

It is further ordered, That the findings, conclusions, and order contained in the initial decision of the hearing examiner be, and they hereby are, adopted by the Commission.

It is further ordered, That respondent Grady L. Rushing 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 the order to cease and desist contained in the initial decision.

By the Commission, Commissioner Kern not participating.

IN THE MATTER OF

AUDIOGRAPHIC POTOMAC CORPORATION ET AL.

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

Docket 8401. Complaint, May 18, 1961—Decision, Nov. 27, 1961

Consent order requiring Silver Spring, Md., sellers of fire alarm systems to cease representing their salesmen as "Safety Counselors" and sales talks as "Fire Education Presentations"; informing prospects falsely that they were specially selected to participate in a "Consumer Referral Plan" and could earn a substantial part of the cost by submitting names of other prospects; and failing to fill in contracts with interest or carrying charges and to reveal to purchasers that the contracts would be discounted with a finance company or bank.

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 Audiographic Potomac Corporation, a corporation, and Lena Della Fera, Raymond M. Padgett, Constance D. Padgett, and Milton Gordon, individually and as officers 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:

PARAGRAPH 1. Respondent Audiographic Potomac Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its office and principal place of business located at 946 Sligo Avenue, Silver Spring, Maryland.

Respondents Lena Della Fera, Raymond M. Padgett, Constance D. Padgett, and Milton Gordan are individuals and are officers of the corporate respondent. They formulate, direct and control the policies, acts and practices of the said corporate respondent and 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 sale and distribution of fire alarm systems. In the course and conduct of their business respondents now cause, and have caused, the said fire alarm systems, when sold, to be transported from their place of business in the State of Maryland to purchasers thereof located in other States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said fire alarm systems in commerce, as "commerce" is defined in the Federal Trade Commission Act. Respondents' volume of business in said commerce is and has been substantial.

PAR. 3. In the course and conduct of their business, as aforesaid, respondents are now, and have been, in substantial competition with other corporations, firms and individuals likewise engaged in the business of selling and distributing fire alarm systems in commerce between and among the various States of the United States.

PAR. 4. In the course and conduct of their business as aforesaid, respondents have engaged in the following acts and practices:

1. Represented their salesmen as being "Safety Counselors."
2. Represented their salesmen's sales talk as being a "Fire Education Presentation."
3. Induced the sale of their fire alarm system by informing prospective purchasers that they have been specially selected to participate in respondents' "Consumer Referral Plan", by which plan purchasers can reasonably expect to earn a substantial portion of the purchase price of the said fire alarm system by submitting to respondents the names of other prospective purchasers.
4. Entering into contracts or "Purchase Orders" with purchasers of their fire alarm system which are filled in with the purchase price of the system but which do not set forth the amount or rate of interest or carrying charges the purchaser must pay. In some instances respondents' salesmen have led purchasers to believe that they will not be required to pay any interest or carrying charges even though the purchase price is to be paid over a number of months.
5. Failing to reveal to purchasers that their contract or note will be discounted with a finance company or bank.

PAR. 5. The aforesaid acts and practices of respondents are unfair and deceptive in the following respects:

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1. By referring to their salesmen as "Safety Counselors" and to their sales talks as "Fire Education Presentations" respondents falsely represent that said "Safety Counselors" are not salesmen.

2. Purchasers to whom respondents "Consumer Referral Plan" is offered are not specially selected. Participation in said "Plan" is offered to a vast majority of respondents' customers.

3. Purchasers of respondents' fire alarm systems cannot reasonably expect to earn a substantial portion of the purchase price thereof by submitting the names of prospective purchasers to respondents pursuant to the said "Consumer Referral Plan".

4. Purchasers of respondents' fire alarm system who elect to pay for it over a period of months are required to pay interest or carrying charges, knowledge of which would have the tendency and capacity to keep them from entering into the contracts which they sign.

5. In the absence of being so advised purchasers of respondents' fire alarm system do not expect their contracts or notes to be discounted with a finance company or bank, they expect to make their payments to respondents, and knowledge thereof would have the tendency and capacity to keep them from entering into such contracts.

PAR. 6. The use by respondents of the unfair and deceptive acts and practices as above set forth has had, and now has, the tendency and capacity to mislead and deceive a substantial portion of the purchasing public, and as a result thereof to purchase substantial quantities of respondents' fire alarm systems. Trade has thereby been unfairly diverted to respondents from their competitors, in consequence of which substantial injury has been, and is being done, by respondents to their competitors in commerce.

PAR. 7. The aforesaid acts and practices of respondents, as herein alleged, are all to the prejudice and injury of the public and to respondents' competitors and constitute unfair and deceptive acts and practices in commerce and unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

DECISION AND ORDER

This matter having come on to be heard by the Commission upon a record consisting of the Commission's complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and an agreement by and between respondents and counsel supporting the complaint, which agreement contains an order to cease and desist, an admission by the respondents of all the jurisdictional facts alleged in the complaint, a statement

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that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint, and waivers and provisions as required by the Commission's rules, and further provides for the dismissal of the complaint as to Milton Gordon, individually and as an officer of the corporate respondent; and

The Commission having considered the agreement and order contained therein and being of the opinion that the agreement provides an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings are made, and the following order is entered:

1. Respondent Audiographic Potomac Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its office and principal place of business located at 946 Sligo Avenue, Silver Spring, Maryland.

Individual respondents Lena Della Fera, Raymond M. Padgett and Constance D. Padgett are officers of the corporate respondent and their address 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 Audiographic Potomac Corporation, a corporation, and its officers, and Lena Della Fera, Raymond M. Padgett and Constance D. Padgett, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of fire detection or fire alarm systems, or any other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing in any manner that salesmen are anything other than salesmen.

2. Representing that purchasers or prospective purchasers have been especially selected for any purpose.

3. Representing that purchasers can earn any amount of money, by the submission of names of prospective purchasers or otherwise, unless said amount of money is based upon the average amount paid by respondents to past purchasers under the same arrangement.

4. Representing, by failure to reveal or otherwise, that interest or carrying charges will not be added to a purchase price; or failing to reveal the amount of such interest or carrying charge.

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5. Failing to reveal that contracts or promissory notes will be discounted or that purchasers will make their payments to others than respondents.

It is further ordered, That the complaint, insofar as it relates to