

by respondents, except to the extent they have been granted by this order, be, and they hereby are, denied.

Commissioners Thompson and Hanford not participating.

IN THE MATTER OF  
GREAT WESTERN UNITED CORPORATION, ET AL.

*Docket C-2306. Complaint, Oct. 20, 1972—Modifying order, Dec. 14, 1973*

Order modifying previous Commission order, 81 F.T.C. 661, as modified, 82 F.T.C. 1263, against a Denver, Colo., real estate developer, by altering and modifying Paragraphs IB2 and IB3 of the order relative to the required disclosure of certain statements in printed advertisements concerning respondents' real estate projects.

*Appearances*

For the Commission: *Perry W. Winston.*

For the respondents: *Richard S. Levenberg, Denver, Colo.*

ORDER MODIFYING FINAL ORDER

Pursuant to Section 3.72(b)(2) of the Commission's Rules of Practice, and after consideration of respondents' petition of Oct. 4, 1973 to reopen and modify paragraphs IB1 and IB3 of the Final Order to Cease and Desist dated Oct. 20, 1972, subsequently modified by Commission order dated Apr. 25, 1973, and after further consideration of Commission counsel's response in support of such petition.

*It is ordered,* That Paragraphs IB1 and IB3 be altered and modified to read as follows:

IB1

Failing to clearly and conspicuously disclose the following statement in all printed advertisements concerning California City:

Obtain HUD property report from developer and read it before signing anything. HUD neither approves the merits of the offering nor the value of the property as an investment, if any.

IB3

Failing to clearly and conspicuously disclose the following statement in all printed advertisements concerning real estate projects other than California City, however limited to projects in existence at the time this order becomes effective and to any future projects (1) covered by the Interstate Land Sales Full Disclosure

Act, and (2) where the property interest being offered is held in any form by respondents or any of their affiliates:

Obtain HUD property report from developer and read it before signing anything. HUD neither approves the merits of the offering nor the value of the property as an investment, if any.

Commissioner Hanford not participating.

IN THE MATTER OF  
BRICK HOMES, INC., ET AL.

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

*Docket C-2482. Complaint, Dec. 14, 1973—Decision, Dec. 14, 1973*

Consent order requiring a Charlotte, N.C., seller, builder, and distributor of residential houses, among other things to cease misrepresenting the quality of materials used in its houses and their degree of completion, and from violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act. Further, should respondent corporation merge with another corporation or transfer all or a substantial part of its business assets, respondents shall require a written agreement from its successor, to be filed with the Commission, that it will be bound by this order.

*Appearances*

For the Commission: *Robert L. Osteen, Jr.*

For the respondents: *pro se.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and of the Truth in Lending Act and the implementing regulation promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission having reason to believe that Brick Homes, Inc., a corporation, and Richard C. Fulmer, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts, and the implementing regulation promulgated under the Truth in Lending Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Brick Homes, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of North Carolina with its principal office and place of business located at 4901 Pineville Road, Charlotte, N.C.

Respondent Richard C. Fulmer is an officer of the corporate respon-

dent. 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, construction, and distribution of residential houses.

#### COUNT I

Alleging violations of Section 5 of the Federal Trade Commission Act, the allegations of Paragraph One and Two hereof are incorporated by reference in Count I as if fully set forth verbatim.

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 North Carolina 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 aforesaid 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 certain statements and representations with respect thereto in advertisements inserted in newspapers of general circulation, and through other advertising media, of which the following are typical and illustrative, but not all inclusive:

1. Standard brick of finest quality  
Standard high quality brick
2. Plumbing complete
3. A fully completed Brick Home  
Completely finished and ready to move into

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

1. The finest quality brick available is used in houses constructed by respondents.
2. The plumbing in houses constructed or sold by respondents is complete, including the installation of a well and septic tank or connection to the public water and sewer lines.
3. The houses constructed or sold by respondents are complete and finished, needing no additional work or fixtures.

PAR. 6. In truth and in fact:

1. The brick used in the houses is "Grade B" brick, which is not the finest quality brick available.

2. The plumbing in houses constructed or sold by respondents is not complete and does not include installation of a well and septic tank or the connection to the public water and sewer lines.

