

Complaint

85 F.T.C.

IN THE MATTER OF

BUSSY ENTERPRISES, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE  
FEDERAL TRADE COMMISSION AND TRUTH IN LENDING ACTS*Docket C-2656. Complaint, Apr. 22, 1975—Decision, Apr. 22, 1975*

Consent order requiring a La Mesa, Calif., mortgage brokerage business, 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: *George J. Gregores.*For the respondents: *Pro se.*

## COMPLAINT

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

PARAGRAPH 1. Respondent Bussy Enterprises, 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 8341 Lemon Ave., La Mesa, Calif.

Respondent Richard F. Bussy is an individual and officer of the corporate respondent. In that capacity, he formulates, directs, and controls the acts and practices hereinafter set forth. His business address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been engaged in arranging for the extension of credit through the operation of a mortgage brokerage business, which generally arranges, for a fee, for investors to lend money to consumers using real property as security for the performance of the obligation arising out of the transaction.

PAR. 3. In the regular course and conduct of their business as aforesaid respondents regularly arrange for the extension of consumer credit or offer to extend or arrange for the extension of such 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, in arranging for such consumer credit, respondents have failed to comply with the disclosure requirements of the Truth in Lending Act as defined and set forth in Regulation Z in that respondents have:

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

(b) Failed to retain evidence of compliance with the provisions of Regulation Z, for a two year period as prescribed by Section 226.6(i) of Regulation Z.

(c) Failed to provide the borrower with complete consumer credit cost disclosures before consummation of the transaction, as required by Section 226.8(a) of Regulation Z.

(d) Failed to set forth the finance charge expressed as an annual percentage rate, using the term "annual percentage rate," as prescribed by Section 226.8(b)(2) of Regulation Z.

(e) Failed to set forth the number, amount, due dates or periods of payments scheduled to repay the indebtedness and the sum of such payments using the term, "total of payments," and to identify the amount of any "balloon payment" and state the conditions, if any, under which a "balloon payment" may be refinanced if not paid when due, as prescribed by Section 226.8(b)(3) of Regulation Z.

(f) Failed to disclose the amount, or method of computing the amount, of any default, delinquency, or similar charges payable in the event of late payments, as prescribed by Section 226.8(b)(4) of Regulation Z.

(g) Failed to disclose and itemize all charges which are included in the amount of credit extended but which are not part of the finance charge using the term "amount financed," as prescribed by Section 226.8(d)(1) of Regulation Z.

(h) Failed to disclose the broker's fee as a prepaid finance charge, as required by Section 226.8(e)(1) of Regulation Z, using the term "prepaid finance charge," as prescribed by Section 226.8(d)(2) of Regulation Z.

(i) Failed to disclose and itemize the total amount of the finance charge using the term "finance charge," as prescribed by Section 226.8(d)(3) of Regulation Z.

PAR. 5. By the aforesaid failure to make disclosures and retain evidence of compliance, 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 Truth in Lending Act, respondents' aforesaid failure to comply with Regulation Z constitutes 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 Los Angeles Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the respondents with violation of the Federal Trade Commission Act, and of the Truth in Lending Act and the implementing regulation promulgated thereunder; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the 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 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 Bussy Enterprises, 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 8341 Lemon Ave., La Mesa, Calif.

Proposed respondent Richard F. Bussy is an officer of the corporate respondent. He formulates, directs and controls the policies, acts and

practices of the corporate respondent. His business is the same as that of the corporate respondent.

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 Bussy Enterprises, Inc., a corporation, its successors and assigns, and its officers, and Richard F. Bussy, 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 arrangement, offer to arrange, extension or advertisement of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR §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 make the required disclosures clearly, conspicuously, and in meaningful sequence, as prescribed by Section 226.6(a) of Regulation Z.

2. Failing to provide the borrower with complete consumer credit cost disclosures before consummation of the transaction, as required by Section 226.8(a) of Regulation Z.

3. Failing to set forth the finance charge expressed as an annual percentage rate, using the term "annual percentage rate," as prescribed by Section 226.8(b)(2) of Regulation Z.

