

in point of time or in any other manner unless such restriction or limitation is actually imposed, and adhered to, by respondent. *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

SEACREST INDUSTRIES CORPORATION ET AL.

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

Docket C-719. Complaint, Feb. 28, 1964—Decision, Feb. 28, 1964

Consent order requiring Yonkers, N.Y., sellers of freezers, food and freezer-food plans through four wholly owned subsidiary corporations, to cease making various false representations in brochures, circulars and otherwise, concerning purported savings, professional assistance afforded purchasers of their products, guarantees, terms of sale and other false claims.

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 Seacrest Industries Corporation, a corporation, and Eugene Lissauer, William Lissauer and Sol Feldman, individually and as officers of said corporation, and Sidney Lissauer and Walter S. Blazer, 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 Seacrest Industries Corporation is a corporation organized, existing and doing business under and by

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virtue of the laws of the State of Delaware with its principal office and place of business located at 6 Xavier Drive, in the city of Yonkers, State of New York.

Respondents Eugene Lissauer, William Lissauer and Sol Feldman are officers of said corporation. 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 Seacrest Industries Corporation.

Sidney Lissauer and Walter S. Blazer are individuals who participate in the management, direction and control of the corporate respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent Seacrest Industries Corporation.

PAR. 2. The 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 freezer-food plans through the following whollyowned subsidiary corporations:

Serv-Well Foods Inc., Mt. Vernon, New York.

Bonded Food Service Corp., Yonkers, New York.

Franklin Foods Corporation, Yonkers, New York.

Franklin Sales Corporation, Yonkers, New York.

PAR. 3. In the course and conduct of their business, respondents, directly and through the aforementioned subsidiary corporations, cause freezers, when sold, to be shipped by the manufacturer from its plant or warehouse located in the State of New York to purchasers thereof, located in various other States of the United States; and cause food when sold to be shipped from warehouses located in the State of New York, to purchasers thereof located in various other States of the United States. Respondents 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 freezer-food plans.

PAR. 5. In the course and conduct of their business, respondents have disseminated, and caused the dissemination of, certain advertisements concerning the said food and freezer-food plan by the United States mails and by various means in commerce as "commerce" is defined in the Federal Trade Commission Act, including but not limited to brochures and circulars, for the purpose of inducing, and which were likely to induce 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 and freezers in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 6. By means of advertisements disseminated, as aforesaid and by the oral statements of respondents' salesmen, representatives and agents, respondents have represented directly or by implication:

1. That purchasers of their freezer-food plan can purchase their food requirements and a freezer for the same or less money than they have been paying for food alone;
2. That purchasers of respondents' freezer-food plan will save enough money on the purchase of their food to pay for the freezer;
3. That the initial food order supplied by the respondents will last the purchaser four months;
4. That "home economists" will assist purchasers of the aforesaid freezer-food plan in planning their food orders;
5. That the freezer and the food are fully and unconditionally guaranteed or insured under the contract;
6. That purchasers of the aforesaid freezer-food plan make one monthly payment which covers both food and freezer;
7. That any money paid by purchasers for freezers or freezer-food plan will be refunded if they are not satisfied.

PAR. 7. In truth and in fact:

1. Purchasers of the aforesaid freezer-food plan do not receive a freezer and their food requirements for the same or less money than they had been paying for food alone.
2. Purchasers of respondents' freezer-food plan do not save enough money on the purchase of their food to pay for the freezer.
3. The initial food order supplied by respondents is not sufficient to last purchasers four months.
4. The individuals sent to help purchasers of the aforesaid freezer-food plan in planning food orders are not "home economists". They have not had sufficient or proper training to warrant calling them "home economists".
5. The freezer and the food are not fully or unconditionally guaranteed or insured under the contract.
6. Purchasers of the aforesaid freezer-food plan are required to make two monthly payments, one for food and one for the freezer.
7. Purchasers of the freezer or the freezer-food plan do not receive a refund of their money if they are not satisfied.

Therefore, the advertisements referred to in Paragraph Five were, and are, misleading in material respects and constituted, and now

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constitute, "false advertisements" as that term is defined in the Federal Trade Commission Act, and the statements and representations referred to in Paragraph Six were, and now are, false, misleading and deceptive.

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 freezers, food and freezer-food plans from the 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 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 methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Sections 5 and 12 of said Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; 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 aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondents that the law has been violated as alleged in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having reason to believe that the respondents have violated the Federal Trade Commission Act, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings and enters the following order:

1. Seacrest Industries Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the

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State of Delaware, with its office and principal place of business located at 6 Xavier Drive, Yonkers, New York.

Eugene Lissauer, William Lissauer and Sol Feldman are individuals and officers of the corporate respondent and their address is the same as that of said corporation.

Sidney Lissauer and Walter S. Blazer are individuals 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

PART I

It is ordered, That respondents Seacrest Industries Corporation, a corporation, and its officers, and Eugene Lissauer, William Lissauer and Sol Feldman, individually and as officers of said corporation, and Sidney Lissauer and Walter S. Blazer, individuals, 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 that:

(a) Purchasers of a freezer-food plan will receive the same or any amount of food and a freezer for the same or less money than they have been paying for food alone;

(b) Purchasers of a freezer-food plan will save enough money on the purchase of their food to pay for the freezer;

(c) Food ordered by purchasers will be sufficient to last such purchasers any stated or specified period of time;

(d) A "home economist" or other formally trained individual will assist purchasers of the aforesaid freezer-food plan in planning their food orders;

(e) Any freezer, or any part thereof, or any food is guaranteed or insured in any manner, unless the nature and extent of the guarantee or insurance and the manner in which the guarantor or insurer will perform thereunder, are clearly and conspicuously disclosed in immediate conjunction with any such representation;

(f) Purchasers of their freezer-food plan make but one monthly payment covering the food and the freezer;

- (g) Money paid by purchasers for a freezer or a freezer-food plan will be refunded if they are not satisfied.
2. Misrepresenting in any manner the savings realized by purchasers of a freezer-food plan, freezer, or food.

PART II

It is further ordered, That respondents Seacrest Industries Corporation, a corporation, and its officers, and Eugene Lissauer, William Lissauer and Sol Feldman, individually and as officers of said corporation and Sidney Lissauer and Walter S. Blazer, individuals, 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 and 2 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 Paragraph 1 and 2 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.