

Complaint

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the Commission's cease and desist order. The Commission has determined that this matter is indistinguishable from the matter of *Wilbanks Carpet Specialists, Inc., et al.*, Docket 8933, inasmuch as the record presents insufficient evidence that a consumer warning is a necessary or appropriate means for the termination of the acts or practices complained of or for the prevention of their recurrence. Having declined to order a consumer warning in the *Wilbanks* matter, the Commission has concluded that the same disposition is warranted herein.

Accordingly, the initial decision issued by the judge should be modified in accordance with the foregoing views of the Commission, and, as so modified, adopted as the decision of the Commission:

*It is ordered*, That the initial decision issued by the administrative law judge be modified by striking therefrom the following:

Those portions of the conclusions of law which concern "consumer warning" relief (at pp. 45-47 [pp. 1112-1113 herein], *sub nom.* "THE REMEDY"); and the second "FURTHER ORDERED" paragraph of the order to cease and desist issued by the judge (at p. 57) [p. 1120 herein].

As so modified, the initial decision is hereby adopted.

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IN THE MATTER OF

LAWRY'S FOODS, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF  
SECTION 2(d) OF THE CLAYTON ACT

*Docket C-2575. Complaint, Oct. 16, 1974—Decision, Oct. 16, 1974*

Consent order requiring a Los Angeles, Calif., manufacturer and distributor of salad dressings, seasonings, and other food products, among other things to cease discriminating in paying promotional allowances among competing distributors of its products.

*Appearances*

For the Commission: *Paul R. Roark.*

For the respondent: *Thomas J. McDermott, Jr., Kadison, Peaelzer, Woodward & Quinn, Los Angeles, Calif.*

COMPLAINT

The Federal Trade Commission, having reason to believe that the party named in the caption hereof, and hereinafter more fully described, has violated and is now violating the provisions of Section 2(d) of the

Clayton Act, as amended (U.S.C. Title 15, Section 13), and it appearing to the Commission that a proceeding by it in respect thereof would be in the interest of the public, hereby issues its complaint, stating its charges as follows:

PARAGRAPH 1. Respondent Lawry's Foods, Inc., 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 568 San Fernando Road, Los Angeles, Calif.

PAR. 2. Respondent is now and has been for many years engaged in the manufacture, distribution and sale of salad dressings, seasonings and other food products to customers throughout the United States. These customers offer such merchandise for sale to the public.

PAR. 3. In the course and conduct of its business, respondent is now and has been at all times referred to herein engaged in commerce, as "commerce" is defined in the Clayton Act, as amended. Respondent ships its products or causes such products to be shipped from its factory in Los Angeles, Calif., to purchasers located in other states. Respondent's sales of its products are substantial, and in the calendar year of 1971 amounted to \$32,550,838.

PAR. 4. In the course and conduct of its business in commerce, respondent sells its products of like grade and quality, consisting of salad dressings, seasonings and other food products to purchasers who are in substantial competition with each other in the sale and distribution of such products.

PAR. 5. In the course and conduct of its business in commerce as aforesaid, respondent has paid or authorized payment of money, goods or other things of value to or for the benefit of some of its customers as compensation or in consideration for services or facilities furnished or agreed to be furnished by or through such customers in connection with the handling, sale or offering for sale of respondent's products and respondent has not made or offered to make such payments, allowances or consideration available on proportionally equal terms to all of its other customers competing with the customers so favored in the sale and distribution of its products.

For example, respondent has paid promotional allowances to certain customers wherein minimum purchases were required to obtain such promotional allowances. Proportionally equal promotional allowances were not made available to those competing customers who could not meet the stated minimum purchase requirements.

PAR. 6. Respondent's acts and practices as alleged in Paragraph Five above are in violation of Section 2(d) of the aforesaid Clayton Act, as amended.

## 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 Los Angeles Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of Section 2(d) of the Clayton Act as amended (U.S.C. Title 15, Section 13); 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 (60) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Lawry's Foods, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 568 San Fernando Road, 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 Lawry's Foods, Inc., a corporation, its successors and assigns, and its officers, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device in connection with the sale of salad dressings, seasonings, and other food products, in commerce as "commerce" is defined in the Clayton Act, as amended, do forthwith cease and desist from:

Making or contracting to make to or for the benefit of any customer, any payment of anything of value as compensation or in consideration for any promotion or any other services or facilities furnished by or through such customer, in connection with the handling, offering for sale, or sale of said products, unless such payment or consideration is made available on proportionately equal terms to all other customers competing in the distribution of such products.

