IN THE MATTER OF

BANKERS LIFE AND CASUALTY COMPANY, ET AL.

Docket 9075. Interlocutory Order, Jan. 3, 1979

ORDER AFFIRMING ORDER OF ADMINISTRATIVE LAW JUDGE AMENDING COMPLAINT TO SUBSTITUTE EXECUTRIX

Administrative Law Judge Lewis F. Parker (the "ALJ") has certified for review by the Commission an order he entered on October 11, 1978, substituting as a party in this proceeding the executrix of the estate of a deceased respondent. The executrix has appealed from the ALJ's order, contending that the action against her decedent abated as a matter of law with his death and that, in any event, substitution is improper where the only relief presently sought by complaint counsel is injunctive in nature and where no determination of liability had been made by the ALJ prior to respondent's death. For the reasons set forth below, we affirm the ALJ.

Albert R. Linnick, who was named in the complaint individually and as an officer of three corporations, died in January 1978. Complaint counsel thereafter moved to amend the complaint by substituting Alice Holguin, executrix of Mr. Linnick's estate, for Mr. Linnick. Notwithstanding that the complaint itself seeks only a cease-and-desist order against Mr. Linnick, complaint counsel desire the amendment because, if they prevail herein, the complaint (Par. 25) indicates their intention to ask the Commission to file suit against respondents in U.S. District Court to obtain restitution on behalf of consumers under Section 19 of the F.T.C. Act. Accordingly, complaint counsel assert that the executrix of Mr. Linnick's estate, who is now custodian of his assets, must be substituted as a party in order to facilitate making accurate findings with respect to Mr. Linnick's conduct and in order to preserve access to his assets. To lay the foundation for such a Section 19 action, complaint counsel, on behalf of the Commission, have also filed a contingent claim against Mr. Linnick's estate in probate court.[1]

We believe, as did the ALJ, that proper disposition of this case is largely controlled by the Commission's decision in *Holiday Magic,*

[1] The executrix's arguments regarding the propriety of that claim are not properly addressed to the Commission. Hence, we do not reach them here.

Inc., 84 F.T.C. 347 (1974). In that case, following the death of a respondent, the Commission ordered substitution of his executor into the litigation, specifically holding that the Section 5 cause of action had not abated because there remained a prospect of recovery of funds from his estate for the purpose of providing redress to injured consumers. The Commission assessed the Federal Survival Statute, 28 U.S.C. 2404, and the Federal common law in *Holiday Magic,* and concluded that an equitable action seeking, in part, redress to consumers did not abate. We see no reason to disturb that holding here, and we specifically find that in the instant case, amendment of the complaint will effectuate one of the Commission's initial purposes in issuing that complaint, *viz.* to reach assets with which redress may be made to consumers, assuming liability is first established. Hence, we hold that the pending action did not abate with Mr. Linnick's death.

The executrix protests, however, that two features distinguish *Holiday Magic* from this case. First, she notes that the Section 5 complaint in *Holiday Magic,* unlike the complaint in the instant case, expressly included redress to consumers as a part of the relief sought therein. Second, she notes that the ALJ in *Holiday Magic* had already entered his initial decision finding violations on the part of respondents, whereas in the instant case the trial has not yet begun. We find these distinctions to be without significance.

With respect to the first asserted distinction, the difference between the complaints is wholly a product of an amendment to the Commission's statutory scheme and does not imply a distinction with respect to complaint counsel's ultimate objectives in the two cases. The decision in *Heater* v. *F.T.C.,* 503 F.2d 321 (9th Cir. 1974), and the 1975 amendment of the F.T.C. Act in response thereto, led to a change in Commission procedure with respect to seeking restitution for injured consumers. *Heater* held, contrary to the Commission's argument, that Section 5 of the F.T.C. Act did not include authority for complaint counsel to seek or for the Commission to order restitution to consumers. Rather, the court said, that section limited the Commission primarily to issuance of injunctive, cease-and-desist orders.[2] Thereafter, the F.T.C. Act was amended by the Congress in 1975 to add Section 19, which authorizes the Commission, *inter alia,* to file suit in U.S. District Court to seek restitution, once there is outstanding against a respondent a final Commission cease-and-desist order. In light of both the amended statutory scheme and the doubts raised by *Heater,* customary Commission practice was modi-

[2] Certain exceptions to this principle were set out by the court at 323, n.7.

