

# FEDERAL TRADE COMMISSION DECISIONS

## Findings, Opinions and Orders

IN THE MATTER OF

PETROLANE, INC.

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

*Docket C-2620. Complaint, Jan. 2, 1975 - Decision, Jan. 2, 1975*

Consent order requiring a Long Beach, Calif., distributor of liquid petroleum gas (LP), among other things to notify customers prior to delivery of "increased price gas" that the price has increased; provide the customer with the applicable price schedule, and disclose that related information can be obtained from their district office.

### *Appearances*

For the Commission: *David A. Middaugh.*

For the respondent: *William E. Linsenbard*, Long Beach, Calif.

### COMPLAINT

The Federal Trade Commission, having reason to believe that Petrolane, Inc., a corporation (hereinafter respondent), has violated Section 5 of the Federal Trade Commission Act, and that a proceeding would be in the public interest, hereby issues its complaint:

PARAGRAPH 1. Respondent is a California corporation with its office located at P.O. Drawer 1410, 1600 E. Hill St., Long Beach, Calif.

PAR. 2. Respondent is a multinational company engaged in the business of, among other things, selling liquified petroleum gas (LP gas) in competition with other sellers of LP gas.

PAR. 3. Respondent ships, distributes and sells LP gas in interstate commerce to customers located in almost every state.

PAR. 4. Respondent sells LP gas to home owners and businesses, which use the gas for heating and other purposes. Such sales normally take place in the following manner. The customer and respondent contract that respondent will furnish the customer's LP gas needs. Respondent installs a storage tank and other related equipment on the customer's premises. Thereafter, respondent periodically makes deliveries of LP gas to the customer's storage tank. Respondent's deliveryman fills the tank and makes out the customer's bill, which states the number of gallons delivered and the total dollar amount charged. The bill is delivered to the customer, or, if the customer is not

present, the bill is left at his premises. The customer may either pay his bill immediately or await receipt of a formal bill mailed by respondent.

PAR. 5. From time to time respondent raises the price per gallon of LP gas delivered to its customers. Respondent does not notify its customers of price increases prior to delivery of the LP gas subject to the increase. Respondent does not, simultaneously with delivery, give notice to customers that its price has increased. Respondent does not, subsequent to delivery of increased price gas, inform customers of the increase. The customer thus has no way to discover a price increase except by (1) dividing the number of gallons delivered into the total amount billed and comparing the resultant price per gallon with the price per gallon similarly computed from prior bills, or (2) going to respondent's district office where the prices are posted.

PAR. 6. Knowledge of a price increase may affect the customer's decision as to whether to continue purchasing LP gas from respondent.

PAR. 7. The above-described conduct injures respondent's customers and competitors. Customers pay increased prices under the belief that prices have not increased and are deprived of the opportunity to compare respondent's prices with those of respondent's competitors. Respondent's competitors are deprived of those of respondent's customers who may change their LP gas supplier because of respondent's higher prices.

PAR. 8. The above-described conduct constitutes an unfair or deceptive act or practice and an unfair method of competition 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 Seattle Regional Office 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 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 sixty 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. Proposed respondent Petrolane, Inc. is a California corporation with its office located at P.O. Drawer 1410, 1600 E. Hill St., Long Beach, Calif.

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

#### ORDER

*It is ordered,* That respondent, its successors and assigns, its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, do forthwith cease and desist from delivering LP gas to any customer at a price higher than that charged by respondent to the customer for the immediately preceding delivery (or higher than the price to similar customers prior to the price increase, if there have been no prior deliveries to that customer) (hereinafter referred to as "increased price gas") unless:

1. Respondent has notified the customer prior to delivery of "increased price gas" that its price of LP gas has increased, has provided the customer with the applicable price schedule, and has disclosed that related information may be obtained by calling respondent's district office; *or*

2. (a) The bill left at the customer's premises by the deliveryman for "increased price gas" discloses on the front the number of gallons delivered, the price per gallon and the total price of the delivery; clearly and conspicuously states on the front: "Reflects price increase"; and contains a statement that the amount of the increase and related information may be obtained by calling respondent's district office; *and*

(b) All bills sent to customers, subsequent to the bill left by the deliveryman, clearly and conspicuously state: "The charges on this statement may include the effects of a price increase or decrease. For further information please refer to your field delivery invoice or call our district office."

*It is further ordered,* That respondent shall forthwith deliver a copy of this order to each of its employees and agents engaged directly or indirectly in the retail distribution of LP gas, and to each employee who

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becomes so engaged during a period of two years from the date this order becomes effective.

*It is further ordered,* That respondent shall maintain such records as will fully disclose the manner and form of its compliance with this order.

*It is further ordered,* That respondent notify the Commission at least thirty days prior to any proposed change in the 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 this order.

*It is further ordered,* That respondent shall, within sixty days after service upon it of this order, file with the Commission a written report setting forth in detail the manner and form of its compliance with this order.