*It is further ordered,* That respondent shall forthwith distribute a copy of this order to all directors and officers of Lawry's Foods, Inc., and to any operating divisions if and when they are established.

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

*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

ODEN DISTRIBUTING CO., INC., ET AL.

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

*Docket C-2576. Complaint, Oct. 16, 1974—Decision, Oct. 16, 1974*

Consent order requiring an Omaha, Neb., retailer of sewing machines and other products, among other things to cease using deceptive contests and false pricing claims to sell sewing machines and other products.

*Appearances*

For the Commission: *F. Kelly Smith, Jr.*

For the respondents: *David S. Lathrop, Lathrop, Albracht & Dolan,*  
Omaha, Neb.

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

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Commission, having reason to believe that Oden Distributing Co., Inc., a corporation, and Donald W. Oden, individually and as an officer of said corporation, hereinafter sometimes 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 Oden Distributing Co., Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Nebraska, with its office and principal place of business located at 4814 Dodge Street, in the city of Omaha, State of Nebraska.

Respondent Donald W. Oden is an individual and an officer of the corporate respondent. He formulates, directs, and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale, and distribution of sewing machines and other products to the public.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused their products, when sold, to be shipped from their place of business in the State of Nebraska to purchasers thereof located in the State of Iowa and 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 business, and at all times mentioned herein, respondents have been, and now are, in substantial competition in commerce with corporations, firms, and individuals in the sale of sewing machines and other products and related services; said sewing machines and other products and services being of the same general kind and nature as those sold by respondents' competition.

PAR. 5. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their products and services, the respondents have made and are now making numerous statements and representations in newspapers, direct mail advertising, promotional materials, and by other means with respect to the prices, contests, promotional programs, prizes, characteristics, and guarantees of their merchandise.

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

You have been selected at random in your area to participate in the all new

60TH ANNIVERSARY JACKPOT

It's Fun! It's Easy! Remove the Lucky Pull Tab on this letter. You may have already hit the NECCHI Jackpot GRAND PRIZE or one of many other prizes. If you have a symbol shown at the bottom of the page, you are a WINNER.

YOUR JACKPOT UNDER TAB \_\_\_\_\_ PULL TAB

EXAMPLE: If you should have 3 NECCHI'S (GRAND PRIZE) you will receive a brand new SEWING MACHINE. THIS COMPLETE PORTABLE COMES EQUIPPED TO ZIG-ZAG, SEW FORWARD AND REVERSE, MONOGRAM, MAKE BUTTON-HOLES, OVERCAST, AND DO MOST NEEDED STITCHES.

The only requirement our company makes is that you take out a 3 year service warranty and instruction policy at \$1.50 per month. \* \* \*

\* \* \* \* \*

Here is your opportunity to SAVE! SAVE! SAVE! and beat the high cost of clothing the easy, simplified NECCHI-ALCO way. Yes, with the enclosed Introductory Credit Check you can own a world famous \* \* \* NECCHI or ALCO Sewing Machine at savings never before offered! \* \* \*

EXAMPLE:

NEW ZIG-ZAG SEWING MACHINE	\$99.50
Less Your Credit Check	<u>50.00</u>
YOUR TOTAL COST ONLY	\$49.50

\* \* \* \* \*

*You are one of a very special group to receive this offer*

Ask the people next door \* \* \* \* (sic)

\* \* \* \* (sic) Confirm the fact that their name is not in the group selected to receive this letter. \* \* \* \*

You are not a casual choice \* \* \* (sic) this letter was mailed to you after careful investigation of the Omaha area, its growth rate, residents buying habits, and the market potential of our product.

Here's what we intend to do for you and why! We want to place a certain number of our newest model sewing machines in selected homes like yours and for a very good reason. A company survey has shown that owners of our machines sell an average of two units (usually by referral to friends, relatives, etc.) within three years of purchase. Thousands of dollars could be spent advertising in newspapers, T.V., radio, etc., but we want instead to pass these large amounts directly to you.