3. The houses constructed or sold by respondents are not complete or finished and need additional work and fixtures, including closet shelving, bathroom rods, installation of well and septic tank or connection to public water and sewer lines, and installation and connection of fuel oil containers.

PAR. 7. Respondents advertised an offer to construct completely finished houses into which purchasers could immediately move without disclosing that the said houses (1) are not connected to public or individual water or sewage systems; (2) are not furnished or connected to fuel oil containers; or (3) do not contain closet rods and shelving or bathroom towel and tissue racks. Knowledge of such facts would indicate the necessity of expending additional funds in order to make the houses habitable. Thus, respondents have failed to disclose a material fact, which if known to certain customers would likely affect their consideration of whether or not to respond to said advertising in order to obtain additional information concerning the offer and to enter negotiations with respondents which results, in many instances, in purchases of such houses.

PAR. 8. In the course and conduct of their business, and at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale and construction of houses of the same general kind and nature as those sold by respondents.

PAR. 9. The use by respondents of the aforesaid 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 negotiations were, resulting in the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 10. The aforesaid acts and practices of the respondents, as herein alleged, were, and are, all to the prejudice and injury of the public and the 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.

## COUNT II

Alleging violations of the Truth in Lending Act and the implementing regulation promulgated thereunder, and of the Federal Trade Commis-

## Complaint

sion Act, the allegations of Paragraphs One and Two hereof are incorporated by reference in Count II as if fully set forth verbatim.

PAR. 11. In the ordinary course and conduct of their business, as aforesaid, respondents regularly extend, and for some time last past have regularly extended, consumer credit as "consumer credit" is defined by Regulation Z, the implementing regulation of the Truth in Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System.

PAR. 12. Subsequent to July 1, 1969, in the ordinary course of their business, as aforesaid, and in connection with their credit sales, as referred to as "the contract," respondents have caused and are causing their customers to enter into contracts for the construction of the respondents' residential houses. On these contracts, hereinafter "credit sale" is defined by Regulation Z, respondents provide certain cost of credit information. Respondents do not provide these customers with any other consumer credit cost disclosures.

Respondents have caused and are causing certain customers to sign blank contracts, thereby failing to furnish these customers with any consumer credit cost disclosures before the consummation of the sale, as required by Section 226.8(a) of Regulation Z.

By and through the use of the contract, respondents:

1. Fail, in certain instances, to accurately disclose the "annual percentage rate" 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.

2. Retain a security interest in property in connection with the credit sale and fail to describe the type of security interest, as required by Section 226.8(b)(5) of Regulation Z.

PAR. 13. In the connection with credit transactions, respondents fail to preserve as required by Section 226.6(i) of Regulation Z, records evidencing compliance with the requirements of the Truth in Lending Act.

PAR. 14. In the ordinary course of their business, as aforesaid, respondents cause to be published advertisements of their goods and services, as "advertisement" is defined in Regulation Z, records evidencing compliance with the requirements of the Truth in Lending Act. These advertisements aid, promote, or assist directly or indirectly extensions of consumer credit in connection with the sale of these goods and services. By and through the use of advertisements, respondents:

- State the amount of the downpayment and the amount of the monthly payments which could be arranged in connection with a consumer credit transaction, without 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 amount of the downpayment or that no downpayment 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."

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

#### DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Atlanta Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act, and of 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 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 hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Brick Homes, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of North Carolina, with its office and principal place of business located at 4901 Pineville Road, Charlotte, N.C.

Respondent Richard C. Fulmer is an officer of said corporation. He

formulates, directs and controls the policies, acts and practices of said corporation, and his principal office and 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

##### I

*It is ordered,* That respondents Brick Homes, Inc., a corporation, its successors and assigns, and its officers, and Richard C. Fulmer, individually and as an officer of said corporation, respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale, distribution, or construction, directly or through others, of residential houses or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, orally, visually, in writing or in any other manner, directly or by implication, that houses or other products sold or constructed by respondents are constructed of the finest quality materials unless such is the case; or misrepresenting, in any manner, the quality of materials used in the construction of houses or other products sold or constructed by the respondents.

