

Complaint

IN THE MATTER OF

FORMULETTE COMPANY, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-518. Complaint, June 28, 1963—Decision, June 28, 1963*

Consent order requiring Long Island City, N.Y., distributors of infants' nursing products, to cease representing falsely—in printed materials attached to and enclosed in the product containers, in promotional matter distributed to wholesalers and retailers, and in advertisements in national magazines—by such statements as the "Special Formulette gift certificate inside starts a \$500 COLLEGE OR CAREER POLICY", "Formulette packs a college education with its nursing products", "* * * only \$1 pays the full premium * * *", that their "gift certificate" would entitle its holder, on payment of a \$1 premium, to purchase an endowment insurance policy underwritten by themselves and an insurance company, and that individuals thus insured were "eligible for the annual \$1,500 Formulette Foundation Scholarships".

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 Formulette Company, Inc., a corporation, and Murray Lerner, Irving Kaster, Daniel Stoller, and Robert Lerner, 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 Formulette Company, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 47-25 27th Street, Long Island city, State of New York.

Respondents Murray Lerner, Irving Kaster, Daniel Stoller, and Robert Lerner are individuals and officers of the corporate respondent. They formulate, direct, and control the acts and practices of the corporate respondent, including the acts 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, to distributors and to retailers for resale to the public, of infants' nursing products.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said prod-

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ucts, when sold, to be shipped from their place of business in the State of New York to purchasers thereof located in various other States of the United States, and in the District of Columbia, 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. In the course and conduct of their business, and for the purpose of inducing the purchase of their products, respondents have made certain statements, in printed materials attached to and enclosed in the containers in which such products are sold, in promotional materials distributed to wholesalers and retailers of such products, and in advertisements in magazines of national circulation, with respect to an offer made by respondents to purchasers of their products, of an opportunity to purchase an endowment insurance policy. Typical, but not all inclusive, of such statements are the following:

Special Formulette gift certificate inside starts a
\$500 COLLEGE OR CAREER POLICY
only \$1 pays the full premium to baby's first birthday

* * * * *

FORMULETTE
GIFT CERTIFICATE

The present that insures your baby's future

Purchase of this Formulette product entitles you to start a \$500 College or Career Policy for a baby of your choice. Simply fill in the application blank and mail it with \$1. (to cover the full premium to baby's first birthday) To: Dept. F., Life Assurance Company of Pennsylvania, 2101 Walnut St., Philadelphia 3, Pennsylvania.

* * * * *

FORMULETTE SCHOLARSHIP PROGRAM

Sponsored by the Formulette Scholarship Foundation. As an extension of the Formulette educational aid program, all babies whose policies are renewed after their first birthdays will automatically be eligible to win the full \$1500 Formulette Scholarship awarded annually. To administer the scholarship program, Formulette has established a Board of Governors, comprised of prominent citizens and leading educators chosen from colleges and universities throughout the United States. Full details on how scholarship awards will be made, will be forwarded to all parents prior to the child's first birthday.

* * * * *

NOW FORMULETTE PACKS A COLLEGE EDUCATION WITH EVERY
MAJOR PRODUCT!

most timely, most dramatic give away offer ever made to your customers!

* * * * *

Formulette packs a college education with its nursing products! Special gift certificate starts a \$500 college or career policy for your new baby. The finest

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baby nursing equipment and the start of a college education in one Formulette package! A special gift certificate inside, and only \$1, pays the full premium to baby's first birthday. At age 18 your child receives \$500 cash for college or career! Grandparents, uncles, aunts, friends can start a Formulette College or Career program for any baby. Underwriting this significant project along with Formulette, is the Life Assurance Company of Pennsylvania. In addition, every participating child will be eligible for the annual \$1500 Formulette Foundation Scholarships.

PAR. 5. By and through the use of the aforesaid statements, and others of similar import and meaning not specifically set out herein, respondents have represented directly or by implication that:

(a) The "Formulette Gift Certificate" offered by respondents constituted a valuable gift and would entitle its holder to purchase an endowment insurance policy at a reduced premium.

(b) Payment of a \$1 premium would entitle the holder of a "Formulette Gift Certificate" to purchase an endowment insurance policy which would be effective throughout the insured's entire first year of life and which would provide \$500 insurance coverage during that period.