Here's how \* \* \* (sic) a new ZIG ZAG equipped sewing machine that buttonholes, monograms, overcasts, sews reverse, darns-mends, and does most any sewing job regularly sells for \$149.95 (sic). This complete portable machine will be made available to you for a total cost of only \$44.95. A terrific direct savings to you of \$105. Budget terms available if you prefer. Remember \* \* \* (sic) your total cost is only \$44.95.

PAR. 6. Through the use of the statements and representations set forth above and others of similar import and meaning, not specifically set out herein, separately and in connection with the oral statements and representations of their employees, agents, and representatives, respondents:

1. Represented, directly or by implication, that they have conducted bona fide contests, used analytical or scientific sampling techniques, or conducted marketing studies of the Omaha, Nebraska/Council Bluffs, Iowa, metropolitan area.

2. Represented, directly or by implication, that they offered free sewing machines or other products and services;

3. Represented, directly or by implication, that purchasers of products or services advertised were afforded savings equal to the difference between higher and lower prices claimed or listed in said statements or other representations.

PAR. 6. In truth and in fact:

1. Respondents have not conducted bona fide contests, nor have they used analytical or scientific sampling techniques or marketing studies of the Omaha, Nebraska/Council Bluffs, Iowa, metropolitan area.

2. The offered sewing machines or other products and services are not free but are offered only upon the contingent purchase of other products, services, warranties or instruction policies from respondents.

3. Purchasers of products and services were not afforded savings from the prices at which identical products and services were sold or offered for sale by respondents in the recent, regular course of their business.

Therefore, the statements and representations as set forth in Paragraphs Five and Six hereof were and are unfair, false, misleading and deceptive.

PAR. 8. Through the use of aforesaid representations and others of similar import and meaning, not specifically set out herein, respondents have failed to disclose certain material facts. Respondents have stated that recipients of certain advertisements were eligible to receive free sewing machines when they were designated in a contest as grand prize winners or special discounts when they were designated as winners of lesser prizes; when, in fact, all or nearly all recipients of said advertisements were grand prize winners and such designation did not entitle them to a free sewing machine without purchase of additional products or services.

Respondents' failure to disclose either the percentage of winners in each contest category or the nature of contingent purchases necessary for receipt of free sewing machines or other products and services has the capacity and tendency to lead said recipients to believe they were winners of a contest which entitled them to valuable and rare prizes.

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

PAR. 9. The use by respondents of the aforesaid false, misleading, and deceptive statements, representations, and practices, and their failure to disclose material facts, has had, and now has, a capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations are true, and into the purchase of sewing machines and other products and services from respondents by reason of said erroneous and mistaken belief.

PAR. 10. The aforesaid acts and practices of respondents, as herein alleged, were all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce, and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

#### DECISION AND ORDER

The 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 Kansas City 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; 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 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 Oden Distributing Co., Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State

of Nebraska, with its office and principal place of business located at 4814 Dodge Street, city of Omaha, State of Nebraska.

Respondent Donald W. Oden 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 Oden Distributing Co., Inc., a corporation, its successors and assigns, and its officers, and Donald W. Oden, 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 the advertising, offering for sale, and sale of sewing machines and other products and services in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, orally or in writing, that recipients of any advertising or promotional material were selected on the basis of analytical or scientific sampling techniques, or by use of marketing studies, or by use of any other device unless such device or method was, in fact, employed as stated.

2. Failing to maintain records and data which are open to the inspection of the Federal Trade Commission and which evidence the method used and other relevant information in support of such representations of the type dealt with in Paragraph 1 above.

3. Representing, directly or by implication, orally or in writing, that any price is the respondents' regular price for any article of merchandise or service unless said amount is the price at which such merchandise or service has been sold or offered for sale by respondents for a reasonably substantial period of time in the recent, regular course of their business and not for the purpose of establishing fictitious higher prices upon which a deceptive comparison or a "free" or similar offer might be based.

4. Representing, directly or by implication, orally or in writing, that a purchaser of respondents' merchandise or services will receive a "free" sewing machine or any other "free" merchandise, service, prize or award unless all conditions, obligations, or other prerequisites to the receipt and retention of such merchandise,

services, gifts, prizes or awards are clearly and conspicuously disclosed at the outset in close conjunction with the word "free" wherever it first appears in each advertisement or offer.

