

FEDERAL TRADE COMMISSION DECISIONS

FINDINGS, OPINIONS, AND ORDERS, JANUARY 1, 1963, TO JUNE 30, 1963

IN THE MATTER OF

RINSE-AWAY CORPORATION OF AMERICA ET AL.

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

Docket C-292. Complaint, Jan. 3, 1963—Decision, Jan. 3, 1963

Consent order requiring a number of sellers of "Rinse-Away" garbage disposal units to distributors or to the public directly, who were furnished by respondent Rinse-Away Corporation with sales aids, brochures, and other literature designed to assist them and their salesmen in obtaining appointments and concluding sales in customers' homes, to cease using a variety of deceptive practices including false claims of special selection of prospects and special limited prices, performance of their product and its superiority over similar models, scope of their business, their financial condition, qualifications and number of their personnel, failure to disclose that they discount purchasers' negotiable paper, among others, as in the order below more fully indicated.

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 the above entitled corporation, firms and individuals, 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 Rinse-Away Corporation of America is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 5905 Pacific Boulevard, Huntington Park, State of California.

Respondent Harry Drake is an officer of the corporate respondent, Rinse-Away Corporation of America. He formulates, directs and controls the acts and practices of the corporate respondent, including

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the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

Respondent Robert M. Stone is a former officer of Van-R, Inc., an Illinois corporation, and Vanar, Inc., an Indiana corporation. He has assisted in the formulation, direction and control of the acts and practices of said corporations, including such acts and practices as are hereinafter described as the acts and practices of the respondents, notwithstanding the fact that the said corporations are not designated as respondents in this complaint. His address is 1326 Fargo Street, Des Plaines, Illinois.

Individual respondents Keith C. Owen and Melvin E. Glisson are copartners trading and doing business as Rinse-Away Sales Company. The individual respondents formulate, direct and control the acts and practices of the partnership, including the acts and practices hereinafter set forth. Respondent Keith C. Owen resides at 601 Banbury Court, Roselle, Illinois. Respondent Melvin E. Glisson resides at 6132 North Damen Avenue, Chicago, Illinois.

Individual respondents Melvin E. Glisson and Robert I. Goldstein are copartners trading and doing business as Bar-Lo Company. The individual partners formulate, direct and control the acts and practices of the partnership, including the acts and practices hereinafter set forth. The address of respondent Melvin E. Glisson is as hereinbefore set forth. The address of respondent Robert I. Goldstein is 6143 North Mozart Street, Chicago, Illinois.

Respondent Melvin E. Glisson is an individual trading under the name of Gloco Company. His address is as hereinbefore set forth.

Respondents Keith C. Owen, Melvin E. Glisson and Robert I. Goldstein are former agents of Dunbar-McQuay Company. They have assisted in the formulation, direction and control of the acts and practices of said company, including such acts and practices as are hereinafter described as the acts and practices of the respondents, notwithstanding the fact that said company is not designated a respondent in this complaint. Their addresses are as hereinbefore set forth.

All of the aforementioned respondents, together with other corporations, firms and individuals not designated as respondents in this complaint, have cooperated and acted together in carrying out the acts and practices hereinafter set forth.

PAR. 2. For some time last past the respondents have been engaged in the advertising, offering for sale, sale and distribution of "Rinse-Away" garbage disposal units to distributors for resale to the public, or to the public directly. Respondent Rinse-Away Corporation of America has purchased slightly modified standard disposers directly from the manufacturer. These disposers have then been sold directly

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to distributors who, in addition, have been furnished with sales aids, brochures and other literature designed to assist salesmen in obtaining appointments and in concluding sales in customers' homes. Distributing firms have either employed commission salesmen directly or have sold to subdistributors who have employed commission salesmen. Ultimately the salesmen have used the sales technique and sales presentation initiated by respondents Harry Drake and Rinse-Away Corporation of America, and transmitted to them by other respondents named herein or by others. Frequently those salesmen who have enjoyed a degree of financial success have formed individual proprietorships, or have banded together in partnerships, in order to become distributors or subdistributors of "Rinse-Away" units. In such cases they have either reproduced the sales aids they used as salesmen, or they have received a fresh supply from respondents Harry Drake and Rinse-Away Corporation of America. In either event the basic sales presentation which they have employed, and in which they have indoctrinated new salesmen, is the same as that designed by respondents Harry Drake and Rinse-Away Corporation of America.