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IN THE MATTER OF

## REGAL APPAREL LTD.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE  
FEDERAL TRADE COMMISSION AND TEXTILE FIBER PRODUCTS  
IDENTIFICATION ACTS

*Docket C-2621. Complaint, Jan. 2, 1975 - Decision, Jan. 2, 1975*

Consent order requiring a Los Angeles, Calif., manufacturer and importer of men's and boys' apparel, among other things to cease misbranding its textile fiber products.

*Appearances*

For the Commission: *Gerald E. Wright and Kerper G. Propert.*

For the respondent: *Pro se.*

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and the Textile Fiber Products Identification Act, and by virtue of the authority vested in it by such Acts, the Federal Trade Commission, having reason to believe that Regal Apparel Ltd., a corporation, hereinafter referred to as respondent, has violated the provisions of said Acts and the rules and regulations promulgated under the Textile Fiber Products Identification Act, and it now 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 Regal Apparel Ltd., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Their office and principal place of business is located at 124 E. Olympic Blvd., Los Angeles, Calif.

Respondent is engaged in the manufacturing, importation and sale of mens and boys wearing apparel, including, but not limited to tennis jackets.

PAR. 2. Respondent is now and for some time last past has been engaged in the introduction, delivery for introduction, manufacture for introduction, sale, offering for sale in commerce, and in the transportation or causing to be transported in commerce, and in the importation into the United States of textile fiber products; and has sold, offered for sale, delivered, transported and caused to be transported, textile fiber products, which have been offered for sale in commerce; and has sold, offered for sale, delivered, transported and caused to be transported, after shipment in commerce, textile fiber products, either in their original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber products" are defined in the Textile Fiber Products Identification Act.

PAR. 3. Certain of said textile fiber products were misbranded by the respondent within the intent and meaning of Section 4(a) of the Textile Fiber Products Identification Act and the rules and regulations promulgated thereunder, in that they were falsely and deceptively stamped, tagged, labeled, or otherwise identified as to the name or amount of the constituent fibers contained therein.

Among such misbranded textile fiber products, but not limited thereto, were textile fiber products (tennis jackets) with labels which set forth the fiber content as "65% Cotton, 35% Polyester," whereas, in truth and in fact, the said textile fiber products contained substantially different amounts of fibers than represented.

PAR. 4. The acts and practices of respondent as set forth above were, and are, in violation of the Textile Fiber Products Identification Act and the rules and regulations promulgated thereunder, and constituted and now constitute, unfair methods of competition and unfair and deceptive acts and practices, in commerce, under 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 San Francisco Regional Office 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 Textile Fiber Products Identification Act, as amended; and

Respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by 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 has reason to believe that the respondent has violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, 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 Regal Apparel Ltd., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with their office and principal place of business located at 124 E. Olympic Blvd., Los Angeles, Calif.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

#### ORDER

*It is ordered*, That respondent Regal Apparel Ltd., a corporation, its successors and assigns, and its officers, and respondent's agents, representatives, and employees, directly or through any corporation, subsidiary, division, or any other device, in connection with the introduction, delivery for introduction, manufacture for introduction, sale, advertising or offering for sale in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported, of any textile product, which has been advertised or offered for sale in commerce, or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported,

after shipment in commerce of any textile product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by:

1. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising or otherwise identifying such products as to the name or amount of the constituent fibers contained therein.

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

*It is further ordered,* That respondent notify the Commission at least thirty (30) days prior to any 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 this order.

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

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IN THE MATTER OF

HARBOR BANANA DISTRIBUTORS, INC.\*

MODIFIED ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF  
SEC. 7 OF THE CLAYTON ACT

*Docket 8795. Complaint, July 28, 1969 - Modified Order, Jan. 3, 1975*

Order modifying an earlier order dated Jan. 12, 1973, 38 F. R. 5160, 82 F.T.C. 53, pursuant to order of Aug. 22, 1974, of the United States Court of Appeals for the Fifth Circuit,\*\* denying enforcement of the portion of the order under Counts I and II of the complaint alleging violations of Sections 2(a) and 2(f) of the Clayton Act, as amended, and ordering enforcement of the portion of the order under Count IV of the complaint charging a violation of Section 7 of the Act.

*Appearances*

For the Commission: *James T. Halverson.*

For the respondent: *Deutsch, Kerrigan & Stiles, New Orleans, La.*

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\* Title of case changed by Commission direction of Apr. 11, 1975, so that in the future no reference will appear in the title to any parties that have been dismissed.

\*\* Neither party filed petition for *certiorari*.