4. Failing to set forth the number, amount, due dates or periods of payments scheduled to repay the indebtedness and the sum of such payments using the term, "total of payments," and to identify the amount of any "balloon payment" and state the conditions, if any, under which a "balloon payment" may be refinanced if not paid when due, as prescribed by Section 226.8(b)(3) of Regulation Z.

5. Failing to disclose the amount, or method of computing the amount, of any default, delinquency, or similar charges payable in the event of late payments, as prescribed by Section 226.8(b)(4) of Regulation Z.

6. Failing to disclose and itemize all charges which are included in the amount of credit extended but which are not part of the finance charge, using the term "amount financed," as prescribed by Section 226.8(d)(1) of Regulation Z.

7. Failing to disclose the broker's fee as a prepaid finance charge as required by Section 226.8(e)(1) of Regulation Z, using the term "prepaid finance charge," as prescribed by Section 226.8(d)(2) of Regulation Z.

8. Failing to disclose and itemize the total amount of the finance

charge using the term "finance charge," as prescribed by Section 226.8(d)(3) of Regulation Z.

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

*It is further ordered,* That the respondent corporation shall establish and maintain a file of copies of relevant executed documents for all future and post-Jan. 1, 1974, loan transactions, for inspection and review upon request by the Federal Trade Commission for a period of three years following the date of execution of the documents. Such documents shall include copies of the Truth in Lending Disclosure Form, Promissory Notes, Notice of Right of Rescission, and Escrow Instructions.

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

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

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

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Complaint

IN THE MATTER OF  
PETER SCZERBINSKI T/A BUDGET SERVICE  
COMPANY

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

*Docket C-2657. Complaint, Apr. 22, 1975 - Decision, Apr. 22, 1975*

Consent order requiring a Cranston, 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: *James S. Parker.*

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 Peter Sczerbinski, an individual trading and doing business as Budget Service Company, hereinafter referred to as respondent, has violated the provisions of said Acts and the implementing Regulation, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Peter Sczerbinski is an individual trading and doing business as Budget Service Company, with his office and principal place of business located at 1320 Cranston St., Cranston, R.I.

PAR. 2. Respondent is now, and for some time last past has 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 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 and conduct of his business as aforesaid, has caused and is causing to be

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

By and through the use of the statement, respondent:

1. 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.

2. 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.

3. 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.

4. Failed in some instances 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.

5. Provided 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(c) of Regulation Z.

6. 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, 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 Boston 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 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 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 Peter Sczerbinski is an individual trading and doing business as Budget Service Company, with his office and principal place of business located at 1320 Cranston St., Providence, R.I.

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 Peter Sczerbinski, an individual trading and doing business as Budget Service Company, or under any other name or names, his successors and assigns, and respondent's 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 "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.

2. 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.

3. 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.

4. 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.

5. Stating, utilizing or placing any additional information in conjunction with the disclosures required to be made by Regulation Z, which information misleads, confuses, contradicts, obscures or detracts attention from disclosure of information required to be disclosed by Regulation Z, in violation of Section 226.6(c) of Regulation Z.

6. 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.

7. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with Sections 226.4, 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 respondent deliver a copy of this order to cease and desist to all present and future personnel of respondent engaged in the consummation of any extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, and that respondent secure a signed statement acknowledging receipt of said order from each such person.

*It is further ordered,* That respondent promptly notify the Commission of the discontinuance of his present business or employment in those instances in which the respondent affiliates with any new business or employment which is engaged in the extension of consumer credit. 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 respondent herein shall within sixty (60) days after service upon him of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which he has complied with this order.

## IN THE MATTER OF

## GEORGIA AGENCY COMPANY, INC., ET AL.

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

*Docket C-2658. Complaint, Apr. 22, 1975 - Decision, Apr. 22, 1975*

Consent order requiring an Atlanta, Ga., seller of aerosol product distributorships and franchises, among other things to cease misrepresenting earnings and profits, nature of products, and survey results; making unsubstantiated advertising claims; and failing to disclose certain information, such as right-to-cancel provision and cooling-off period, prior to the signing of contracts.