PAR. 3. In the course and conduct of their business the respondents have caused their said product, when sold, to be shipped from its place of manufacture in the State of Wisconsin to purchasers thereof located in various other States of the United States, and at all times mentioned herein have maintained a substantial course of trade in said product in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, and for the purpose of inducing the sale of their garbage disposal units, by means of oral statements of sales representatives, and by means of sales aids, brochures and other literature which sales representatives have employed when soliciting prospective purchasers, respondents have represented, directly or by implication:

1. That appointments with prospective customers are solicited for the purpose of explaining an "advertising plan".

2. That the prospect has been especially "selected" to participate in the plan.

3. That respondents' product will process all waste animal and vegetable matter commonly disposed of through the use of a garbage can, and will thus eliminate the necessity of maintaining and using a garbage can.

4. That the health of the prospect and his family is endangered by the common method of garbage disposal which includes the use of a covered garbage can and a regular collection service.

5. That the Rinse-Away garbage disposal unit is safer, more efficient and quieter than similar models of comparable price.

6. That respondents' business is national in scope; that they employ statisticians and engineers among others; and that they are financially capable of spending many thousands of dollars annually in nationwide advertising media.

7. That current and valid statistics indicate that fifty percent of prospects interviewed will become purchasers.

8. That the price at which the Rinse-Away is being offered is available for a limited time only, and that the prospect must take advantage of such offer immediately, or forego indefinitely such special price.

9. That purchasers will recover all or a substantial part of the total cost of the disposal unit through the receipt of referral fees.

10. That there are liquidated damages which the purchaser must pay if he cancels his order prior to installation.

11. That the respondents have a credit department which handles personal credit matters, and that the respondents do not contemplate the immediate discounting of purchasers' negotiable paper.

PAR. 5. In truth and in fact:

1. Appointments with prospective customers are not solicited for the purpose of explaining an advertising plan, but for the purpose of selling respondents' product.

2. The prospect has not been especially selected to participate in any plan or sale.

3. Respondents' product will not process all waste animal and vegetable matter commonly disposed of through the use of a garbage can, and will not eliminate the necessity of maintaining and using a garbage can.

4. The health of the prospect or his family is not endangered by the common method of garbage disposal which includes the use of a covered garbage can and a regular collection service.

5. The Rinse-Away garbage disposal unit is neither safer, more efficient, nor quieter than similar models of comparable price.

6. Respondents' business is not national in scope; they do not employ statisticians or engineers; and they are not financially capable of spending many thousands of dollars annually in nationwide advertising media.

7. There are no current and valid statistics which indicate that fifty percent of prospects interviewed will become purchasers.

8. The price at which the Rinse-Away is being offered is not available for a limited time only, nor must the prospect take advantage of

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such offer immediately or risk foregoing indefinitely such special price.

9. Purchasers do not recover all or a substantial part of the total cost of the disposal unit through the receipt of referral fees.

10. There are no liquidated damages which the purchaser must pay if he cancels his order prior to installation.

11. Respondents do not have a credit department which handles personal credit matters, and they do contemplate the discounting of purchasers' negotiable paper.

Therefore, the representations referred to in Paragraph 4 were, and are, false, misleading and deceptive.

PAR. 6. In the course and conduct of their business, respondents have failed to disclose that in the event of a sale they intended to discount purchasers' negotiable paper. In the absence of such disclosure, prospective purchasers believe that no discounting is intended. In truth and in fact, respondents have promptly discounted purchasers' negotiable paper in the regular course of their business. There is a preference among installment buyers for dealing with vendors who do not discount their customers' negotiable paper. In many cases purchasers of respondents' product would not have entered into contracts of sale had they known that their paper was to be discounted. Respondents' failure to reveal the material fact of their intentions or course of business concerning the discounting of purchasers' negotiable paper was, and is, an unfair and deceptive act or practice.

