

INTERSTATE ENGINEERING CORPORATION ET AL.

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

Docket C-514. Complaint, June 21, 1963—Decision, June 21, 1963

Consent order requiring a corporation in Anaheim, Calif., and its two franchised corporate distributors in Minneapolis and Milwaukee, engaged in selling,

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through house-to-house sale and by the customer referral sales plan, to cease using deceptive tactics to sell vacuum cleaners and other products.

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 Interstate Engineering Corporation, a corporation, Compact Distributing Company, Inc., a corporation and Compact Distributing Co., Inc., a 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 Interstate Engineering Corporation 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 522 East Vermont Avenue, in the city of Anaheim, State of California.

Respondent Compact Distributing Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its principal office and place of business located at 3604 Cedar Avenue, in the city of Minneapolis, State of Minnesota.

Respondent Compact Distributing Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Wisconsin, with its principal office and place of business located at 6241 West Fond du Lac Avenue in the city of Milwaukee, State of Wisconsin.

Corporate Respondents Compact Distributing Company, Inc., of Minnesota, and Compact Distributing Co., Inc., of Wisconsin, are franchised distributors for respondent Interstate Engineering Corporation. All of the aforesaid corporate respondents cooperate and act together in carrying out the acts and practices hereinafter set forth.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, selling and distributing "Compact Home Renovating Systems" which consist of vacuum cleaners, floor polishers and carpet sweepers, through house-to-house sale. Respondents employ the customer referral sales plan in selling their said products. Under this plan the customer contracts to buy the product or products with the understanding that such purchaser is entitled to the opportunity to submit the names of other potential purchasers. For each such purchaser who buys a product or products the person who submits the name is paid a given sum for each sale made.

PAR. 3. In the course and conduct of their business, said respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their respective places of business in the States of California, Minnesota or Wisconsin 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 products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondents' products are identified by the trade name "Compact" and are sold primarily by salesmen directly to prospective purchasers in their homes. A sales program devised and put into effect by respondents through salesmen is known and described by them as their "Owner-Recommendation Program".

PAR. 5. The respondent Interstate Engineering Corporation, during all the time mentioned herein, prepared and delivered to its distributors, including the distributors named, for delivery to their salesmen brochures, manuals, illustrative salesman's kits, and various other data, to be used by said salesmen in selling the respondents' aforesaid products in accordance with the "Owner-Recommendation Program". Included in the aforesaid promotional material are instructions on how to make appointments with prospective purchasers and how to gain entrance to the homes of prospective purchasers without disclosing the true nature and purpose of said salesmen.

PAR. 6. By furnishing the aforesaid material to the salesmen of respondents' said products, respondents place in the hands of others the means and instrumentalities by and through which they may and do mislead and deceive members of the purchasing public in the respects herein described.

PAR. 7. Illustrative and typical of the statements, representations and tactics employed as aforesaid are the following:

- (1) That they are advertising executives, or are in the business of advertising, and are not making sales.
- (2) That they are seeking the opinion of the public as to the efficacy of different methods of advertising.
- (3) That they are engaged in making surveys of television advertising.
- (4) That they are not selling, but merely demonstrating the respondents' products.
- (5) That the prospective purchasers can easily obtain the respondents' products at no cost by merely inducing friends and acquaintances to grant appointments in their homes to respondents' salesmen.
- (6) That the prospective purchaser must enter into a contract to purchase a "Compact Home-Renovating System," and enroll in the

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respondents' "Owner-Recommendation Program" at the time of the interview and will have no further opportunity to do so.

(7) That prospective purchasers of said products have been specially selected.

PAR. 8. In truth and in fact:

(1) Respondents and their salesmen are not, and were not, advertising executives or engaged in the business of advertising. On the contrary, they were and are engaged in selling vacuum cleaners and other products.

(2) Respondents and their salesmen are not, and were not, seeking the opinion of the public with reference to advertising methods.

(3) Respondents are not nor were they engaged in making surveys of any kind.

(4) Respondents were not merely demonstrating their product but the purpose of their calls at the homes of prospective purchasers was to make sales.

(5) Respondents' products cannot easily be obtained at no cost merely by inducing friends and acquaintances to grant appointments in their homes to respondents' salesmen. This sales presentation was used freely and frequently to eliminate buyer resistance. Very few persons obtained enough appointments to reimburse any significant part of the cost of respondents' products.

(6) Respondents' products are not obtainable only at the time of the interview or any other stated time. On the contrary said products were available at any time.

(7) Prospective purchasers called on by respondents are not specially selected. The products were offered to all persons indiscriminately.

Therefore, the statements, representations and tactics employed by respondents, as set forth in Paragraph 7 hereof, were and are false, misleading and deceptive.

PAR. 9. In the 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 vacuum cleaners, floor polishers and carpet sweepers of the same general kind and nature as that sold by respondents.

PAR. 10. 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' products by reason of said erroneous and mistaken belief.

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PAR. 11. 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.

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 provision 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, Interstate Engineering Corporation, 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 522 East Vermont Avenue, in the city of Anaheim, State of California.

Respondent, Compact Distributing Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its principal office and place of business located at 3604 Cedar Avenue, in the city of Minneapolis, State of Minnesota.

Respondent, Compact Distributing Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Wisconsin, with its principal office and place of business located at 6241 West Fond du Lac Avenue in the city of Milwaukee, State of Wisconsin.

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

It is ordered, That respondents Interstate Engineering Corporation, a corporation, and its officers, and Compact Distributing Company, Inc., a corporation, and its officers, and Compact Distributing Co., Inc., a corporation, and its officers, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of vacuum cleaners, or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing directly or indirectly:

(a) That respondents, their salesmen or other representatives or any of them, are advertising executives or are in the business of advertising.

(b) That respondents, their salesmen or other representatives or any of them, are seeking the opinion of the public as to the efficacy of different advertising methods.

(c) That respondents, their salesmen or other representatives or any of them, are making surveys for any purpose.

(d) That respondents, their salesmen or other representatives or any of them, are not selling anything but only demonstrating respondents' products.

(e) That respondents' products can be had at no cost to the purchaser or that said products can be had in exchange for the names of a given number of prospective purchasers, unless a full and complete disclosure is made of the facts and circumstances surrounding the offer.

(f) That the time during which respondents' products are obtainable is limited.

(g) That prospective purchasers of respondents' products are specially selected.

2. (a) Misrepresenting in any manner the amount of credits or money to be derived by purchasers participating in respondents' lead referral program.

(b) Representing in any manner that the purpose of respondents' salesmen in arranging for or making calls upon prospective purchasers is other than to sell respondents' products.

3. Furnishing or otherwise placing in the hands of respondents' dealers, retailers or salesmen dealing in said products the means and instrumentalities by and through which they may mislead or deceive the public in the manner or as to the things hereinabove prohibited.