## MODIFIED ORDER TO CEASE AND DESIST

Respondents having filed in the United States Court of Appeals for the Fifth Circuit petitions to review the order to cease and desist issued herein on Jan. 12, 1973 [82 F.T.C. 53]; and the Court, on Aug. 22, 1974 [499 F.2d 395 (1974)], having rendered its decision, denying enforcement of the portion of the order under Counts I and II of the complaint alleging violations of Sections 2(a) and 2(f) of the Clayton Act, as amended, and ordering enforcement of the portion of the order under Count IV of the complaint charging a violation of Section 7 of the Act; and the time in which to file a petition for *certiorari* having expired without either party having filed such a petition;

*Now therefore, it is ordered,* That the aforesaid order to cease and desist be modified, in accordance with said final order of the Court of Appeals, to read as follows:

## I

*It is ordered,* That Counts I-III of the complaint be dismissed.

## II

*It is further ordered,* That:

1. Respondent Harbor Banana Distributors, Inc., a corporation, and its officers, directors, agents, representatives, employees, subsidiaries, affiliates, successors, and assigns, within six (6) months from the date of service upon it of this order, shall divest, absolutely and in good faith, subject to the approval of the Federal Trade Commission, all assets, properties, rights and privileges, tangible and intangible, including, but not limited to, all plants, equipment, and machinery acquired by Harbor Banana Distributors, Inc., as a result of its acquisition of the Charles C. McCann Company, and Tradewinds Produce, Inc., together with the goodwill created by the use of such assets, and all additions and improvements thereto, of whatever description, so as to restore that which formerly made up the Charles C. McCann Company, and Tradewinds Produce, Inc. as a viable competitive entity in the business of processing, selling and distributing bananas.

2. None of the assets, properties, rights or privileges, described in Paragraph IV, 1., of this order, shall be divested, directly or indirectly, to any person who is, at the time of the divestiture, an officer, director, employee, or agent, or under the control or direction of, respondent Harbor Banana Distributors, Inc. or any of respondent's subsidiary or affiliated corporations, or owns or controls, directly or indirectly, more

than one (1) percent of the outstanding shares of common stock of Harbor Banana Distributors, Inc.

3. Pending divestiture, respondent Harbor Banana Distributors, Inc. shall not make or permit any deterioration in any of the plants, machinery, buildings, equipment or other property or assets of the companies to be divested that may impair their present capacity or market value, unless such capacity or value is restored prior to divestiture.

### III

*It is further ordered,* That respondent Harbor Banana Distributors, Inc. shall not, for a period of ten (10) years from the date of service of this order, acquire, directly or indirectly, through subsidiaries, joint ventures, or otherwise, without the prior approval of the Federal Trade Commission, the whole or any part of the stock, share capital, or assets of any concern engaged in the processing, sale, or distribution of bananas.

### IV

*It is further ordered,* That respondent Harbor Banana Distributors, Inc. shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in its corporate organization, 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 that may affect compliance obligations arising out of this order.

### V

*It is further ordered,* That Harbor Banana Distributors, Inc., shall within sixty (60) days after service on it of this order, and every sixty (60) days thereafter until it has fully complied with the provisions of this order, submit in writing to the Federal Trade Commission a report setting forth in detail the manner and form in which it intends to comply, is complying, and/or has complied with this order. All compliance reports shall include, among other things that will be from time to time required, a summary of all contacts and negotiations with potential purchasers of the stock and/or assets to be divested under this order, the identity of all such potential purchasers, and copies of all written communications to and from such potential purchasers.

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IN THE MATTER OF

INSURANCE FINANCE PLAN CO., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE  
FEDERAL TRADE COMMISSION AND TRUTH IN LENDING ACTS*Docket C-2622. Complaint, Jan. 6, 1975 - Decision, Jan. 6, 1975*

Consent order requiring a Central Falls, R.I., moneylender in connection with the financing of insurance premiums, 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: *Lois M. Woocher.*For the respondents: *Pro se.*

## 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 Insurance Finance Plan Co., a corporation, and Maurice R. Loiselle, individually and as an officer of said corporation, hereinafter referred to as respondents, have 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 Insurance Finance Plan Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Rhode Island and Providence Plantations, with its principal office and place of business located at 887 Dexter St., Central Falls, R.I.

Respondent Maurice R. Loiselle is an officer of the corporate respondent. He formulates, directs and controls the policies, acts and practices of the corporation, 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 business of lending money to the public in connection with the financing of insurance premiums.

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 caused and are causing to be extended consumer credit, as "consumer credit" is defined in Regulation Z, and have caused and are causing customers to execute a binding combination promissory note and disclosure statement, hereinafter referred to as the "statement." Respondents do not provide these customers with any other consumer credit cost disclosures.

By and through the use of the statement, respondents:

1. Failed to use the term "cash price" as defined in Section 226.2(i) of Regulation Z, to describe the purchase price of the item, as required by Section 226.8(c)(1) of Regulation Z.

2. Failed to use the term "cash downpayment" to describe the downpayment in money made in connection with the credit sale, as required by Section 226.8(c)(2) of Regulation Z.

3. Failed to use the term "unpaid balance of cash price" to describe the difference between the cash price and the total downpayment, as required by Section 226.8(c)(3) of Regulation Z.

