

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

**COMMISSIONERS: William E. Kovacic, Chairman
Pamela Jones Harbour
Jon Leibowitz
J. Thomas Rosch**

In the Matter of)
)
)
AMERICAN NATIONWIDE)
MORTGAGE COMPANY, INC.,)
) **DOCKET NO. C-4249**
)
a corporation.)

DECISION AND ORDER

The Federal Trade Commission having conducted 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 complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act (“FTC Act”), the Truth in Lending Act (“TILA”), and TILA’s implementing Regulation Z; and

The respondent and counsel for the Federal Trade 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 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 the complaint, or that the facts as alleged in such complaint, other than the jurisdictional facts, are true, 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 FTC Act and the Truth in Lending Act and its implementing Regulation Z, and that a 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 thirty (30) days, 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 American Nationwide Mortgage Company, Inc., is a Florida corporation with its principal office or place of business at 3820 Northdale Blvd., Suite 111A, Tampa, FL 33624.
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

DEFINITIONS

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

1. “Advertisement” shall mean a commercial message in any medium that promotes, directly or indirectly, a credit transaction. Section 226.2(a)(2) of Regulation Z, 12 C.F.R. § 226.2(a)(2), as amended.
2. “Clearly and conspicuously” shall mean as follows:
 - (A) In a print advertisement, the disclosure shall be in a type size, location, and in print that contrasts with the background against which it appears, sufficient for an ordinary consumer to notice, read, and comprehend it.
 - (B) In an electronic medium, an audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. A video disclosure shall be of a size and shade, and appear on the screen for a duration, and in a location, sufficient for an ordinary consumer to read and comprehend it.
 - (C) In a television or video advertisement, an audio disclosure shall be

by the creditor) is generally made available to the extent that any outstanding balance is repaid. Sections 226.2(a)(10) and (20) of Regulation Z, 12 C.F.R. §§ 226.2(a)(10) and (20), as amended.

4. “Consumer” shall mean a natural person to whom consumer credit is offered or extended. Section 226.2(a)(2) of Regulation Z, 12 C.F.R. § 226.2(a)(2), as amended, and Section 103(h) of the TILA, 15 U.S.C. § 1602(h), as amended.
5. “Consumer credit” shall mean credit offered or extended to a consumer primarily for personal, family, or household purposes. Section 226.2(a)(12) of Regulation Z, 12 C.F.R. § 226.2(a)(12), as amended.
6. “Commerce” shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

I.

IT IS ORDERED that American Nationwide Mortgage Company, Inc., a corporation (“respondent”), its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with any advertisement to promote, directly or indirectly, any extension of closed-end credit, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, about the monthly payment amount, unless it discloses, clearly and conspicuously, and in close proximity to such representation, as applicable, that the advertised low monthly payment amount: (1) applies only for a limited period of time, after which the monthly payment amount will increase; (2) does not include the amount of interest that the consumer owes each month; and (3) is less than the monthly payment amount (including interest) that the consumer owes, with the difference added to the total amount due from the consumer.

II.

IT IS FURTHER ORDERED that respondent, its successors and assigns, and its officers

extension of closed-end credit, in or affecting commerce, shall not, in any manner, expressly or by implication, misrepresent:

The nature and/or extent of the variability of any loan rate or payment amount, including but not limited to:

- A. an interest rate or annual percentage rate;
- B. whether it is fixed rather than adjustable or adjustable rather than fixed; and
- C. for an interest rate or payment amount, the duration, or reasonably anticipated duration, of the fixed or variable interest rate or payment amount.

IV.

IT IS FURTHER ORDERED that respondent, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with any advertisement to promote, directly or indirectly, any extension of closed-end credit shall not, in any manner, expressly or by implication, state the amount of any payment, the number of payments or the period of repayment, or the amount of any finance charge, unless it discloses, clearly and conspicuously:

- A. The terms of repayment;
- B. The “annual percentage rate” or “APR,” using that term; and
- C. If the annual percentage rate may be increased after consummation, that fact;

as required by Sections 107 and 144(d) of the TILA, 15 U.S.C. §§ 1606 and 1664(d), as amended; and Sections 226.22 and 226.24(c) of Regulation Z, 12 C.F.R. §§ 226.22 and 226.24(c), until October 1, 2009, and thereafter codified as Sections 226.22 and 226.24(d), 12 C.F.R. §§ 226.22 and 226.24(d), as amended.

V.

IT IS FURTHER ORDERED that respondent, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with any advertisement to promote, directly or indirectly, any extension of closed-end credit shall not, in any manner, expressly or by implication, state a rate of finance charge without:

- A. Clearly and conspicuously stating the rate as an “annual percentage rate” or “APR,” using that term; and
- B. If the rate is a simple annual rate, stating it in conjunction with, but not more conspicuously than, the “annual percentage rate;”

as required by Sections 107 and 144(c) of the TILA, 15 U.S.C. §§ 1606 and 1664(c), as amended; and Sections 226.22 and 226.24(b) of Regulation Z, 12 C.F.R. §§ 226.22 and 226.24(b), until October 1, 2009, and thereafter codified as Sections 226.22 and 226.24(c), 12 C.F.R. §§ 226.22 and 226.24(c), as amended.

VI.

IT IS FURTHER ORDERED that respondent, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with any advertisement to promote, directly or indirectly, any extension of consumer credit shall not, in any manner, fail to comply in any respect with Regulation Z, 12 C.F.R. § 226, as amended, and the TILA, 15 U.S.C. §§ 1601-1667, as amended.

VII.

IT IS FURTHER ORDERED that respondent, its successors and assigns, and its officers, agents, representatives, and employees, shall, for five (5) years after the last date of dissemination of any representation covered by this Order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. All advertisements and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation, including but not limited to drafts, storyboards, and transcripts;
- C. All tests, reports, studies, surveys, demonstrations, or other evidence in its possession or control that contradict, qualify, or call into question the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations;
- D. Accounting records that reflect the consumer credit or mortgage loans extended or referred to other entities for extension of credit, revenues generated, and the disbursement of such revenues;
- E. Records maintained in the ordinary course of business reflecting during the employment, i.e., the name, physical address, and telephone number of each person employed by respondent, and its successors and assigns, including as an independent contractor, with responsibilities relating to compliance with this Order; that person's job title or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable;
- F. Complaints and refund requests relating to any consumer credit or mortgage loans offered or extended (whether received directly, indirectly or through any third party) and any responses to those complaints or requests;

XI.

This Order will terminate on February 17, 2029, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the Order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this Order that terminates in less than twenty (20) years;
- B. This Order's application to any respondent, or any of its successors or assigns, that is not named as a defendant in such complaint; and
- C. This Order if such complaint is filed after the Order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that the respondent, or its successors or assigns, did not violate any provision of the Order, and the dismissal or ruling is either not appealed or upheld on appeal, then the Order will terminate according to this Part as though the complaint had never been filed, except that the Order will not terminate if the respondent or its successors or assigns files a new complaint within the time period specified in the Order.