2. Representing, orally, visually, in writing or in any other manner, directly or by implication, that the plumbing in houses sold or constructed by respondents is complete; or misrepresenting, in any manner, the degree to which any aspect of the houses or other products sold or constructed by respondents is complete.

3. Representing, orally, visually, in writing or in any other manner, directly or by implication, that houses or other products sold or constructed by respondents are complete; or misrepresenting, in any manner the degree to which the houses or other products sold or constructed by the respondents are complete.

4. Failing to disclose, clearly, conspicuously and in such a manner as will accurately reflect the facts in connection with any advertisement, direct mail piece or other promotional material that houses sold or constructed by respondents: (1) are not connected to either public or individual water or sewer systems; (2) are not furnished or connected to fuel oil tanks or containers; and (3) do not contain closet rods and shelving or bathroom towel and tissue racks.

*It is further ordered,* That the respondents, incident to selling or contracting for construction of houses or other products, cease and desist from:

1. Contracting for any sale which shall become binding on the buyer prior to midnight of the third day, excluding Sundays and legal holidays, after the date of signing the contract.

2. Failing to orally disclose prior to the time of sale, and in writing conspicuously and clearly on any conditional sales contract, promissory note or other instrument executed by the buyer that the buyer may rescind or cancel the sale by written notice of cancellation to respondents' address prior to midnight of the third day, excluding Sundays and legal holidays, after the date of the sale. Upon such cancellation the burden shall be on respondents to collect any goods left in the buyer's home and to return any payments received from him. Nothing contained in this right-to-cancel provision shall relieve buyers of the responsibility for taking reasonable care of the goods prior to, and for a reasonable period following, cancellation.

3. Failing to provide a separate and clearly understandable form which the buyer may use as a notice of cancellation.

4. Negotiating any conditional sales contract, promissory note, or other instrument of indebtedness to a finance company or other third party prior to midnight of the fifth day, excluding Sundays and legal holidays, after the date of execution by the buyer.

*Provided, however,* That nothing contained in this paragraph of this order shall relieve respondents of any contractual obligations required by federal law or that law of the state in which the contract is negotiated. When such obligations are inconsistent, respondents may apply to the Commission for relief from this provision with respect to contracts executed in the state in which such different obligations are required.

## II

*It is further ordered,* That respondents Brick Homes, Inc., a corporation, its successors and assigns, and its officers, and Richard C. Fulmer, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension of consumer credit or any advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 C.F.R. § 226) of the Truth in Lending Act (Pub. L. 90-321, 15 U.S.C. 1601 *et seq.*), do forthwith cease and desist from:

1. Failing to furnish customers with all consumer credit cost

disclosures prior to the consummation of the sale, as required by Section 226.8(a) 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. Failing to describe the type of any security interest in property held, or to be retained or acquired in connection with any extension of credit, as required by Section 226.8(b)(5) of Regulation Z.

4. Failing to keep records evidencing compliance with the consumer credit cost disclosure requirements of Regulation Z for two years, as required by Section 226.6(i) of Regulation Z.

5. Stating the amount of the downpayment or the amount of the monthly payments which could be arranged in connection with a consumer credit transaction, 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 amount of the downpayment or that no downpayment 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; and
- (iv) The amount of the finance charge expressed as an "annual percentage rate."

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

*It is further ordered,* That respondents shall forthwith distribute a copy of this order to each of their operating divisions.

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

*It is further ordered,* That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, 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 in the event the corporate respondent merges with another corporation or transfers all or a substantial part of its business or assets to any other corporation or to any other person, respondents shall require said successor or transferee to file promptly with the Commission a written agreement to be bound by the terms of this order; *Provided,* That if respondents wish to present to the Commission any reasons why said order should not apply in its present form to said successor or transferee, they shall submit to the Commission a written statement setting forth said reasons prior to the consummation of said succession or transfer.

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

*It is further ordered,* That 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  
GULF SOUTH CORPORATION, ET AL.