4. Failed to disclose the sum of the cash price, all charges which are included in the amount financed but which are not part of the finance charge, and the finance charge, and to describe that sum as the "deferred payment price," as required by Section 226.8(c)(8)(ii) of Regulation Z.

5. Failed in some instances to furnish consumers with a duplicate of the instrument containing the required disclosures or a statement by which the required disclosures are made, as required by Section 226.8(a) of Regulation Z.

PAR. 5. Subsequent to July 1, 1969, respondents have caused to be published advertisements as "advertisement" is defined in Section 226.2(b) of Regulation Z for the purpose of aiding, promoting or assisting, directly or indirectly, the extension of consumer credit in connection with the financing of insurance premiums. By and through the use of these advertisements, the respondents have stated the period of repayment 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) of Regulation Z:

1. The cash price;
2. The amount of the downpayment required or that no downpayment is required, as applicable;

3. The number, amount, and due dates or periods of payments scheduled to repay the indebtedness if the credit is extended;

4. The amount of the finance charge expressed as an annual percentage rate; and

5. The deferred payment price.

PAR. 6. 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 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 hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Boston 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 Truth in Lending Act and the implementing regulation promulgated thereunder and 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; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, 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 Insurance Finance Plan Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Rhode Island and Providence Plantations, with its principal office and place of business located at 887 Dexter St., Central Falls, R.I.

Respondent Maurice R. Loiselle is an officer of said corporation. He

formulates, directs and controls the policies, acts and practices of the 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 the public interest.

#### ORDER

*It is ordered*, That respondents Insurance Finance Plan Co., a corporation, its successors or assigns, and its officers, and Maurice R. Loiselle, 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 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 use the term "cash price," as defined in Section 226.2(i) of Regulation Z, to describe the purchase price of the item, as required by Section 226.8(c)(1) of Regulation Z.

2. Failing to use the term "cash downpayment" to describe the downpayment in money made in connection with the credit sale, as required by Section 226.8(c)(2) of Regulation Z.

3. Failing to use the term "unpaid balance of cash price" to describe the difference between the cash price and the total downpayment as required by Section 226.8(c)(3) of Regulation Z.

4. Failing to disclose the sum of the cash price, all charges which are included in the amount financed but which are not part of the finance charge, and the finance charge, and to describe that sum as the "deferred payment price," as required by Section 226.8(c)(8)(ii) of Regulation Z.

5. Failing to furnish the consumer with a duplicate of the instrument containing the required disclosures or a statement by which the required disclosures are made, as required by Section 226.8(a) of Regulation Z.

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

7. Stating in any advertisement the period of repayment which can 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) of Regulation Z.

- (i) The cash price;
- (ii) The amount of the downpayment required or that no downpayment is required, as applicable;
- (iii) The number, amount, and due dates or periods 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; and
- (v) The deferred payment price.

*It is further ordered,* That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents now or hereafter engaged in the consummation of any 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 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 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 address and a statement as to the nature of the 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.

## Complaint

IN THE MATTER OF  
INSURANCE BUDGETING, INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE  
FEDERAL TRADE COMMISSION AND TRUTH IN LENDING ACTS

*Docket C-2623. Complaint, Jan. 6, 1975 - Decision, Jan. 6, 1975*

Consent order requiring a Providence, R.I., insurance premium financier, 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: *Marc A. Comras.*

For the respondents: *Pro se.*

## 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 Insurance Budgeting, Inc., a corporation, and Richard A. L'Europa, individually and as an officer of said corporation, hereinafter referred to as respondents, have 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 Insurance Budgeting, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Rhode Island and Providence Plantations, with its principal office and place of business located at 10 Dorrance St., Providence, R.I.

Respondent Richard A. L'Europa is an officer of the corporate respondent. He formulates, directs and controls the policies, acts and practices of the corporation, 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 business of lending money to the public in connection with the financing of insurance premiums.

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 of business as aforesaid, have caused and are causing to be extended consumer credit as "consumer credit" is defined in Regulation Z, and have caused and are causing customers to execute a binding premium financing agreement, hereinafter referred to as the "agreement." Respondents do not provide these customers with any other consumer credit cost disclosures.

By and through the use of the agreement respondents:

1. Failed in some instances to disclose the sum of the cash price, all charges which are included in the amount financed but which are not part of the finance charge, and the finance charge, and to describe that sum as the "deferred payment price," as required by Section 226.8(c)(8)(ii) of Regulation Z.

2. Failed in some instances to disclose the annual percentage rate computed in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.

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

4. Provide additional information which misleads or confuses the customer or obscures or detracts attention from the information required to be disclosed by Regulation Z, in violation of Section 226.6(e) of Regulation Z.

5. Failed to make the disclosures required by Section 226.8 of Regulation Z clearly, conspicuously and in a meaningful sequence, as required by Section 226.6(a) of Regulation Z.

PAR. 5. 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 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 hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Boston 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

Truth in Lending Act and the implementing regulation promulgated thereunder and 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; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34(b) of the rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Insurance Budgeting, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Rhode Island and Providence Plantations, with its principal office and place of business located at 10 Dorrance St., Providence, R.I.