*Appearances*

For the Commission: *Charles C. Murphy Jr.*

For the respondents: *John Feagin, Jr., Atlanta, Ga.*

## 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 Georgia Agency Company, Inc., a corporation, Richard A. Bryant, Jr. and Richard R. Royal, individually and as officers of said corporation and Doyle Fleming, an individual and principal stockholder of said corporation, 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:

PAR. 1. Respondent Georgia Agency Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with its principal office and place of business located in Suite 850, 8 Perimeter Pl., N.W., Atlanta, Ga.

Respondents Richard A. Bryant, Jr., Richard R. Royal, and Doyle Fleming are individuals and officers and/or stockholders of said corporation. Together they formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their 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 aerosol health and beauty aid products, fire extinguishers, lubricants and novelty items and in the advertising, offering for sale, and sale of

distributorships or franchises for said products to members of the public.

PAR. 3. In the course and conduct of their business, respondents cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of Georgia and their suppliers' places of business in the State of Georgia, and other States, to purchasers thereof located in various other States of the United States. In addition, in the course and conduct of their business, respondents have disseminated and caused to be disseminated in newspapers of interstate circulation, advertisements designed to be read by persons residing outside the State of Georgia and intended to induce such persons to enter into contractual agreements with respondents to purchase distributorships or franchises and products from respondents. Respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in products, distributorships or franchises in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business as aforesaid and for the purpose of inducing the purchase of their distributorships or franchises and products, respondents have made numerous statements and representations in promotional material and in newspaper advertisements. Persons responding to said advertisements are contacted by respondents or their representatives. Said respondents or their representatives, in soliciting the sale of said products, make various oral statements and representations concerning the business opportunities and benefits to be derived by purchasing said distributorships or franchises and products.

Among and typical, but not all inclusive, of the statements and representations made in newspapers, circulars, form letters, flyers and by other printed material given to prospective purchasers are the following:

IF YOU COULD EARN: \$50,000 ANNUALLY

Would you:

Work at least 3 days a week? Contact established accounts regularly? Distribute at wholesale level only, top nationally advertised products to drug, department, discount stores, etc.?

And if:

There were no selling, vending or employees? (Other than a manager, if you have other business interests)?

Could you:

Make an immediate decision? (Bring your wife, banker, lawyer or supervisor). Invest \$5,000 to \$10,000 (fully rebatable under contract)?

If so, call: Jan O'Connell 724-3410.

If unable to reach Jan O'Connell, call or write: The Georgia Agency Company, 8 Perimeter Place, N.W., Suite 850, Atlanta, Georgia 30339, (404) 432-0705.

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Complaint

WE'RE GOING TO PUT A LOCAL MAN IN BUSINESS \* \* \* HE MUST REQUIRE \$25,000 to \$50,000 per year and not just a job. Very few jobs pay \$50,000, but a lot of businesses do. One of them is ours \* \* \*

\* \* \* \* \*

We merchandise to leading drug stores, department stores, etc., the No. 2 most used personal product in America today, enhanced by the ten most coveted brand names in the industry. Only we offer this opportunity, and this you would have going for you if qualified\* \* \*

\* \* \* \* \*

LOOKING FOR A \$50,000 JOB?

There are not too many jobs paying \$50,000, but there are lots of businesses that do. One of them is ours and we are a national company in a Billion Dollar Business.

\* \* \* \* \*

DO NOT CALL ME UNLESS YOU QUALIFY!

We do not want a \$10,000 to \$20,000 per year man. You must desire and believe that \$100,000 per year and up can be made.

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

- A. Persons who purchase a distributorship or franchise from respondents can earn from \$25,000 to \$100,000 annually working part-time or full-time.
- B. Said earnings projections are the earnings made by a significant number of respondents' distributors or franchisees.
- C. Respondents obtain top sales producing locations such as leading department, discount, and drug stores for the placing of products purchased from them.
- D. Respondents' products are nationally advertised.
- E. A distributor's investment is fully refundable under the rebate provisions of respondents' contract.
- F. Respondents' goods contain well-known brand name products.
- G. Only respondents offer to sell distributorships to distribute the particular type of products they describe, to the exclusion of all others.

