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Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

SUBCHAPTER A—PROCEDURES AND RULES OF PRACTICE

[Docket No. C-1814]

PART 13—PROHIBITED TRADE PRACTICES

Century Brick Corporation of America et al.

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections:* 13.15–270 Size and extent; § 13.50 *Dealer or seller assistance;* § 13.60 *Earnings and profits;* § 13.75 *Free goods or services;* § 13.85 *Government approval, action, connection or standards:* 13.85–27 Federal Housing Administration; § 13.185 *Refunds, repairs and replacements;* § 13.260 *Terms and conditions.* Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1555 *Size, extent or equipment;* Misrepresenting oneself and goods—Goods: § 13.1608 *Dealer or seller assistance;* § 13.1615 *Earnings and profits;* § 13.1625 *Free goods or services;* § 13.1645 *Government standards or specifications;* § 13.1725 *Refunds;* § 13.1760 *Terms and conditions.* Subpart—Securing agents or representatives by misrepresentation: § 13.2120 *Dealer or seller assistance;* § 13.2130 *Earnings;* § 13.2132 *Exclusive territory.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Century Brick Corporation of America et al., Erie, Pa., Docket C-1814, Oct. 27, 1970]

In the Matter of Century Brick Corporation of America, Century Bonded Products, Inc., Lancer Advertising Agency, Inc., First National Credit Corporation of America, Associated Leasing Corporation of America, Corporations, and Colman J. Seman, David C. Seman, and Fredrick P. Seman, Individually and as Officers or Directors of Said Corporations

Consent order requiring five affiliated Erie, Pa., distributors of simulated brick facing and seamless floor-covering material to cease representing that investors in respondents' dealerships would get exclusive territories or be paid if territory was shared, that visits or training at respondents' home office would be paid by respondents, that a refund would be granted in case dealership discontinued, that taping machines and other equipment would be furnished free, that a dealer needs no prior skill, knowledge or training, that dealer will be furnished free sale literature or that products will be delivered to dealer's job site, and that respondents' products have been approved by an agency of the Federal Government.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That the respondents, Century Brick Corporation of America, Century Bonded Products, Inc., Lancer Advertising Agency, Inc., First National Credit Corporation of America, and Associated Leasing Corporation of America, corporations, and their officers and directors, and Colman J. Seman and Fredrick P. Seman, individually and as officers or directors of said corporations, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale, or distribution of simulated brick facing, seamless floor-covering material, or any other product, or any franchise, license, or dealership with respect thereto, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that persons investing in respondents' franchises, dealerships, or other products will be granted an exclusive territory in which to locate and sell products purchased from respondents unless respondents provide in all contracts or purchase agreements with dealers, franchisees, or purchasers of respondents' products, to whom such exclusive territories have been granted, a description of the size and limits of the territories, and a statement that no other investor, dealer, franchisee, or purchaser of the same products will be granted the same territory or any part thereof and respondents in all instances abide by such provisions.

2. Representing, directly or by implication, that a dealer will receive payment from respondents if additional dealers are permitted to do business within his designated territory, unless such payments are actually made by respondents.

3. Representing, directly or by implication, that any expenses, other than those actually paid by the respondents, for the dealer or his employee to visit and receive training at the respondents' home office or any other place will be paid by the respondents.

4. Representing, directly or by implication, that a dealer will receive any refund of the dealership fee or initial investment from the respondents if the dealer decides not to continue in said dealership, unless such refunds are actually made by the respondents.

5. Falsely representing, directly or by implication, that a representative of the respondents will be sent to assist a new dealer in the hiring and training of employees, securing job orders, establishing contacts and credit at local banks, or to assist or perform any other function or service not actually performed and readily available to such dealers.

6. Representing, directly or by implication, that respondents will provide, free of charge, the taping machines used in the installation of respondents' products, unless such is actually provided on the represented terms and conditions; misrepresenting, in any manner, the machinery, equipment, or supplies furnished or made available to dealers or franchisees or the cost thereof.

7. Representing, directly or by implication, that respondents will provide dealers with sales leads obtained through national advertising or any other means, unless respondents are able to provide to each dealer a significant number of bona fide prospective buyers for respondents' products.

8. Representing, directly or by implication, that respondents will provide the dealer with the names and addresses of other active dealers or that respondents have many successful dealers, unless respondents have current information establishing the success of such dealers and provide such names and addresses as promised.

9. Representing, directly or by implication, that a dealer needs no skill, knowledge, or prior training, or experience to operate a successful dealership, unless the prospective dealer is fully apprised of all facts and responsibilities of operating such a dealership.

10. Misrepresenting, in any manner, the assistance furnished or made available to the dealer.

11. Falsely representing that respondents are building warehouses at various locations, operating or maintaining a marble-crushing plant or manufacturing and marketing prefabricated homes; or misrepresenting, in any manner, the size or kind of respondents' business organization.

12. Representing, directly or by implication, that respondents will provide dealers with free sales literature, when in fact such sales literature is not free; or misrepresenting, in any manner, the cost of sales literature to dealers.

13. Representing, directly or by implication, that respondents' products will be delivered to the dealer's job site at any cost other than the actual one.

14. Falsely representing, directly or by implication, that respondents' products are approved by the Federal Housing Administration, the General Services Administration, or any agency of the U.S. Government; or misrepresenting, in any manner, the acceptance or approval of respondents' products.