fied so that redress is now ordinarily sought only in Section 19 proceedings. Current Commission practice is thus necessarily at variance with that which was extant at the time of *Holiday Magic,* the complaint in which antedated *Heater, supra.*

We therefore reject the executrix's argument. By giving notice in the complaint that restitution may be sought under Section 19, the Commission has adequately indicated that redress is an objective. It is of no moment that the Section 5 complaint itself seeks no more than a cease-and-desist order. To be sure, the Commission's interest in restraining Mr. Linnick from engaging in continued unfair or deceptive practices ended with his death, but the same cannot be said with respect to the Commission's continued interest in assets which may have been unlawfully acquired by him as a consequence of violations of the Federal Trade Commission Act. As the ALJ noted, respondent's death does not preclude findings with respect to his activities, which findings may be the predicate for a subsequent Section 19 action, notwithstanding the absence of a cease-and-desist order specifically directed against the decedent. Accordingly, the post-1975 form of actions such as this cannot be a ground for excusing Mr. Linnick's successor in interest, his estate.

With respect to the second distinction advanced by the executrix, we find the timing of issuance of the initial decision to be without importance. Concededly, the ALJ in *Holiday Magic* had already issued an initial decision finding the decedent to have violated the law, but the absence of that factor in this case cannot be controlling. Substitution of estates as parties cannot be limited solely to those estates whose decedents have already been adjudged to have violated the law, but must encompass as well the estates of those decedents who may have violated the law, and if so, whose assets may be available to provide redress to injured consumers. Thus, the amendment to the complaint merely serves to ensure that the potential Section 19 action will not be frustrated by the death of Mr. Linnick.

The executrix raises other jurisdictional, due process and collateral objections, but we find these to be without merit and to have been adequately answered by the administrative law judge. Accordingly,

It is ordered, That Order of October 11, 1978 by Administrative Law Judge Lewis F. Parker amending the complaint by substituting Alice Holguin, executrix of the estate of Albert R. Linnick, for decedent respondent Albert R. Linnick be, and it hereby is, affirmed.

IN THE MATTER OF

THE ADVERTISING CHECKING BUREAU, INC.

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

Docket C-2947. Complaint, January 4, 1979 — Decision, January 4, 1979

This consent order, among other things, requires a New York City administrator and auditor of cooperative advertising programs to cease designing or implementing cooperative advertising programs for their clients which limit or restrict the rights of dealers to obtain cooperative advertising allowances for merchandise they have advertised or sold at other than regular or suggested retail prices.

Appearances

For the Commission: *Jeffrey Klurfeld.*

For the respondent: *Michael W. Palmer, Baker & McKenzie,* San Francisco, Calif. and *Abner J. Golieb, Golieb & Golieb,* New York City.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, 15 U.S.C. 41, *et seq.,* and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that The Advertising Checking Bureau, Inc. has violated the provisions of Section 5 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 as follows:

PARAGRAPH 1. Respondent The Advertising Checking Bureau, Inc. ("ACB") is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business at 353 Park Ave. South, New York, New York. ACB is the parent corporation of four corporate subsidiaries which respectively maintain offices in Chicago, Illinois; San Francisco, California; Memphis, Tennessee; and Columbus, Ohio.

For purposes of this complaint, the following definitions shall apply:

"Client" is defined as any person, partnership, corporation or firm which has retained The Advertising Checking Bureau, Inc. to conduct, administer or audit, or to assist in the design or implementation of, any cooperative advertising program or portion thereof.

"Dealer" is defined as any person, partnership, corporation or firm which is eligible to participate in any client's cooperative advertising program.

PAR. 2. ACB is now and has been for many years engaged in administering or auditing cooperative advertising programs on behalf of clients; it has also assisted in the design or implementation of such programs. ACB has been retained by over 400 prominent manufacturers of branded products to perform cooperative advertising services. Sales of these clients' products represent a significant volume of commerce in such industries as wearing apparel, footwear, cosmetics and watches. Annually, ACB processes over one million claims for cooperative advertising allowances that are submitted by dealers of these clients. In addition to its cooperative advertising services, ACB monitors newspapers to determine the content and frequency of advertisements disseminated by a company's dealers and those of a competitor's dealers. In this connection, it offers a tearsheet service and prepares comprehensive retail store advertising reports.

PAR. 3. The acts and practices of ACB are in or affect commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Except to the extent that competition has been hindered, frustrated, lessened and eliminated as set forth herein, every client's dealers have been and are now in substantial competition with other dealers of the same client.