PAR. 6. In the course and conduct of their aforesaid business and for the purpose of inducing the purchase of distributorships or franchises and products, respondents, through their agents and representatives, have made and are now making, numerous oral statements and representations regarding ownership and operation of distributorships and franchises sold by respondents and the products supplied by respondents. Typical and illustrative of such statements and representations, but not all inclusive thereof, are the following:

A. A survey has been made of the market in which the prospective purchaser will operate.

B. The geographical territory granted to each distributor is exclusive.

C. The products of respondents are manufactured using an exclusive formula.

D. Respondents' products are fast moving and easy to sell.

E. A list given to a prospective distributor contains names and telephone numbers of successful distributors of respondents located in various major cities in the United States.

F. \$60 of the prospective distributor's investment is used to pay for a "back up inventory."

G. Many retail accounts secured by respondents will pay cash when the respondents' products are placed in their place of business.

PAR. 7. In truth and in fact:

With respect to advertising representations:

A. Few, if any, persons who purchased a distributorship or franchise from respondents earned from \$25,000 to \$100,000 annually working part-time or full-time.

B. Respondents' claimed earnings projections are far in excess of the earnings of most, if not all, persons who purchased and operated respondents' distributorships or franchises.

C. Respondents do not obtain top income producing locations, but place most of the accounts in small stores which have very little consumer traffic. The locations secured by respondents are few in number and usually undesirable, unsuitable and unprofitable.

D. Respondents do not conduct any national advertising of their products and have no control over the extent to which their distributors conduct product advertising.

E. A distributor's investment is not functionally refundable under the terms of the distributor's contract with the respondents, and few, if any, distributors have received a full refund of their investment under the contractual provisions of respondents' contract.

F. Name brand products are not contained in respondents' products, but instead synthetically-prepared substances which simulate brand-name fragrances such as, but not limited to Arpege, Chanel 5, Joy, Estee Lauder, Shalimar, White Shoulders, Intimate, Jade East, English Leather, Canoe and Brut are used in the manufacture of respondents' products.

G. At least one company other than respondents offers products or distributorships to sell products the same as or similar to the products distributed by respondents.

With respect to oral representations:

A. Seldom, if ever, have respondents made a survey of the market in which the

prospective purchaser intends to operate, prior to the contact by the salesman or thereafter.

B. The geographic territory granted to distributors is not exclusive, but is sometimes granted by respondents to from one to three other distributors.

C. The formula employed in the manufacture of the products sold by respondents is not exclusive to the respondents' products but is used by at least one other company in its aerosol products.

D. The aerosol products sold to distributors are not fast-moving and easy to sell, but are an off-brand and usually undesirable to consumers.

E. The list given to prospective distributors did not contain names of distributors of respondents, successful or otherwise, but were instead so-called "singers" or individuals set up by respondents to represent and hold themselves out as prosperous and successful distributors.

F. The \$60 per account "back up inventory" charge is not used by respondents to purchase and warehouse products for their distributors but is merely an added cost for which distributors receive no consideration.

G. Few, if any, retail accounts secured by respondents' representatives pay cash for respondents' products, but on the contrary, most, if not all, secured accounts are specifically told that the distributor is placing the product on a "consignment only" basis.

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

PAR. 8. In addition to the foregoing statements, representations, acts and practices, respondents have engaged in the solicitation and sale of distributorships requiring a substantial outlay of money from persons with little or no previous experience in such business without affording such persons the right to cancel such contracts of sale without penalty for a period of not less than five (5) business days following the finalization of such transaction.

Therefore, the solicitation of distributorship contracts without allowing for cancellation within a reasonable time constitutes an unfair practice where such contract involves substantial monetary obligations on the part of persons with little or no experience in the type of business arrangement sold by respondents.

PAR. 9. In addition to the foregoing statements, representations, acts and practices, respondents usually and normally require payment in full of the contract price by distributors prior to fulfilling their contractual obligations including, but not limited to, establishing locations and delivering merchandise.

Therefore, the requirement that distributors pay the full contractual price prior to the performance of contractual obligations by respondents under the circumstances and conditions herein alleged constitutes an unfair practice.

PAR. 10. The use by respondents of the aforesaid unfair, false, misleading and deceptive statements, representations and practices, has had the capacity and tendency to mislead members of the public.