Respondent Richard A. L'Europa 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

*It is ordered,* That respondents Insurance Budgeting, Inc., a corporation, its successors and assigns, and its officers, and Richard A. L'Europa, 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 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 disclose the sum of the cash price, all charges which are

included in the amount financed but which are not part of the finance charge, and the finance charge, and to describe that sum as the "deferred payment price" as required by Section 226.8(c)(8)(ii) of Regulation Z.

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

3. 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.

4. Stating, utilizing or placing any additional information in conjunction with the disclosures required by Regulation Z to be made, which information misleads or detracts attention from the information required by Regulation Z to be disclosed.

5. Failing to make all disclosures required by Regulation Z clearly, conspicuously, and in meaningful sequence, as required by Section 226.6(a) 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 at the time and in the manner, form and amount required by Sections 226.6, 226.8 and 226.10 of Regulation Z.

*It is further ordered,* That respondents deliver a copy of this order to all present and future personnel of respondents now or hereafter 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 the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the 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.

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Order

IN THE MATTER OF

KOSCOT INTERPLANETARY, INC., ET AL.

*Docket 8888. Order, Jan. 7, 1975*

Order directing general counsel to take necessary and appropriate action to preserve restitutionary or any other consumer redress claim.

*Appearances*

For the Commission: *Quentin P. McColgin* and *David C. Keehn*.  
For the respondents: *Leonard & Cohen*, Wash., D. C.

ORDER DIRECTING GENERAL COUNSEL TO TAKE NECESSARY AND  
APPROPRIATE ACTION TO PRESERVE POSSIBLE RESTITUTIONARY  
CLAIM

This matter is before us on the administrative law judge's order of Dec. 23, 1974, certifying complaint counsel's "Motion that the General Counsel be Directed to Take Action to Preserve the Commission's Claim Against Respondent Koscot Interplanetary, Inc.," which motion respondents have not answered. Specifically complaint counsel report that respondent Koscot Interplanetary, Inc. is in bankruptcy proceedings wherein a settlement is pending which could foreclose any claim in restitution which might arise out of this action. Such a foreclosure would be contrary to the public interest. Accordingly,

*It is ordered,* That the General Counsel take such action as is necessary and appropriate for the protection of the public interest in any restitutionary claim or any other claim for consumer redress which may arise out of the above-captioned proceeding.

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IN THE MATTER OF

HOLIDAY MAGIC, INC., ET AL.

*Docket 8834. Order, Jan. 8, 1975*

Denial of respondent Olivo's motion for reconsideration and motion for modification of final order; denial without prejudice to resubmission at appropriate time, of respondent's petition to reopen proceedings concerning adequacy of funds; and denial of respondent's motion for extension of time to file briefs in support of aforementioned motions and petition.

*Appearances*

For the Commission: *Joseph S. Brownman* and *D. Stuart Cameron*.

Order

85 F.T.C.

For the respondents: *Shearer, Lanctot, Thomas & Knorp*, San Francisco, Calif.

ORDER DENYING RESPONDENT'S MOTION FOR RECONSIDERATION,  
ET AL.

On Oct. 15, 1974 84 F.T.C. 347, the Commission issued its decision and order in this matter. Respondent Olivo has timely filed for reconsideration and modification of the order as it affects him, pursuant to Section 3.55 of the rules of practice, and has petitioned that the matter be reopened for consideration of the ability of respondent Olivo, as executor for the estate of William Penn Patrick, to make restitution as required by the order of the Commission.<sup>1</sup> An extension of time is also sought within which to file briefs in support of the motions for reconsideration and reopening. Complaint counsel have filed an Answer opposing the motions. For the reasons stated below, the motion for reconsideration and modification must be denied with prejudice, while the motion for reopening will be denied but without prejudice to renewal at such time as the order herein (pursuant to which the motion for reopening would appropriately be made) becomes final.

Section 3.55 requires in part that:

Any petition filed under this subsection must be confined to new questions raised by the decision or final order and upon which the petitioner had no opportunity to argue before the Commission.

Respondent's motion for reconsideration and modification entirely fails to meet the requirements of the pertinent rule, inasmuch as respondent Olivo was given ample opportunity subsequent to his substitution as a party in this case to brief the issues now raised. The withdrawal of counsel to which reference is made in the motion apparently occurred well after the time allotted for such briefing.