PAR. 5. ACB has assisted clients to design or implement, or has itself administered or audited on behalf of clients, cooperative advertising programs or plans which limit or restrict the rights of dealers to obtain cooperative advertising credits or allowances for any merchandise which has been:

a. Sold or advertised at other than the dealers' regular selling price.

b. Sold or advertised at a sale price, at a discount price, at a promotional price, at a reduced price, at an off-price, or at a markdown.

c. Sold or advertised at less than the suggested retail price, at less than the preticketed price, or at less than any minimum resale price.

d. Sold or advertised using a price comparison.

PAR. 6. The administering or auditing by respondent, or respondent's assisting in the design or implementation of, cooperative advertising programs or plans with any of the limitations or restrictions described in Paragraph Five hereinabove has the capacity, tendency and effect of establishing, maintaining, fixing, stabilizing or otherwise illegally influencing the resale prices of

dealers in clients' products, and has had and still has the capacity, tendency and effect of hindering, suppressing or eliminating competition between or among those dealers selling a client's products.

PAR. 7. The aforesaid acts and practices of respondent have injured, hindered, suppressed, lessened or eliminated actual and potential competition in a wide variety of products, and thus are to the prejudice and injury of the public; and constitute unfair methods of competition in or affecting commerce or unfair acts and practices in or affecting commerce, in violation of Section 5 of the Federal Trade Commission 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 San Francisco Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the respondent with violation of the Federal Trade Commission Act; and

The respondent, its attorneys, 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, and having duly considered the comments filed thereafter by interested persons pursuant to Section 2.34 of its Rules, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent The Advertising Checking Bureau, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 353 Park Ave. South, in the City of New York, State of New York.

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

For the purposes of this order, the following definitions shall apply:

"Client" is defined as any person, partnership, corporation or firm which has retained The Advertising Checking Bureau, Inc. to conduct, administer or audit, or to assist in the design or implementation of any cooperative advertising program or portion thereof.

"Dealer" is defined as any person, partnership, corporation or firm which is eligible to participate in any client's cooperative advertising program.

I

It is ordered, That respondent The Advertising Checking Bureau, Inc., a corporation, its successors and assigns, and respondent's officers, agents, representatives and employees, directly or indirectly, or through any corporation, subsidiary, division or other device, in connection with the designing, implementing, conducting, administering or auditing of any cooperative advertising program, or portion thereof, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall cease and desist from:

Designing, implementing, conducting, administering or auditing any plan, program or scheme, in whole or in part, in such manner as to restrict, condition or limit the right of any dealer to obtain cooperative advertising credits or allowances because of any of the following:

a. Selling or advertising any product at other than the dealer's regular selling price.

b. Selling or advertising any product at a sale price, at a discount price, at a promotional price, at a reduced price, at an off-price, or at a mark-down.

c. Selling or advertising any product at less than the suggested retail price, at less than the preticketed price, or at less than any minimum resale price.

d. Selling or advertising any product using comparative prices.

II

Any cooperative advertising plan or program which limits or restricts any dealer from obtaining cooperative advertising credits or

allowances for the advertising of close-outs, irregulars or seconds shall not be deemed to violate this order.

III

It is further ordered, That respondent shall:

1. Within thirty (30) days after service of this order, mail under separate cover a copy of this order and complaint to every client whose cooperative advertising program is designed, implemented, conducted, administered or audited by respondent in such manner as to restrict, condition or limit the right of any dealer to obtain cooperative advertising credits or allowances because of any of the restrictions or limitations contained in Paragraph I hereinabove. An affidavit of mailing shall be sworn to by an official of respondent verifying that said mailing was performed.

2. Within sixty (60) days after service of this order, distribute a copy of this order to each of its operating divisions and subsidiaries and to all officers, sales personnel and auditing personnel, and secure from each such entity or person a signed statement acknowledging receipt of said order.

IV

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

V

It is further ordered, That respondent 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.

IN THE MATTER OF

KELCOR CORPORATION, ET AL.

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

Docket C-2948. Complaint, Jan. 8, 1979 — Decision, Jan. 8, 1979

This consent order, among other things, requires a Dallas, Tex. finance company to cease, in connection with the extension of consumer credit, failing to compute finance charges and provide relevant disclosures in the manner and form required by Federal Reserve System regulations.