5. Representing, directly or by implication, orally or in writing, that any merchandise or service is furnished "free" or at no cost to the purchaser of advertised merchandise or services, when, in fact, the cost of such merchandise or service is regularly included in the selling price of the advertised merchandise or service.

6. Representing, directly or by implication, orally or in writing, that a "free" offer is being made in connection with the introduction of new merchandise or services offered for sale at a specified price unless the respondents expect, in good faith, to discontinue the offer after a limited time and commence selling such merchandise or service, separately, at the same price at which it was sold with a "free" offer.

7. Representing, directly or by implication, orally or in writing, that merchandise or service is being offered "free" with the sale of merchandise or service which is usually sold at a price arrived at through bargaining, rather than at a regular price, or where there may be a regular price, but where other material factors such as quantity, quality, or size are arrived at through bargaining.

8. Representing, directly or by implication, orally or in writing, that a "free" offer is available in a trade area for more than six (6) months in any twelve (12) month period. At least thirty (30) days shall elapse before another such "free" offer is made in the same trade area. No more than three (3) such "free" offers shall be made in the same area in any twelve (12) month period. In such period, respondents' sale in that area of the product or service in the amount, size or quality promoted with the "free" offer shall not exceed fifty percent (50%) of the total volume of its sales of the product or service, in the same amount, size or quality, in the area.

9. Representing, directly or by implication, orally or in writing, that a product or service is being offered as a "gift," "without charge," "bonus," or by other words or terms which tend to convey the impression to the consuming public that the article of merchandise or service is free, when the use of the term "free" in relation thereto is prohibited by the provisions of this order.

10. Representing, directly or by implication, orally or in writing, that by purchasing any merchandise or service:

- a. Customers are afforded savings amounting to the difference between respondents' stated price and respondents' former price unless such merchandise has been sold or offered for

sale in good faith at the former price by respondents for a reasonably substantial period of time in the recent, regular course of their business.

b. Customers are afforded savings amounting to the difference between respondents' stated price and a compared price for said merchandise or service in respondents' trade area unless a substantial number of the principal retail outlets in the trade area regularly sell said merchandise or service at the compared price or some higher price.

c. Customers are afforded savings amounting to the difference between respondents' stated price and a compared value price for comparable merchandise or service, unless substantial sales of like grade and quality are being made in the trade area at the compared price or higher price and unless respondents have in good faith conducted a market survey or obtained a similar representative sample of prices in their trade area which establishes the validity of said compared price and it is clearly and conspicuously disclosed that the comparison is with merchandise or service of like grade and quality.

11. Failing to maintain and produce for inspection or copying for a period of three (3) years, adequate records (a) which disclose the facts upon which any savings claims, sale claims and other similar representations as set forth in Paragraph 10 of this order are based and (b) from which the validity of any savings claims, sales claims and similar representations can be determined.

12. Representing, directly or by implication, that respondents conduct contests, unless such contests are actually conducted and advertisements or notices concerning said contests fully, clearly, and conspicuously disclose each and every of the following delineated items:

a. The total number of prizes which will be awarded in each prize category.

b. The nature of the prizes together with their value, which value must be stated as the value at which the identical or substantially similar item was sold or offered for sale in good faith by respondents for a reasonably substantial period of time in the recent, regular course of their business.

c. The approximate numerical odds of winning each such prize; provided, however, that in a promotional device in which the odds cannot be determined with reasonable accuracy, respondents shall clearly and conspicuously disclose the approxi-

mate number of individuals to whom the promotional device is being disseminated if such fact may be reasonably determined.

d. All terms, conditions and obligations with which individuals will be asked to or must comply with in order to obtain a prize.

*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 respondents deliver a copy of this order to cease and desist to all of their present and future personnel engaged in the offering for sale, or sale of memberships, services, or any other products or services, 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 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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IN THE MATTER OF

AMERICAN ROOFING AND REMODELING CO.

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

*Docket C-2577. Complaint, Oct. 16, 1974—Decision, Oct. 16, 1974*

Consent order requiring a Newark, Calif., home improvement contracting firm, 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.

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*Appearances*For the Commission: *Paul D. Hodge.*For the respondent: *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 Richard A. Edson, trading and doing business as American Roofing and Remodeling Co., hereinafter referred to as respondent, has violated the provisions of said Acts and implementing regulation, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Richard A. Edson is an individual trading and doing business as American Roofing and Remodeling Co., with his principal office and place of business located at 5133 Ramsgate Drive, Newark, Calif.