In addition, the Commission has fully considered in reaching its final decision the arguments raised by counsel in the motion to reconsider. The Commission does not see any conflict or inconsistency between a consent settlement which permits the estate of a wrongdoer to escape primary liability for the violation of one law, and a litigated order which requires the estate to make restitution based on violation of a different law. The reasons for differing treatment of the corporation and executor with respect to restitution are stated in the Commission's decision, and relate to the differing obligations imposed on the two by prior consent settlements. The motion for reconsideration simply confirms the propriety of the distinction that was made. Nor, we

<sup>1</sup> "Motion for Reconsideration and Motion for Modification of Final Order; and Petition to Reopen Proceedings Concerning Adequacy of Funds," filed Dec. 11, 1974. Respondent received an extension of seven days, beyond the 20 allowed by the rules, within which to file a motion for reconsideration, and said motion has been filed within 27 days of the date of service of the final order upon him.

believe, does the fact that the estate is subject for certain purposes to the jurisdiction of the Marin Superior Court in any way affect the authority and duty of the Commission to adjudicate the obligations of the executor under Section 5.

Those points raised by respondent concerning the difficulty of compliance with the order, and the lack of funds with which to comply, may properly be addressed at the compliance stage. Paragraph V(3)(e) of the final order provides that respondent may petition to reopen within 60 days of the effective date of the order upon a claim that respondent lacks sufficient funds to make restitution. If, as respondent implies, he lacks access to the names of distributors which the order provides shall accompany an application for reopening, that fact should be indicated clearly in the petition and this will not be a bar to the reopening. The petition to reopen this matter is at this stage, however, premature, and will therefore be rejected without prejudice to renewal at such time as the order in this matter becomes final. The motion for an extension of time within which to file briefs relating to respondent's motions and petition will also be denied as no valid reason has been given to warrant the delay. Therefore,

*It is ordered,* That respondent's Motion for Reconsideration and Motion for Modification of Final Order be denied, and that respondent's Petition to Reopen Proceedings Concerning Adequacy of Funds be denied without prejudice to resubmission at an appropriate time; and

*It is further ordered,* That respondent's Motion for Extension of Time to File Briefs in Support of Motion for Reconsideration and Motion for Modification and Petition to Reopen Proceedings Concerning Adequacy of Funds be denied.

Commissioner Nye not participating.

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IN THE MATTER OF

RELIABLE MORTGAGE CORPORATION, ET AL.

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

*Docket 8956. Complaint, Mar. 5, 1974 - Decision, Jan. 8, 1975*

Order requiring a Los Angeles, Calif., loan company, 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.

Complaint

85 F.T.C.

*Appearances*

For the Commission: *David G. Cameron* and *Kendall H. MacVey*.  
For the respondents: *Alvin F. Howard*, *Horowitz*, *Howard* and *Bloom*, Los Angeles, Calif.

## 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 Reliable Mortgage Corporation, a corporation, and Edward Siegel, individually and as an officer of said corporation, hereinafter sometimes referred to as respondents, have 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 as follows:

PARAGRAPH 1. Respondent Reliable Mortgage Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 320 N. Vermont Ave., Los Angeles, Calif.

Respondent Edward Siegel is an individual and is the principal corporate officer of Reliable Mortgage Corporation. He formulates, directs and controls the policies, acts and practices of said corporation and his address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for many years have been, engaged in the business of arranging loans secured by real property for a fee.

PAR. 3. In the ordinary course and conduct of their business as aforesaid, respondents regularly arrange for the extension of consumer credit, as "arrange for the extension of credit" and "consumer credit" are defined in Section 226.2 of 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 caused to be published, advertisements, as "advertisement" is defined in Section 226.2 of Regulation Z, which advertisements aided, promoted, or assisted, directly or indirectly, the extension of other than open end credit. Respondents, in certain of these advertisements, have stated the rate of a finance charge, as "finance charge" is defined in Section 226.2 of Regulation Z, and have not expressed said rate as an annual percentage rate, using the term "annual percentage rate," as "annual

percentage rate" is defined in Section 226.2 of Regulation Z, in violation of Section 226.10(d)(1) of Regulation Z.

PAR. 5. By and through the acts and practices set forth above, respondents have failed to comply with the requirements of Regulation Z, the implementing regulation of the Truth in Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System. Pursuant to Section 103(q) of the Act, such failure to comply constitutes a violation of the Truth in Lending Act, and, pursuant to Section 108 thereof, respondents have violated the Federal Trade Commission Act.

INITIAL DECISION BY HARRY R. HINKES, ADMINISTRATIVE LAW  
JUDGE

November 11, 1974

PRELIMINARY STATEMENT

In a complaint issued by the Federal Trade Commission on Mar. 5, 1974, respondents Reliable Mortgage Corporation and Edward Siegel were charged with failing to comply with the requirements of Regulation Z, the implementing regulation of the Truth in Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System. Pursuant to Section 103(q) of that act, such failure to comply constitutes a violation of the Truth in Lending Act and pursuant to Section 108 thereof respondents were charged to have violated the Federal Trade Commission Act. In their answer to the complaint respondents denied Paragraphs Four and Five of the complaint which charge a violation of law. In addition, as an affirmative defense, respondents alleged that any order issued herein would injure the consuming public and interfere with competitive conditions. Respondents, however, made no answer to Paragraphs One, Two or Three of the complaint which establish the identity of the respondents and the nature of their business. Paragraphs One, Two and Three of the complaint are, therefore, deemed to have been admitted pursuant to Section 3.12(b)(1)(ii) of the Rules of Practice of the Federal Trade Commission.