Appearances

For the Commission: *Richard Gateley.*

For the respondents: *T. Kellis Dibrell, Dibrell, Dotson & Dibrell,* San Antonio, Texas.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and the Truth in Lending Act and the regulations promulgated thereunder and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Kelcor Corporation, a corporation, and C. K. Wingo, 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, 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 Kelcor Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business located at 907 Hedrick Building, San Antonio, Texas.

Respondent Kelcor Corporation does not engage in any consumer loan transactions itself, but operates through wholly-owned subsidiary offices located in the States of Texas, Louisiana and Oklahoma. Each subsidiary is incorporated in the respective state in which it is located under such names as Family Plan Corporation, Credit Plan Corporation, Credit Plan Corporation of Houston, Credit Plan Corporation of Corpus Christi, Credit Plan Corporation of Fort Worth, Mutual Plan Corporation, Mutual Plan of Tulsa, Inc., or Mutual Plan Corporation of Shreveport.

Respondent C. K. Wingo is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent and its subsidiaries, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

Respondents Kelcor Corporation and C. K. Wingo formulate and control the policies, acts and practices of each of the wholly-owned subsidiaries, including the acts and practices hereinafter set forth.

The aforementioned respondents and their subsidiaries cooperate and act together in carrying out the acts and practices hereinafter set forth.

PAR. 2. Respondents, by and through their corporate subsidiary structure, are now and have been engaged in the offering to extend, and the extension of, consumer credit to the public including the financing and the granting of consumer loans.

COUNT I

Charging violations of Section 5 of the Federal Trade Commission Act and the Truth in Lending Act, the allegations of Paragraphs 1 and 2 hereof are incorporated by reference in Count I as if fully set forth verbatim.

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

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

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

A. Prior to presenting the loan disclosure statement to the consumer, respondents automatically include the cost of credit life and accident and health insurance on such statement, and unless the consumer specifically objects to the inclusion of the charges for such insurance, the coverage becomes part of the credit transaction.

B. In some instances, respondents' have placed a check-mark, an "x" mark or some other mark next to blank lines on the loan disclosure statement to obtain borrower's signatures for credit life and accident and health insurance and/or have placed the date in

the designated position in the insurance disclosure portion of said statement without permission or authority of the consumer.

C. Respondents record the charges for credit life and accident and health insurance as disbursements and these charges become part of the amount financed, but are excluded from the finance charge in computing the annual percentage rate, as "finance charge" and "annual percentage rate" are defined in Regulation Z.

PAR. 5. By and through the acts and practices described in Paragraph 4, and others of similar import, meaning and consequence, but not specifically set forth herein, respondents, in a substantial number of instances, and particularly in connection with the sale of credit life and accident and health insurance, obtain consumers' signatures through acts and practices which operate, directly or indirectly, to defeat the elective language on the loan disclosure statements by obscuring from consumers knowledge about the option. In some instances, respondents lead consumers to believe that their signatures are necessary solely for the purpose of obtaining credit. In other instances, respondents allow consumers to sign the loan disclosure statement, electing insurance, in the mistaken belief that such insurance is required by respondents. Respondents also discourage the declination of the insurance coverage when it is questioned. These acts and practices have the effect of preventing substantial numbers of consumers from exercising their own independent, voluntary choice whether to obtain credit life and accident and health insurance.

Therefore, respondents, in a substantial number of instances, induce consumers to incur charges for credit life and accident and health insurance without said consumers making a knowing, affirmative election to have such insurance and, thereby, respondents fail to obtain from each of their customers a "specifically dated and separately signed affirmative written indication of [their] desire" to obtain such insurance, as required by Section 226.4(a)(5) of Regulation Z, in spite of the existence of language to the contrary in the loan disclosure statement.

PAR. 6. By and through the acts and practices described in Paragraphs 4 and 5 hereof, respondents fail to include the charges for credit life and accident and health insurance in the finance charge when a specific dated and separately signed affirmative written indication of the consumers desire for such insurance has not been obtained, as required by Section 226.4(a)(5) of Regulation Z, and thereby respondents:

A. Fail to compute and disclose accurately the "finance charge" as required by Sections 226.4 and 226.8 of Regulation Z; and

B. Fail to compute and disclose accurately the "annual percentage rate" accurately to the nearest quarter of one percent, in accordance with Section 226.5, as required by Section 226.8 of Regulation Z.