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

*Docket C-2483. Complaint, Dec. 19, 1973—Decision, Dec. 19, 1973*

Consent order requiring three consumer credit companies in Oklahoma City, Okla. and Springfield, Mo., among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

*Appearances*

For the Commission: *John J. Hemrick.*

For the respondents: *John S. Patterson, Jr.,* of Gulf South Corporation, Oklahoma City, Okla.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and of the Truth in Lending Act and the implementing regulation promul-

gated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Gulf South Corporation, Gulfco Investment Corporation and Family Loan, Inc., of Springfield, Mo., corporations, hereinafter sometimes referred to as respondents, have violated the provisions of said Acts and the 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 Gulf South Corporation, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Oklahoma with its principal office and place of business located at 5500 North Western Avenue, Oklahoma City, Okla.

Respondent Gulfco Investment Corporation, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Oklahoma with its principal office and place of business located at 5500 North Western Avenue, Oklahoma City, Okla. Respondent Gulfco Investment Corporation is a wholly-owned corporate subsidiary of respondent Gulf South Corporation.

Respondent Family Loan, Inc., of Springfield, Mo., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business located at 503 St. Louis Street, Springfield, Mo. Respondent Family Loan, Inc., of Springfield, Mo., is a wholly-owned corporate subsidiary of respondent Gulfco Investment Corporation.

PAR. 2. Respondents by and through their corporate subsidiary structure are now and for some time last past have been engaged in the offering to extend, and the extension of consumer credit to the public.

PAR. 3. In the ordinary course and conduct of their business, as aforesaid, respondents regularly extend consumer credit, as "consumer credit" is defined in Regulation Z, the implementing regulation of the Truth in Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System.

PAR. 4. Subsequent to July 1, 1969, respondents, in the ordinary course and conduct of their business, as aforesaid, have charged, and are now charging, a substantial number of consumers for credit life and credit disability insurance written in connection with consumer loans.

Typical and illustrative, but not all inclusive of the circumstances in which such insurance charges are incurred by consumers are the following:

1. Respondents automatically include charges for credit life and credit disability insurance on the Disclosure Statement of Loan, and, unless the consumer specifically objects to the inclusion of the charges for such insurance, the coverage becomes part of the credit transaction.

2. On that portion of the disclosure statement of loan which contains the statement "I desire Credit Life and Disability Insurance," respondents sometimes date and place an "X" or other mark on the line for the borrower's signature.

3. Respondents place the charges for credit life and disability insurance in the "Authorized Deductions" section of the disclosure statement of loan, and these charges become part of the amount financed, but are not included in the computation of the finance charge or the annual percentage rate.

PAR. 5. By and through the acts and practices described in Paragraph Four, and others of similar import, meaning and consequence, but not specifically set forth herein, respondents, in a substantial number of instances, induce their customers to incur charges for credit life and credit disability insurance by leading them to believe, directly or by implication, that the insurance coverage is required or that their signatures are necessary solely for the purpose of consummating the credit transaction. Therefore, the signatures of respondents' customers appearing on that portion of the loan disclosure statement representing their authorization for credit life and credit disability insurance coverage do not constitute a "specific dated and separately signed affirmative written indication of [their] desire" to obtain such insurance, as required by Section 226.4(a)(5) of Regulation Z, in spite of the existence of language to the contrary in the loan disclosure statement.

PAR. 6. By and through the acts and practices described in Paragraphs Four and Five hereof, respondents have failed to include the charges for credit life and credit disability insurance in the finance charge when a specific dated and separately signed affirmative written indication of the consumer's desire for such insurance has not been obtained, as required by Section 226.4(a)(5) of Regulation Z, and thereby respondents:

1. Failed to compute and disclose accurately the "finance charge" as required by Sections 226.4 and 226.8 of Regulation Z; and
2. Failed to compute and disclose the "annual percentage rate" to the nearest quarter of one percent, as required by Sections 226.5 and 226.8 of Regulation Z.

PAR. 7. In the further course and conduct of their business as aforesaid, respondents, in connection with their disclosure statement of loan, obtain a security interest and sometimes fail to identify the property to which the security interest relates as required by Section 226.8(b)(5) of Regulation Z.

PAR. 8. Pursuant to Section 103 (q) of the Truth in Lending Act, respondents' aforesaid failure to comply with Sections 226.4, 226.5 and

## Decision and Order

226.8 of Regulation Z constitute violations of that Act and, pursuant to Section 108 thereof, respondents have thereby violated the Federal Trade Commission Act.

## DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption thereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Dallas Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; 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;

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 hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Gulf South Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Oklahoma, with its office and principal place of business located at 5500 North Western Avenue, city of Oklahoma City, State of Oklahoma. Respondent Guloco Investment Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Oklahoma, with its office and principal place of business located at 5500 North Western Avenue, city of Oklahoma City, State of Oklahoma.

2. Respondent Family Loan, Inc., of Springfield, Mo., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at 503 St. Louis Street, city of Springfield, State of Missouri.

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 Gulf South Corporation, a corporation, Gulfco Investment Corporation, a corporation, and Family Loan, Inc., of Springfield, Mo., a corporation, their successors and assigns, and their officers, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension of consumer credit, as "consumer credit" is defined in Regulation Z (12 C.F.R. § 226) of the Truth in Lending Act (Pub. L 90-321, 15 U.S.C. 1601, *et seq.*), do forthwith cease and desist from:

1. Failing, in any consumer credit transaction in which the charges for credit life insurance and/or credit disability insurance are not included in the finance charge:

(a) To quote monthly payments which exclude the cost of credit life insurance and/or credit disability insurance. Monthly payments which do reflect credit life insurance and/or credit disability insurance may be quoted only if:

(1) Monthly payments without insurance premiums are also quoted; and

(2) Respondents explain clearly that credit life insurance and/or disability insurance are optional and that insurance coverage is not considered in respondents' approval of the consumer's credit, using the following language, or language of similar import and meaning approved by the Commission.

Family Loan, Inc., of Springfield, Missouri [or other business extending consumer credit] does not require you to obtain credit life insurance or credit disability insurance in connection with the extension of credit you seek, and your decision regarding such insurance is not considered in the approval of your credit.

(b) To inform the consumer any time respondents describe, discuss, or comment on credit life and/or credit disability insurance, whether in response to a question from a consumer, or as part of respondents' employees' presentation, that credit life and/or credit disability insurance are not required in connection with the extension of credit and are not considered in respondents' approval of the consumer's credit, using the following language, or language of similar import and meaning approved by the Commission:

Family Loan, Inc., of Springfield, Missouri, [or other business extending consumer credit] does not require you to obtain credit life insurance and/or credit disability insurance in connection with the extension of credit you seek, and your decision regarding such insurance is not considered in the approval of your credit.

(c) To provide the following disclosure to every customer for every credit transaction:

**[TO BE READ BY RESPONDENTS' EMPLOYEE]**

I understand that Family Loan, Inc., of Springfield, Missouri [or other business extending consumer credit] does not require me to obtain credit life insurance or credit disability insurance in connection with this loan, and that my decision regarding such insurance is not considered in the approval of my credit. I have voluntarily decided to take — credit life insurance for \$—, — credit disability insurance for \$—.

I have read this statement to (customer's name)

Loan Closer's Signature \_\_\_\_\_

Dated \_\_\_\_\_

I ACKNOWLEDGE THAT THIS STATEMENT WAS READ TO ME.

Customer's Signature \_\_\_\_\_

Dated \_\_\_\_\_

Such disclosure shall be made on a separate document which contains no other printed or written material and shall be read to the customer by respondents and executed prior to respondents making any other cost of credit disclosures. Respondents shall maintain the original of the statement for two (2) years following its execution and provide the customer with a copy thereof.

2. In any consumer credit transaction in which the charges for credit life insurance and/or credit disability insurance are not included in the finance charge:

(a) Dating and/or placing an "X" or other mark on the signature line of that portion of the loan disclosure statement intended to serve as the consumer's affirmative written indication of his desire to obtain credit life insurance and/or credit disability insurance.

(b) Misrepresenting, orally or otherwise, directly or by implication, that credit life and/or credit disability insurance are required as a condition of obtaining credit from respondent, or discouraging, directly or by implication, the declination of credit life or credit disability insurance.

3. Failing to explain orally to every customer the purpose of each signature requested by respondents on any document directly related to the consummation of the credit transaction.

4. Failing to compute and disclose accurately the finance charge, as required by Sections 226.4 and 226.8 of Regulation Z.