On May 13, 1974, respondents were served by complaint counsel with a request for admissions. Respondents did not respond to this request. Indeed, counsel for the respondents in a letter dated June 17, 1974, stated:

We will not reply to your request for admissions, and they will be automatically admitted under the rules.

Indeed, Section 3.31 of the Commission's Rules of Practice dealing with admissions states:

(b) The matter is admitted unless within 10 days after the service of the request . . . the party to whom the request is directed serves upon the party requesting the admission . . . a sworn written answer or objection addressed to the latter\* \* \*.

After unsuccessful attempts at settlement, complaint counsel filed a Motion for Summary Decision on Sept. 24, 1974, alleging that there was no genuine issues as to any material fact and that a decision should be rendered as a matter of law. Counsel for the respondent then withdrew from this proceeding and, with the consent of the respondents, substituted the respondents *in propria persona*. Nevertheless, oral argument was set on complaint counsel's Motion for Summary Decision and respondents were advised of the date and place for said oral argument. By letter dated Oct. 7, 1974, respondents indicated their intention not to appear at oral argument. Oral argument was held on Oct. 15, 1974. Respondents did not appear nor were they represented.

On the basis of the complaint, respondents' answer to the complaint and complaint counsel's request for admissions which went unanswered by respondents, I make the following:

#### FINDINGS OF FACT

1. Respondent Reliable Mortgage Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 320 N. Vermont Ave., Los Angeles, Calif.

Respondent Edward Siegel is an individual and is the principal corporate officer of Reliable Mortgage Corporation. He formulates, directs and controls the policies, acts and practices of said corporation and his address is the same as that of the corporate respondent. (Par. 1 of the Comp.)

2. Respondents are now, and for many years have been, engaged in the business of arranging loans secured by real property for a fee. (Par. 2 of the Comp.)

3. In the ordinary course and conduct of their business as aforesaid, respondents regularly arranged for the extension of consumer credit, as "arrange for the extension of credit" and "consumer credit" are defined in Section 226.2 of Regulation Z, the implementing regulation of the Truth in Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System. (Par. 3 of the Comp.)

4. Respondents caused to be published an advertisement stating "At Reliable Mortgage your loan will cost you a lot less. Our interest rate is 8-1/2 percent." The ad does not contain the words "annual percentage rate." (Comp. Counsel's unanswered request for admissions.)

5. The above ad was published in the following newspapers on the dates indicated:

Los Angeles Times: Feb. 19, 20, 25, Mar. 4, 11, 18 and 25, 1973.

Orange County Metro Group: Feb. 19 and 20, 1973.

Santa Ana Register: Feb. 25, 26, 27, 28, Mar. 4, 11, 18 and 25, 1973.

San Gabriel Valley Tribune: Feb. 19, 20, 25, Mar. 4, 11, 18, and 25, 1973. (Comp. Counsel's unanswered request for admissions.)

6. Respondents caused to be published an advertisement stating: "A second trust deed loan for less than 10 per cent interest." The ad does not contain the words "Annual percentage rate." (Comp. Counsel's unanswered request for admissions.)

7. The above ad was published in the following newspapers on the dates indicated:

Los Angeles Times: Apr. 8, 29, May 6, 13, 20, 27, June 3 and 10, 1973.

Santa Ana Register: Apr. 22, 29, May 13 and 20, 1973.

Long Beach Independent: Apr. 8, 1973.

Los Angeles Sentinel: Apr. 12, 19, 26, May 3 and 10, 1973. (Comp. Counsel's unanswered request for admissions.)

#### COMMENT

Section 226.10 of Regulation Z implementing the Truth in Lending Act states:

No advertisement to aid, promote or assist, directly, or indirectly, any credit sale . . . shall state (1) the rate of a finance charge unless it states the rate of that charge expressed as an "annual percentage rate" using that term\* \* \*.

It is clear that here respondents advertised a finance charge of 8-1/2 percent interest without specifying the annual percentage rate. Such ads were, therefore, violative of Regulation Z. *Beauty-Style Modernizers, Inc.*, Docket No. 8898, June 11, 1974 [83 F.T.C. 1759].

Some comment may be appropriate with respect to respondents' affirmative defense. In it respondents allege that they ceased the advertisements to which the Commission had made objection even though they believed the Commission's objections were unjustified and that the unfavorable publicity of this proceeding has injured the consuming public by discrediting the respondents although their interest charges were lower than others in competition with them. The Commission has held, however, that:

the fact that past unlawful practices have ceased or been suspended is no assurance that they will not be resumed at some time in the future, absent the deterrent effect of a Commission order with the possibility of heavy civil penalties for violation. (*Koppers Co., Inc.* 77 F.T.C. 1675, 1684.)