PAR. 7. In the further course and conduct of their business as aforesaid and particularly in connection with their extensions of consumer credit, respondents write an insurance policy that is denominated "Cash Benefit Hospital Policy." The charge for said policy is imposed directly or indirectly by respondents as an incident to or as a condition of the extension of credit. The charges or premiums are usually paid by the consumer from the proceeds of such consumer's loans to respondent C. K. Wingo, who also does business as Eustace Insurance Agency, a sole proprietorship. Respondents do not include the charge or premium for said insurance in the finance charge.

Therefore, respondents are violating Sections 226.4 and 226.8 of Regulation Z, by failing to include the charge for the "Cash Benefit Hospital" insurance in the finance charge and by failing to specifically disclose such charge as an element of the finance charge.

PAR. 8. By and through respondents' failure to include the charge for the "Cash Benefit Hospital" insurance in the finance charge as described in Paragraph 7, respondents:

A. Fail to compute and disclose accurately the "finance charge" as required by Sections 226.4 and 226.8 of Regulation Z; and

B. Fail to compute and disclose accurately the "annual percentage rate" accurately to the nearest quarter of one percent in accordance with Section 226.5, as required by Section 226.8 of Regulation Z.

PAR. 9. 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(c) thereof, respondents have thereby violated and are violating the Federal Trade Commission Act.

COUNT II

Charging violations of Section 5 of the Federal Trade Commission Act, the allegations of Paragraphs 1 and 2 hereof are incorporated by reference in Count II as if fully set forth verbatim.

PAR. 10. In the course and conduct of their aforesaid business, respondents now cause and have caused, monies, contracts, business

forms and other commercial paper and printed materials in connection with consumer financing and the granting of consumer loans to be sent by United States mail from respondents' principal place of business in the State of Texas to their subsidiary corporations located in various other States of the United States, and maintain and at all times have maintained a substantial course of trade in services in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended.

PAR. 11. In a substantial number of instances, respondents charge consumers for household goods-fire insurance written in connection with consumer loans. Typical and illustrative, but not all inclusive of the circumstances in which such charges are incurred are the following:

A. Prior to presenting the loan disclosure statement to the consumer, respondents' include the charge for household goods–fire insurance in the amount financed. Unless the consumer specifically objects to the inclusion of the charges for such insurance, the coverage becomes part of the credit transaction.

B. Respondents do not provide a place on the loan disclosure statement for the consumer to indicate his desire to obtain the household goods–fire insurance from or through respondents.

C. Respondents represent, directly or by implication, that the consumer must obtain household goods–fire insurance from or through respondents.

D. Respondents fail to disclose the cost of such insurance clearly and conspicuously in conjunction with the insurance disclosure portion in their loan disclosure statement.

PAR. 12. By and through the acts and practices described in Paragraph 11, and others of similar import, meaning and consequence but not specifically set forth herein, respondents, in a substantial number of instances, lead consumers to believe that household goods-fire insurance must be purchased from or through respondents or that such insurance is an intregal part of the entire agreement, not necessitating a separate decision, despite language to the contrary in the loan disclosure statement. These practices have the effect of preventing substantial numbers of consumers from exercising their own independent, voluntary choice whether to obtain household goods-fire insurance through respondents or whether to obtain it through other agents.

Therefore, the acts and practices set forth in Paragraph 10 are false, misleading, deceptive and unfair and a violation of Section 5 of the Federal Trade Commission Act.

PAR. 13. In the course and conduct of their business, and at all times mentioned herein, respondents have been in substantial competition, in or affecting commerce, with corporations, firms and individuals in the sale of services of the same general kind and nature as those sold by respondents.

PAR. 14. The use by respondents of the aforesaid unfair, false, misleading or deceptive acts and practices, and their failure to disclose certain facts, as alleged above, has had and now has the capacity and tendency to mislead members of the public into the erroneous and mistaken belief that those statements and representations were and are true and complete, and into the purchase of and payment for household goods-fire insurance written in connection with consumer loans by reasons of said erroneous and mistaken beliefs.

PAR. 15. The aforesaid acts and practices of respondents, as herein alleged, are all to the prejudice and injury of the public and of respondents' competitors and constitute unfair methods of competition in or affecting commerce and unfair and deceptive acts and practices in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act, as amended, (15 U.S.C. 45).

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 Dallas Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violations of the Truth in Lending Act and the regulation promulgated thereunder and violations 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 respondents of all jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for the 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 said Acts, and that complaint should issue stating its charges in that respect and having thereupon accepted the executed