5. Failing to compute and disclose accurately the annual percentage rate to the nearest quarter of one percent, as required by Sections 226.5 and 226.8 of Regulation Z.

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

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

*It is further ordered,* That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents at their general offices in Oklahoma City, Okla., and Springfield, Mo., and in each of their subsidiary corporations who are engaged in the extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said copy of this order from each such person.

*It is further ordered,* That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents 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 this 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.

Commissioner Hanford not participating.

IN THE MATTER OF

SOUTHERN STATES DISTRIBUTING COMPANY, ET AL.

*Docket 8882. Interlocutory Order, Dec. 26, 1973*

Order granting a joint motion to replace exhibits in the record.

*Appearances*

For the Commission: *W. Roland Campbell and John H. Bedford.*

For the respondents: *James B. Gurley of Carter, Ansley, Smith, McLendon & Quillian, Atlanta, Ga.*

ORDER GRANTING MOTION TO REPLACE EXHIBITS IN THE  
RECORD

Respondents and counsel supporting the complaint having jointly moved, by motion received Dec. 7, 1973, that the Commission admit into the record of this case as exhibits certain true copies of documents which were admitted as exhibits during the trial of this matter before the administrative law judge, but which exhibits were never received

Order

by the Commission's Division of Legal and Public Records, and having further jointly moved that inclusion in the record of certain exhibits entered into evidence or offered as evidence at the trial be waived (such exhibits not having been received by the Division of Legal and Public Records, and the parties having stipulated as to the contents of such exhibits).

*It is ordered*, That the true copies of documents submitted by the parties pursuant to their joint motion received Dec. 7, 1973, and described therein, be admitted to replace exhibits entered into evidence at the trial before the administrative law judge but not received by the Division of Legal and Public Records, and

*It is further ordered*, That the joint motion of the parties to waive inclusion in the record of respondents' exhibits RX 201, 216, 217, and 218 entered into evidence, and RX 232 and 233 which were offered as evidence but rejected, be granted, *Provided*, That the stipulation of the parties as to the contents of these documents appended to their joint motion shall be entered into the record.

Commissioner Hanford did not participate in this proceeding since oral argument was heard prior to her assumption of office.

IN THE MATTER OF  
SOUTHERN STATES DISTRIBUTING COMPANY, FORMERLY  
KNOWN AS SOUTHERN CROSS DISCOUNT COMPANY, INC.,  
AND TRADING AS SOUTHERN STATES DECORATORS, ET AL.

ORDER, OPINION, ETC., IN REGARD TO VIOLATIONS OF THE  
FEDERAL TRADE COMMISSION AND TRUTH IN LENDING ACTS

*Docket 8882. Complaint, April 3, 1972—Decision, Dec. 26, 1973*

Order and opinion requiring an Atlanta, Ga., seller and distributor of home improvement products, including residential siding and swimming pools, among other things to cease misrepresenting offers to sell; disparaging products advertised; misrepresenting offers as limited; misrepresenting prices and guarantees; failing to maintain adequate records substantiating pricing, savings and comparative value claims; misrepresenting the efficacy, durability, efficiency, composition or quality of respondents' products; misrepresenting connections or arrangements with others; failing to disclose required information as to sale of instruments of indebtedness to third parties; and failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the Truth in Lending Act.

*Appearances*

For the Commission: W. Roland Campbell and J. H. Bedford.  
For the respondents: James B. Gurley, of Carter, Ansley, Smith,  
McLendon & Quillian, Atlanta, Ga.

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and of 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 Southern States Distributing Company, a corporation, formerly known as Southern Cross Discount Company, Inc., and also trading and doing business as Southern States Decorators, Southern Cross Pools, Southern Cross Windows, Miracle Plastic Roofers and Carpet Discount Outlet, and Emanuel I. Gladstone, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and of the regulations promulgated under the Truth in Lending Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Southern States Distributing Company, formerly known as Southern Cross Discount Company, Inc., and also trading and doing business as Southern States Decorators, Southern Cross Pools, Southern Cross Windows, Miracle Plastic Roofers and Carpet Discount Outlet, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with its principal office and place of business located at 2099 Liddell Drive, N.E., in the city of Atlanta, State of Georgia.