PAR. 7. In the course and conduct of their business, and at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of garbage disposal units of the same general kind and nature as that sold by respondents.

PAR. 8. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the 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 respondents' product by reason of said erroneous and mistaken belief.

PAR. 9. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

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DECISION AND ORDER

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 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, Rinse-Away Corporation of America, is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 5905 Pacific Boulevard, Huntington Park, State of California.

Respondent Harry Drake is an officer of said corporation, and his address is the same as that of said corporation.

Respondent Robert M. Stone is a former officer of Van-R, Inc., an Illinois corporation, and Vanar, Inc., an Indiana corporation. His address is 1326 Fargo Street, Des Plaines, Illinois.

Respondents Keith C. Owen and Melvin E. Glisson are copartners trading and doing business as Rinse-Away Sales Company. Keith C. Owen resides at 601 Banbury Court, Roselle, Illinois. Melvin E. Glisson resides at 6132 North Damen Avenue, Chicago, Illinois.

Respondents Melvin E. Glisson and Robert I. Goldstein are copartners trading and doing business as Bar-Lo Company. Robert I. Goldstein resides at 6143 North Mozart Street, Chicago, Illinois. The address of Melvin E. Glisson is as hereinbefore set forth.

Respondent Melvin E. Glisson is an individual doing business as Gloco Company. His address is as hereinbefore set forth.

Respondents Keith C. Owen, Melvin E. Glisson and Robert I. Goldstein are former agents of Dunbar-McQuay Company. Their addresses are as hereinbefore set forth.

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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 Rinse-Away Corporation of America, a corporation, its officers, and Harry Drake, individually and as an officer of said corporation, and Robert M. Stone, individually, and Keith C. Owen and Melvin E. Glisson, individually and as copartners doing business as Rinse-Away Sales Company, and Melvin E. Glisson and Robert I. Goldstein, individually and as copartners doing business as Bar-Lo Company, and Melvin E. Glisson, individually and doing business as Gloco Company, 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 garbage disposers or any other product 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 an appointment with a prospective customer is solicited for the purpose of explaining an advertising plan or for any purpose other than the concluding of a sale.

(b) That a prospect has been especially selected to participate in any promotional plan or sale.

(c) That respondents' product will process all waste animal or vegetable matter commonly disposed of through the use of a garbage can, or will eliminate the necessity of maintaining or using a garbage can.

(d) That the health of the prospect or his family is endangered by the common method of garbage disposal which includes the use of a covered garbage can and a regular collection service.

(e) That respondents' product is safer, more efficient or quieter than similar models of comparable price.

(f) That respondents' business is national in scope; that they employ statisticians or engineers; that they are financially capable of spending many thousands of dollars annually in nationwide advertising media; that the size, scope, or financial capability of their business or the number of their employees is greater than the true size, scope, financial capability or number; or that the qualifications of any of their employees are other than the true qualifications.

(g) That statistics indicate that fifty percent, or any percentage other than the true percentage, of prospects will become purchasers.

(h) That the price at which the respondents' product is offered is a promotional price, or a reduced price, or is available for a limited time.

(i) That a purchaser will recover all or a substantial part of the total cost of respondents' product through the receipt of referral fees; or that the amount of money or money's worth any purchaser or prospective purchaser will receive, or may reasonably expect to receive, from the submission of names of prospects under respondents' referral program, or otherwise, is greater than the true amount.

(j) That respondents' sales contract contains a provision for liquidated damages or other penalty unless such penalty provision is a legally significant and enforceable obligation of a party thereto.

(k) That the respondents have a credit department which handles personal credit matters, or that the respondents do not contemplate the discounting of a purchaser's negotiable paper.

2. Failing to clearly and adequately inform prospects that respondents contemplate the discounting of purchasers' negotiable paper.

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.

IN THE MATTER OF

ISAAC M. TOPOL TRADING AS CONTINENTAL SCARF
AND NOVELTY CO.