food products as respondents' agent, representative or employee, and to secure from each of said persons a signed statement acknowledging receipt of a copy thereof.

It is further ordered, That respondent corporation 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 the 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

ELLIS STEWART COMPANY, INC., ET AL.

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

Docket C-2021. Complaint, Aug. 30, 1971—Decision, Aug. 30, 1971

Consent order requiring a Danville, Va., seller and distributor of residential aluminum siding, swimming pools and other home improvements to cease using bait advertising, failing to support its savings claims, misrepresenting that any offer to sell is limited or that the respondent manufactures any of its products, misrepresenting that any home is being used as a model, misrepresenting affiliations with other companies, making deceptive guarantees, misrepresenting the size or extent of respondent's business, assigning notes of purchasers without also transferring defenses valid against respondent, failing to include a notice on each contract that holders take this instrument subject to all terms and conditions, and failing to maintain for 5 years all contractual documents and all records of its dealings involving the installation of siding.

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 Ellis Stewart Company, Inc., a corporation, and Ellis Stewart Halperin, individually and as an officer of said corporation, hereinafter referred to as re-

spondents, have violated the provisions of said 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 Ellis Stewart Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia, with its principal office and place of business located at 330 North Floyd Street, in the city of Danville, State of Virginia.

Respondent Ellis Stewart Halperin is an individual and 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.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale, distribution and installation of residential aluminum siding, swimming pools and other home improvement products to the public.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of Virginia to purchasers thereof located in various other States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their products, respondents have made, and are now making, directly and by implication, numerous statements and representations in advertisements published in newspapers, in advertising circulars and other promotional material and in oral statements made by respondents' sales representatives with respect to the nature of the offer being made, the prices at which respondents' products are being offered, the savings afforded to purchasers of respondents' products, the guarantees being offered and other matters.

Among and typical of such statements and representations, but not all inclusive thereof, are the following:

1. Respondents are making a good faith offer to sell up to 1,000 square feet of aluminum siding, completely installed, for \$199.
2. Respondents' siding materials are being offered for sale at special or reduced prices, and that savings are thereby afforded purchasers from respondents' regular selling prices.

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3. The offer to sell aluminum siding for \$199 was a limited one.
4. Respondents manufacture the products they sell.
5. Siding materials sold by respondents will never require painting or repairing.
6. Homes of prospective purchasers will be used as model homes for the installation of respondents' products; that, after installation, such homes will be used for demonstration and advertising purposes by respondents; and, that as a result of allowing their homes to be used as models, purchasers will be granted reduced prices or will receive allowances, discounts or commissions.
7. Respondents or their sales representatives represent or have some connection with the Kaiser Aluminum & Chemical Corporation, a well-known manufacturer of aluminum siding.
8. Purchasers of aluminum siding will receive as a bonus a free gift of tableware or a camera.
9. The aluminum siding sold by respondents is unconditionally guaranteed.
10. Respondents operate business offices in Martinsville, Virginia and in North Carolina at the following places: Elizabeth City, Roanoke Rapids, Mount Airy, Mooresville, Statesville, Lexington, Concord and Asheboro.

PAR. 5. In truth and in fact:

1. The offer to sell 1,000 square feet of aluminum siding, completely installed, for \$199 is not a genuine or good faith offer to sell said siding at the advertised price but is made for the purpose of obtaining leads to persons interested in purchasing respondents' products. After obtaining such leads, respondents or their sales representatives call upon such persons at their homes or places of business. At such times and places, respondents or their sales representatives disparage the siding offered for \$199 and otherwise discourage the purchase thereof and attempt to sell, and do sell, different and more expensive siding materials to such persons.
2. Respondents' siding materials are not being offered for sale at special or reduced prices, and savings are not thereby afforded respondents' customers because of a reduction from respondents' regular selling prices. In fact, respondents do not have a regular selling price because the price at which respondents' products are sold varies from customer to customer depending on the sales resistance of the prospective customer.
3. The offer to sell aluminum siding was not a limited one and is respondents' regular offer.
4. Respondents do not manufacture any of the products they sell.

5. The siding materials sold by respondents will eventually require painting and repairing.

6. Homes of prospective purchasers are not selected as model homes for the installation of respondents' products; after installation of siding, such homes are not used for demonstration and advertising purposes by respondents; and purchasers as a result of allowing or agreeing to allow the use of their homes as models are not granted discounts, allowances or commissions.

7. Respondents or their sales representatives do not represent the Kaiser Aluminum & Chemical Corporation. Respondents' only such connection is that of a purchaser of products of that company.

8. Respondents do not, in every instance, deliver the free gift promised as a bonus to all customers.

9. The aluminium siding sold by respondents is not unconditionally guaranteed. Such guarantees as are available are subject to numerous substantial conditions and limitations.

10. Respondents do not operate business offices in Martinsville, Virginia or in Elizabeth City, Roanoke Rapids, Mount Airy, Mooresville, Statesville, Lexington, Concord or Asheboro, North Carolina.

Therefore, the statements and representations as set forth in Paragraph Four hereof were, and are, false, misleading and deceptive.

PAR. 6. In the further course and conduct of their aforesaid business, respondents, when contracting with customers, have engaged in the following unfair acts and practices:

1. Respondents have accepted false certificates or writings to the effect that contracted details of home improvement had been completed.

2. In a substantial number of instances and in the usual course of their business, respondents sell and transfer their customers' obligations, procured by the aforesaid unfair or deceptive means, to various financial institutions. In any subsequent legal action to collect on such obligations, these financial institutions or other third parties, as a general rule, have available and can interpose various defenses which may cut off certain valid claims that customers may have against respondents for failure to perform or for certain other unfair, false, misleading or deceptive acts or practices.

Therefore, the acts and practices as set forth in Paragraph Six were, and are, unfair and false, misleading and deceptive acts and practices.

PAR. 7. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and now are, in substantial competition, in commerce, with corporations, firms and individuals in the sale of products of the same general kind and nature as those sold by respondents.

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PAR. 8. The use by respondents of the aforesaid unfair and false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 9. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, 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 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 Act, 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 thirty (30) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Ellis Stewart Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia, with its principal office and place of business

located at 330 North Floyd Street, in the city of Danville, State of Virginia.

Respondent Ellis Stewart Halperin is an officer of said corporation and his office and principal place of business is located at the above-stated address.

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

It is ordered, That respondents Ellis Stewart Company, Inc., a corporation, and its officers, and Ellis Stewart Halperin, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of aluminum siding or any other product or service, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from :

1. (a) Representing, directly or by implication, that any product or service is offered for sale when such offer is not a good faith offer to sell said product or service.

(b) Using any advertising, sales plan or promotional scheme involving the use of false, misleading or deceptive statements or representations to obtain leads or prospects for the sale of any product.

(c) Making representations purporting to offer merchandise for sale when the purpose of the representation is not to sell the offered merchandise but to obtain leads or prospects for the sale of other merchandise.

(d) Disparaging, in any manner, or discouraging the purchase of any product advertised.

2. (a) Representing, directly or by implication, that any price for respondents' products and/or services is a special or reduced price, unless such price constitutes a significant reduction from an established selling price at which such products and/or services have been sold in substantial quantities by respondents in the recent regular course of their business; or misrepresenting, in any manner, the savings available to purchasers.

(b) Failing to maintain adequate records (1) which disclose the facts upon which any savings claims, including special, reduced or former pricing claims, and comparative value claims, and similar misrepresentations of the type described in Paragraph 2