Respondent Emanuel I. Gladstone 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 business address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution to the public of home improvement products, including, but not limited to, residential siding and swimming pools, and in the installation thereof.

## COUNT I

Alleging violations of Section 5 of the Federal Trade Commission Act, the allegations of Paragraphs One and Two hereof are incorporated by reference in Count I as if fully set forth verbatim.

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 Georgia 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 and installation of their home improvement products, respondents and their salesmen or representatives have made, and are now making, numerous statements and representations in advertising and promotional material and through oral statements and representations with respect to the nature and limitations of their offers, their prices, their purchasers' savings, their warranty, the durability of their products, their business affiliations, and their assistance to purchasers in paying for their products and installations.

Typical and illustrative of said statements and representations, but not all inclusive thereof, are the following:

MAMOUTH (sic) SWIMMING POOL SALE! 19' x 19' REG. \$1,595 NOW \$795-  
10-YEAR WARRANTY

\* \* \* \* \*

LOW-LOW FINANCING E-Z TERMS

SWIMMING POOL SALE! HURRY! OFFER GOOD FOR LIMITED TIME ONLY.  
\$795

SAVE ON SPECIAL OFFER! ALUMINUM SIDING SALE! SIDING MADE FROM  
REYNOLDS ALUMINUM-SAY GOODBY TO PAINTING EXPENSES-\$299

PAR. 5. By and through the use of the aforesaid statements and representations and others of similar import and meaning, but not specifically set out herein, separately and in connection with oral statements and representations of their salesmen or representatives, respondents have represented, and are now representing, directly or by implication, that:

1. The offers set out in their advertisements are bona fide offers to sell home improvement products and installations of the kind therein described at the prices and on the terms and conditions stated.
2. Their advertised offer of a 19' x 19' swimming pool for \$795 is made only for a limited period of time.
3. Their home improvement products and installations are being offered for sale at special or reduced prices, and savings are thereby afforded to their purchasers because of reductions from respondents' regular selling prices.
4. Their 19' x 19' swimming pool is warranted in every respect without conditions or limitations for a period of ten years.
5. Their aluminum siding materials will never require painting.

6. Their salesmen or representatives are connected or affiliated with the manufacturers of products sold by respondents.

7. Purchasers of their products and installations are granted easy credit terms, without regard to their financial status or their ability to pay, by financial institutions with which respondents deal.

8. After the installation of their products is completed, the homes of their purchasers will be used for demonstration and advertising purposes by respondents, and, as a result of allowing or agreeing to allow their homes to be used as models, purchasers will be granted reduced prices or will receive allowances, discounts, commissions or referral fees.

PAR. 6. In truth and in fact:

1. The offers set out in respondents' advertisements are not bona fide offers to sell home improvement products and installations of the kind therein described at the prices or on the terms and conditions stated but are made for the purpose of obtaining leads to persons interested in the purchase thereof. After obtaining such leads, individual respondent Emanuel I. Gladstone or respondents' salesmen or representatives call upon such persons and disparage respondents' advertised home improvement products and installations and otherwise discourage the purchase thereof and attempt to sell and frequently do sell different and more expensive home improvements products and installations.

2. Respondents' advertised offer of a 19' x 19' swimming pool for \$795 is not made only for a limited period of time. Said product is advertised regularly at the represented price and on the terms and conditions therein stated.

3. Respondents' home improvement products and installations are not being offered for sale at special or reduced prices, and savings are not thereby afforded to their purchasers because of reductions from respondents' regular selling prices. In fact, respondents do not have regular selling prices, but the prices at which respondents' home improvement products and installations are sold vary from purchaser to purchaser depending upon the resistance of the particular purchaser.

4. Respondents' 19' x 19' swimming pool is not warranted in every respect without conditions or limitations for a period of ten years or for any other period of time. Such warranty as may be provided by respondents is subject to numerous terms, conditions and limitations with respect to the duration of the warranty and fails to set forth the nature and extent of the warranty, the identity of the warrantor and the manner in which the warrantor will perform thereunder.

5. Respondents' aluminum siding materials will require painting.

6. Respondents' salesmen or representatives are not connected or affiliated with the manufacturers of products sold by respondents.