PAR. 2. Respondent is now, and for some time last past has 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 in the installation thereof.

PAR. 3. In the ordinary course and conduct of his business, as aforesaid, respondent regularly extends, and for some time last past has regularly extended, 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, respondent, in the ordinary course of business as aforesaid, and in connection with credit sales, as "credit sale" is defined in Regulation Z, has caused and now is causing customers to enter into contracts for the purchase of respondent's home improvement products. On these contracts, hereinafter referred to as "the contract" respondent has provided certain consumer credit cost information, but has not provided his customers with certain other consumer credit cost disclosures.

PAR. 5. By and through the use of the contract, as set forth in Paragraph Four, respondent has failed to:

1. Disclose the date on which the finance charge begins to accrue

when different from the date of the transaction, as required by Section 226.8(b)(1) of Regulation Z.

2. Disclose the "annual percentage rate," using that term, in credit transactions where finance charges are imposed, as required by Section 226.8(b)(2) of Regulation Z.

3. Disclose the sum of all payments required, and describe that sum as the total of payments, as required by Section 226.8(b)(3) of Regulation Z.

4. Provide a description of the type of any security interest held or to be retained or acquired by the creditor in connection with the transaction, as required by Section 226.8(b)(5) of Regulation Z.

5. Identify the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation, as required by Section 226.8(b)(7) of Regulation Z.

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

7. Use the term "cash downpayment" to describe the downpayment in money made in connection with the transaction, as required by Section 226.8(c)(2) of Regulation Z.

8. 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.

9. Disclose all other charges, individually itemized, which are included in the amount financed but which are not part of the finance charge, as required by Section 226.8(c)(4) of Regulation Z.

10. Disclose the sum of the unpaid balance of cash price and all other charges and describe that sum as the unpaid balance, as required by Section 226.8(c)(5) of Regulation Z.

11. Use the term "amount financed" to describe the amount of credit extended, as required by Section 226.8(c)(7) of Regulation Z.

12. Disclose the "finance charge," using that term, as required by Section 226.8(c)(8)(i) of Regulation Z.

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

PAR. 6. By and through the use of the contract, as set forth in Paragraph Four, respondent retains or acquires a security interest in real property which is or is expected to be used as the principal residence of the customer. The customer thereby has the right to rescind the transaction, as provided in Section 226.9(a) of Regulation Z.

Respondent has failed, and is failing, to provide each customer, who has the right to rescind with the required notice prescribed by Section 226.9(b) of Regulation Z, as required by that Section.

PAR. 7. Pursuant to Section 103(q) of the Truth in Lending Act, respondent's aforesaid failures to comply with the provisions of Regulation Z constitute violations of that Act and, pursuant to Section 108 thereof, respondent has 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 respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the 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 Truth in Lending Act and the implementing regulation promulgated thereunder and 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 (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 Richard A. Edson is an individual trading and doing business as American Roofing and Remodeling Co., with his principal office and place of business located at 5133 Ramsgate Drive, Newark, 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 Richard A. Edson, an individual trading and doing business as American Roofing and Remodeling Co., or under any other name or names, and respondent's agents, representatives, and employees, successors and assigns, directly or through any corporation, subsidiary, division or other device, in connection with any extension or arrangement of consumer credit or advertisement to aid, promote, or assist directly or indirectly any arrangement or 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 date on which the finance charge begins to accrue when different from the date of the transaction, as required by Section 226.8(b)(1) of Regulation Z.

2. Failing to disclose the term "annual percentage rate," using that term, in credit transactions where finance charges are imposed, as required by Section 226.8(b)(2) of Regulation Z.

3. Failing to disclose the sum of all payments required, and describe that sum as the "total of payments," as required by Section 226.8(b)(3) of Regulation Z.

4. Failing to provide a description of the type of any security interest held or to be retained or acquired by the creditor in connection with the transaction, as required by Section 226.8(b)(5) of Regulation Z.

5. Failing to identify the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation, as required by Section 226.8(b)(7) of Regulation Z.

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

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

8. 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.

9. Failing to disclose all other charges, individually itemized, which are included in the amount financed but which are not part of the finance charge, as required by Section 226.8(c)(4) of Regulation Z.

10. Failing to disclose the sum of the unpaid balance of cash price