(c) The endowment insurance policies available under the terms of the "Formulette Gift Certificate" were underwritten in part by respondents and in part by the Life Assurance Company of Pennsylvania.

(d) It was respondents' practice to award scholarships; that respondents were affiliated with a "Formulette Foundation" which respondents had created or had caused to be created to make their scholarship awards; and that any individual whose life was insured under the endowment insurance policy available under the terms of the "Formulette Gift Certificate" could be, by virtue of being so insured, eligible to receive a \$1,500 scholarship.

PAR. 6. In truth and in fact,

(a) The "Formulette Gift Certificate" offered by respondents was valueless. It was neither a prerequisite to the purchase of the endowment insurance policy available under its terms, nor did it operate in any way to reduce the premiums payable on the said policy.

(b) The endowment insurance policy available under the terms of the "Formulette Gift Certificate" upon payment of a \$1 premium would not be effective until the insured had attained an age of sixty days, and the insurance coverage during the remaining period prior to the insured's first birthday was limited to \$100.

(c) The endowment insurance policies available under the terms of the "Formulette Gift Certificate" were underwritten solely by the Life Assurance Company of Pennsylvania and were not underwritten, to any extent, by respondents.

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(d) Respondents either awarded any scholarships, nor created or caused to be created a "Formulette Foundation". The said "Formulette Foundation" was nonexistent, and the individuals whose lives were insured under the endowment insurance policies available under the terms of the "Formulette Gift Certification" never became, by virtue of being so insured, eligible to receive any scholarship award.

Therefore, the statements and representations referred to in Paragraphs 4 and 5 were and are false, misleading, and deceptive.

PAR. 7. In the conduct of their business, at all times mentioned herein, the respondents have been in substantial competition, in commerce, with corporations, firms, and individuals engaged in the sale of infants' nursing products of the same general kind and nature as those sold by respondents.

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

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.

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, and 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 Formulette Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 47-25 27th Street, Long Island City, State of New York.

Respondents Murray Lerner, Irving Kaster, Daniel Stoller, and Robert Lerner 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.

ORDER

It is ordered, That respondents Formulette Company, Inc., a corporation, and its officers, and Murray Lerner, Irving Kaster, Daniel Stoller, and Robert Lerner, 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 infants' nursing products, or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Offering, as an inducement to the purchase of any of respondents' products, any gift, gift certificate, premium, or similar bonus, unless such gift, gift certificate, premium, or similar bonus has actual value.

2. Misrepresenting the value of, or the benefits attached to or which may be obtained through the use of, any gift, gift certificate, premium, or similar bonus offered by respondents as an inducement to the purchase of any of their products.

3. Representing that respondents are underwriters of insurance contracts or otherwise engaged in the insurance business.

4. Representing that respondents award scholarships, or that respondents have created, caused to be created, or are affiliated with any entity which awards scholarships.

5. Misrepresenting, in any manner, respondents' relationship to any person, organization, institution, or instrumentality.

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.

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IN THE MATTER OF

YOUNKER BROTHERS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS

Docket C-519. Complaint, June 28, 1963—Decision, June 28, 1963

Consent order requiring Des Moines, Iowa, furriers to cease violating the Fur Products Labeling Act by failing to use the word "natural" on invoices and in advertising to describe fur products that were not artificially colored, and by representing falsely in newspaper advertisements—by use of such terms as "HUGE REDUCTIONS", "TERRIFIC MARKDOWNS", etc.—that prices were reduced from usual retail prices.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Younker Brothers, Inc., a corporation and State Fur Trading Company, a corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling 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 Younker Brothers, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its office and principal place of business located at 701 Walnut Street, Des Moines, Iowa. State Fur Trading Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois with its office and principal place of business located at 36 South State Street, Chicago, Illinois. The registered agent in the State of Iowa for the State Fur Trading Company is C. T. Corporation System, 1014 Savings and Loan Building, Des Moines, Iowa.

Respondent Younker Brothers, Inc., retails various commodities including fur products. Respondent State Fur Trading Company retails fur products.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondents have been and are now engaged in the introduction into commerce and in the sale, advertising, and offering for sale, in commerce, and in the transportation and distribution, in commerce, of fur products; and have sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of fur which had been shipped and