

UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION

---

In the Matter of )  
 )  
 )  
The May Department Stores Company, ) DOCKET NO. C-3676  
a corporation. )  
 )  
 )

---

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, 15 U.S.C. § 41 ("FTC Act"), and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that The May Department Stores Company, a corporation, hereinafter sometimes referred to as respondent or May, has violated the Truth in Lending Act ("TILA"), 15 U.S.C. §§ 1601-1667, its implementing Regulation Z, 12 C.F.R. § 226, and the FTC Act, 15 U.S.C. §§ 41-58, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint, and alleges as follows:

DEFINITIONS

For the purpose of this complaint, the following definitions apply:

The terms "open end credit plan" and "credit card" are defined as set forth in §§ 103(i) and (k), respectively, of the Truth in Lending Act, 15 U.S.C. §§ 1602(i) and 1602(k).

The terms "card issuer," "consumer," "consumer credit," and "credit" are defined as set forth in §§ 226.2(a)(7), (11), (12), and (14), respectively, of Regulation Z, 12 C.F.R. §§ 226.2(a)(7), 226.2(a)(11), 226.2(a)(12), and 226.2(a)(14).

The term "consumer reporting agency" is defined as set forth in § 603(f) of the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. § 1681a(f).

PARAGRAPH ONE: Respondent The May Department Stores Company is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York. Respondent's office and principal place of business is located at 611 Olive Street, St. Louis, Missouri 63101.

PARAGRAPH TWO: Respondent has been and is now engaged in the business of offering consumer credit to the public and is a creditor and card issuer as those terms are defined in the TILA and Regulation Z.

PARAGRAPH THREE: The acts and practices of respondent alleged in this complaint have been and are in or affecting commerce, as "commerce" is defined in § 4 of the FTC Act.

#### COUNT I

PARAGRAPH FOUR: PARAGRAPHS ONE through THREE are incorporated herein by reference.

PARAGRAPH FIVE: Respondent, from time to time in the normal course of its business, acquires other retail sellers of consumer goods or services, including the existing open end credit plan accounts of those businesses.

PARAGRAPH SIX: Respondent, in the course of obtaining and converting the open end credit plan accounts of acquired businesses to its own open end credit plan accounts, including the conversion of Thalhimer's accounts to Hecht Co. accounts, performs various conversion functions. In this process, respondent, among other acts and practices, engages in the acts and practices alleged in Paragraphs Seven through Twelve, inclusive; to wit,

PARAGRAPH SEVEN: Respondent creates a new open end credit plan account and issues a new account number in the name of each consumer having an open end credit plan account in good standing with the retail company acquired by respondent.

PARAGRAPH EIGHT: Respondent, in the normal course of its business, furnishes account information concerning its open end credit plan accounts to consumer reporting agencies.

PARAGRAPH NINE: In the course of converting open end credit accounts of acquired retail companies, respondent incorporates items of information from the acquired account file into the new account file in such a fashion that some entries in the new account file inaccurately reflect the status of the account.

Such items of information include but are not limited to (1) derogatory information pertaining exclusively to activity that occurred on the acquired account, and (2) derogatory information pertaining to events antedating the period of obsolescence reflected in § 605 of the FCRA.

PARAGRAPH TEN: Respondent fails to record discrete entries within individual open end credit plan accounts in such a fashion that the entries accurately reflect the status of the account, including but not limited to (1) indicating certain identical items of derogatory information more than once, and (2) showing relevant dates on items of information in such a fashion that those items are reported by consumer reporting agencies for periods beyond those permitted by § 605(a) of the FCRA, thus stating or implying, for example, that accounts were charged to profit and loss more recently than the actual date of charge off.

PARAGRAPH ELEVEN: Respondent otherwise fails to convert acquired open end credit plan account records accurately to reflect the status of individual accounts.

PARAGRAPH TWELVE: Respondent fails to maintain reasonable procedures to monitor, measure, or test its open end credit plan account acquisition, conversion, and maintenance systems to assure the accuracy of the account information it conveys to consumer reporting agencies.

PARAGRAPH THIRTEEN: Despite the fact that respondent knew or should have known that open end credit plan account information that it transmitted to consumer reporting agencies is not accurate, respondent failed promptly to correct its computer system or implement procedures adequate to reduce the occurrence or reoccurrence of inaccuracies.

PARAGRAPH FOURTEEN: Respondent on some occasions initiates collection activity on purported delinquencies, created in error when respondent creates a second account, as alleged in PARAGRAPHS SIX and SEVEN, without the knowledge or authorization of consumers, and subsequently posts payments and other credits to the incorrect account.

PARAGRAPH FIFTEEN: By and through the acts and practices alleged in PARAGRAPHS NINE through FOURTEEN, and others not specifically set forth herein, respondent has caused substantial injury to consumers that is not outweighed by countervailing benefits to consumers or competition and is not reasonably avoidable by consumers.



PARAGRAPH SIXTEEN: Therefore, the acts and practices alleged in PARAGRAPHS NINE through FOURTEEN constitute unfair acts or practices in violation of § 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT II

PARAGRAPH SEVENTEEN: PARAGRAPHS ONE through THREE are incorporated herein by reference.

PARAGRAPH EIGHTEEN: Respondent, in connection with telephone marketing of offers of pre-approved open end credit plan accounts, in some cases establishes open end credit accounts for consumers who have not received or approved the offer or who have specifically declined the offer.

PARAGRAPH NINETEEN: Pursuant to § 132 of the TILA and § 226.12(a)(2) of Regulation Z, no credit card shall be issued to any person except: (1) in response to an oral or written request or application for the card; or (2) as a renewal of, or substitute for, an accepted credit card.

PARAGRAPH TWENTY: By and through the acts and practices alleged in PARAGRAPH EIGHTEEN and others not specifically set forth herein, respondent has issued, or caused to be issued, unsolicited credit cards to consumers.

PARAGRAPH TWENTY-ONE: Therefore, the acts and practices alleged in PARAGRAPHS EIGHTEEN and TWENTY violate § 132 of the TILA, 15 U.S.C. § 1643, and § 226.12(a) of Regulation Z, 12 C.F.R. § 226.12(a).

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this ninth day of July, 1996, A.D., issues its complaint against said respondent.

By the Commission, Commissioner Starek recused.

Donald S. Clark  
Secretary

SEAL