15. Representing that dealers will earn any stated amount; or representing, in any manner, the past earnings of dealers, unless in fact, the past earnings represented are those of a substantial number of dealers and accurately reflect the average earnings of these dealers under circumstances similar to those of the

dealer to whom the representation is made.

16. Representing, directly or by implication, that dealers will be supplied with respondents' products within a reasonable time after they are ordered, unless such is actually the fact.

17. Failing to deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of respondents' product dealerships and failing to secure from each such salesman or other persons a signed statement acknowledging receipt of said order.

It is further ordered, That the respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in a 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 a 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.

Issued: October 27, 1970.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 70-16965; Filed, Dec. 16, 1970; 8:49 a.m.]

[Docket No. C-1517]

PART 13—PROHIBITED TRADE PRACTICES

General Nutrition Corp. et al.

Subpart—Advertising falsely or misleadingly: § 13.170 *Qualities or properties of product or service:* 13.170-52 Medicinal, therapeutic, healthful, etc.; 13.170-64 Nutritive.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Modified order to cease and desist, General Nutrition Corp. et al., Pittsburgh, Pa., Docket C-1517, Nov. 4, 1970]

In the Matter of General Nutrition Corp., a Corporation, Also Trading as Natural Sales Co., and David B. Shakarian, Individually and as an Officer of Said Corporation

Order modifying a previous consent order dated April 4, 1969, 34 F.R. 7276, which prohibited a drug company from making certain claims for the nutritional significance of vitamin and mineral ingredients.

The modified order to cease and desist, is as follows:

It is ordered, That paragraph 2 of the Commission's order dated April 4, 1969 be, and it hereby is, modified to read as follows:

2. Disseminating, or causing to be disseminated, by means of the U.S. mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement of a product which is advertised or promoted for sale by reason of its vitamin and/or mineral content, which lists, or otherwise refers to as an ingredient, except in the name of such product, any ingredient, the need for which in human nutrition has not been established, or any ingredient whose presence in the preparation is without nutritional significance, unless the advertisement also discloses clearly and conspicuously, in immediate or close proximity, and with equal prominence, that the presence of such ingredient in such preparation is without nutritional significance; nor shall any representation be made that the need for such an ingredient in such product for human nutrition has been established.

For the purposes of enforcement of this paragraph, any regulation by the Food and Drug Administration, in full force and effect, which affirmatively permits claims for nutritional significance of a vitamin or mineral in a specified amount in a product labeled for use as a food supplement, will be accepted as evidence that the presence of that amount of the specified nutrient has nutritional significance.

Issued: November 4, 1970.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 70-16966; Filed, Dec. 16, 1970; 8:50 a.m.]

[Docket No. C-1813]

PART 13—PROHIBITED TRADE PRACTICES

Pool City, Inc., and Norman Schulman

Subpart—Advertising falsely or misleadingly: § 13.71 *Financing:* 13.71-10 Truth in Lending Act; § 13.73 *Formal regulatory and statutory requirements:* 13.73-92 Truth in Lending Act; § 13.155 *Prices:* 13.155-95 Terms and conditions: 13.155-95(a) Truth in Lending Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements:* 13.1623-95 Truth in Lending Act; Misrepresenting oneself and goods—Prices: § 13.1823 *Terms and conditions:* 13.1823-20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-75 Truth in Lending Act; § 13.1905 *Terms and conditions:* 13.1905-60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, Pool City, Inc., et al., Chevy Chase, Md., Docket C-1813, Oct. 26, 1970]

In the Matter of Pool City, Inc., a Corporation, and Norman Schulman, Individually and as an Officer of said Corporation.

Consent order requiring a Chevy Chase, Md., corporation engaged in the construction and sale of residential swimming pools to cease violating the Truth in Lending Act by failing to disclose in terminology prescribed by Regulation Z the annual percentage rate, all charges included in the deferred payment price, the number of payments required, and all applicable disclosures required; and also to cease making statements that there is no charge for credit unless it states the cash price, the amount of downpayment, the number, amount, and due date of the payments, the finance charge in annual percentage rate, and the deferred payment charge.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Pool City, Inc., a corporation, and its officers, and Norman Schulman, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with any extension of consumer credit or any 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 CFR Part 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing, in any consumer credit transaction, to disclose the annual percentage rate accurately to the nearest quarter of 1 percent, computed in accordance with § 226.5 of Regulation Z, as required by § 226.8(b)(2) of Regulation Z.

2. Failing, in any consumer credit transaction, to disclose accurately 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 § 226.8(c)(8)(ii) of Regulation Z.

3. Failing, in any consumer credit transaction, to disclose the number of payments scheduled to repay the indebtedness, as required by § 226.8(b)(3) of Regulation Z.

4. Failing, in any consumer credit transaction, to make all applicable disclosures required to be made by § 226.8 of Regulation Z, in the form and manner prescribed therein.

5. Stating, in any advertisement, the amount of the downpayment required or that no downpayment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless it states all of the following items in terminology prescribed under § 226.8 of Regulation Z, as required by § 226.10(d)(2) of Regulation Z:

(a) The cash price;

(b) The amount of the downpayment required or that no downpayment is required, as applicable;

(c) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;