

such transaction with such purchaser is essentially a sale by such respondent, acting either as principal or agent.

It is further ordered, That the respondent herein 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
ALPIN, INC., DOING BUSINESS AS CINCINNATI FOOD
SERVICE & APPLIANCE COMPANY ET AL.

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

Docket C-185. Complaint, July 18, 1962—Decision, July 18, 1962

Consent order requiring Cincinnati sellers of freezers and food freezer plans to the public to cease using false pricing, savings, and guarantee claims and other misrepresentations in advertising, including radio and television broadcasts, to sell their freezers and freezer food plans, as in the order below more fully set out.

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 Alpin, Inc., a corporation trading and doing business as Cincinnati Food Service & Appliance Company, and Milton Pinsky and Daniel J. Allen, 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:

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PARAGRAPH 1. Respondent Alpin, Inc., trading and doing business as Cincinnati Food Service & Appliance Company, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its principal office and place of business located at 3612 Montgomery Road in the city of Cincinnati, State of Ohio.

Respondents Milton Pinsky and Daniel J. Allen are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the act 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 freezers, food and food freezer plans to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, freezers and food, when sold, to be shipped from their place of business in the State of Ohio to purchasers thereof located in various other states of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said freezers and food in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, at all times mentioned herein, respondents have been in substantial competition in commerce with corporations, firms and individuals in the sale of freezers, food and food freezer plans.

PAR. 5. In the course and conduct of their business, respondents have disseminated, and caused the dissemination of, certain advertisements by the United States mails and by various means in commerce, including but not limited to radio and television broadcasts, as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of food, as the term "food" is defined in the Federal Trade Commission Act, and have disseminated, and caused the dissemination of, advertisements by various means including those aforesaid, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of food in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 6. By means of advertisements disseminated, as aforesaid, and otherwise, respondents have represented, directly or by implication:

- (a) That respondents' principal business is the sale of food;

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(b) That purchasers of respondents' freezer food plan will receive all of their food and a freezer for \$6.20 or \$7.70 per week;

(c) That purchasers of respondents' freezer food plan are thereby able to purchase their food for less money than they would otherwise have to pay;

(d) That purchasers of respondents' freezer food plan save from \$200.00 to \$300.00 a year on their food purchases;

(e) That respondents are giving away various free gifts;

(f) That purchasers of respondents' freezers food plan are required to pay no money for two months, and that the total amount such purchasers pay is the aggregate of either \$6.20 or \$7.70 per week for 24 months;

(g) That \$6.20 per week for respondents' freezer food plan is a reduced price;

(h) That the freezers sold by respondents are unconditionally guaranteed for variously stated periods of time or for a lifetime.

PAR. 7. The advertisements disseminated as aforesaid, were and are misleading in material respects and constituted and now constitute "false advertisements" as that term is defined in the Federal Trade Commission Act, and the aforesaid statements and representations were and are false, misleading and deceptive. In truth and in fact:

(a) Respondents' principal business is that of selling freezers and not the selling of food;

(b) The purchasers of respondents' freezer food plan do not receive all of their food and a freezer for either \$6.20 or \$7.70 per week;

(c) Purchasers of respondents' freezer food plan are not thereby enabled to purchase their food for less than they would otherwise have to pay;

(d) Purchasers of respondents' freezer food plan do not save from \$200.00 to \$300.00 a year on their food purchases;

(e) Respondents do not give away free gifts. Such gifts are received only upon the purchase of respondents' freezer food plan;

(f) Purchasers of respondents' freezer food plan are required to make a down payment at the time of purchase and still pay approximately \$6.20 or \$7.70 per week for 24 months, thus respondents' have misrepresented the purchase price of their freezer food plan;

(g) The price of \$6.20 per week for respondents' freezer food plan is not a reduced price;

(h) The freezers sold by respondents are not unconditionally guaranteed for a lifetime or for the variously stated periods of time.

PAR. 8. The use by respondents of the aforesaid false, misleading and deceptive statements and representations has had and now has the

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capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of freezers and freezer food plans from respondents by reason of said erroneous and mistaken belief.

PAR. 9. The aforesaid acts and practices of respondents, as herein alleged, including the dissemination by respondents of the false advertisements, as aforesaid were and are all to the prejudice and injury of the public and of respondents' competitors, and constituted and now constitute unfair and deceptive acts and practices in commerce, in violation of Sections 5 and 12 of the Federal Trade Commission Act.

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The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; 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 complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent, Alpin, Inc., is a corporation organized, existing and doing business as Cincinnati Food Service & Appliance Company, under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at 3612 Montgomery Road, in the city of Cincinnati, State of Ohio.

Respondents Milton Pinsky and Daniel J. Allen are officers of said corporation and their address is the same as that of said corporation.

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.

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ORDER

PART I

It is ordered, That respondents Alpin, Inc., a corporation, and its officers, and Milton Pinsky and Daniel J. Allen, individually and as officers of said corporation, and respondents' agents, representatives and employees directly or through any corporate or other device in connection with the offering for sale, sale or distribution of freezers, food or freezer-food plans, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing directly or by implication:

(a) That respondents' principal business is the sale of food.

(b) That purchasers of a freezer food plan from respondents will for any stated price receive all of their food or any amount of food in excess of the amount actually received and a freezer;

(c) That by purchasing a freezer food plan from respondents, purchasers are thereby able to purchase food for less money than they would otherwise have to pay;

(d) That purchasers of a freezer food plan from respondents save from \$200.00 to \$300.00 a year on their food purchases, or will save any other stated or specified amount of money;

(e) That respondents give away free gifts;

(f) That purchasers of a freezer food plan from respondents are required to pay no money for any stated period of time;

(g) That a customary or usual price is a reduced price;

(h) That any freezer or part thereof is unconditionally guaranteed or is guaranteed in any manner unless the nature and extent of the guarantee and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

2. Misrepresenting in any manner the savings realized by purchasers of a freezer food plan.

3. Misrepresenting in any manner the purchase price of any such freezer, food, or freezer food plan.

PART II

It is further ordered, That respondents Alpin, Inc., a corporation, and its officers, and Milton Pinsky and Daniel J. Allen, individually

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and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device in connection with the offering for sale, sale, or distribution of any food or any purchasing plan involving food, do forthwith cease and desist from:

1. Disseminating or causing to be disseminated any advertisement by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any of the representations or misrepresentations prohibited in paragraphs 1, 2 and 3 of Part I of this Order.

2. Disseminating or causing the dissemination of any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of any food, or any purchasing plan involving food in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any of the representations or misrepresentations prohibited in paragraphs 1, 2 and 3 of Part I of this 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.