See, also *Certified Building Products, Inc.* Docket 8875, Oct. 5, 1973 [83 F.T.C. 1004], CCH Trade Regulation Rep. ¶20,506 and *Zale Corporation*, 78 F.T.C. 1195, 1240.

I do not agree that compelling respondents to disclose their annual percentage rate would injure the public by discrediting them. If, indeed, respondents' annual percentage rate is lower than the rate charged by their competition it would appear advantageous to the respondent to advertise such annual percentage rate so that the consuming public may be able to compare the two easily.

ORDER

*It is ordered,* That complaint counsel's Motion for Summary Decision be, and the same hereby is, *granted*.

*It is further ordered,* That respondents Reliable Mortgage Corporation, a corporation, its successors and assigns and its officers and Edward Siegel, 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 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. Stating the rate of a finance charge unless said rate is expressed as an annual percentage rate, using the term "annual percentage rate," as "finance charge" and "annual percentage rate" are defined in Section 226.2 of Regulation Z, as prescribed by Section 226.10(d)(1) of Regulation Z.
2. Stating or utilizing any component of the annual percentage rate, such as the rate of interest, when such component is stated or utilized more conspicuously than the annual percentage rate.
3. Failing, in any advertisement, to make all disclosures as required by Section 226.10 of Regulation Z and in the manner prescribed therein.

*It is further ordered,* That respondent corporation, its successors and assigns, shall forthwith distribute a copy of this order to each of its operating divisions.

*It is further ordered,* That respondents notify the Commission at least 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.

FINAL ORDER

The administrative law judge filed his initial decision in this matter

on Nov. 11, 1974, finding respondents to have engaged in the acts and practices as alleged in the complaint and entering a cease-and-desist order against respondents. A copy of the initial decision and order was served on the respondents on Nov. 29, 1974. No appeal was taken from the initial decision.

The Commission having now determined that the matter should not be placed on its own docket for review, and that the initial decision should become effective as provided in Section 3.51(a) of the Commission's Rules of Practice.

*It is ordered,* That the initial decision and order contained therein shall become effective on Dec. 30, 1974.

*It is further ordered,* That Reliable Mortgage Corporation, a corporation, and Edward Siegel, individually and as an officer of said corporation, shall within sixty (60) days after service of this order upon them, file with the Commission a report in writing, signed by such respondents, setting forth in detail the manner and form of their compliance with the order to cease and desist.

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IN THE MATTER OF

GENERAL MOTORS CORPORATION, ET AL.

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

*Docket 8907. Complaint, Dec. 11, 1972 - Decision, Jan. 10, 1975*

Consent order requiring a Detroit, Mich., automobile manufacturer, among other things to cease making unsubstantiated comparative claims as to the handling characteristics of automobiles. Further, the order dismisses the allegations of the complaint relating to the "Lubed-for-life chassis" claim for the Opel automobile. The complaint is dismissed as to respondent McCann-Erickson, Inc., G.M.'s New-York-City-based advertising agent.

Consent order requiring a Detroit, Mich., advertising agency, among other things to cease making unsubstantiated comparative claims as to the handling characteristics of automobiles.

*Appearances*

For the Commission: *Matthew Daynard and Edward D. Steinman.*

For the respondent: *Covington & Burling and Howrey, Simon, Baker & Murchison, Washington, D.C. Edwin A. Kiernan, Jr., N.Y., N.Y. Hill, Lewis, Adams, Goodrich & Tait, Detroit, Mich.*

## 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 General Motors Corp., Campbell-Ewald Co., and McCann-Erickson, Inc., corporations, hereinafter referred to as respondents, 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 General Motors Corporation is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 3044 W. Grand Blvd., Detroit, Mich.

PAR. 2. Respondent Campbell-Ewald Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 3044 W. Grand Blvd., Detroit, Mich.

PAR. 3. Respondent McCann-Erickson, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 485 Lexington Avenue, New York, N.Y.

PAR. 4. Respondent General Motors Corporation is now, and for some time last past has been, engaged in the manufacture, distribution, sale, and advertising of Chevrolet Vega and Buick Opel automobiles.

PAR. 5. Campbell-Ewald Co. is now, and for some time last past has been, an advertising agency of General Motors Corp., and now and for some time last past, has prepared and placed for publication and has caused dissemination of advertising material, including, but not limited to, the advertising referred to herein, to promote the sale of Chevrolet Vega automobiles.

PAR. 6. Respondent McCann-Erickson, Inc. is now, and for some time last past has been, an advertising agency of General Motors Corporation, and now and for some time last past, has prepared and placed for publication and has caused dissemination of advertising material, including, but not limited to, the advertising referred to herein, to promote the sale of Buick Opel automobiles.

PAR. 7. Respondent General Motors Corporation causes the said products, when sold, to be transported from its places of business in various States of the United States to purchasers located in various other States of the United States and in the District of Columbia. Respondent General Motors Corporation, maintains, and at all times

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\* Complaint published as amended by administrative law judge, Feb. 26, 1973, Mar. 14, 1973 and Mar. 19, 1973.

