

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
RADIANT INDUSTRIES CORPORATION ET AL.

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

Docket C-721. Complaint, Feb. 28, 1964—Decision, Feb. 28, 1964

Consent order requiring Brooklyn, N.Y., distributors of water softening and conditioning devices and other merchandise to wholesalers and jobbers, to cease representing falsely in advertisements in magazines, catalog sheets and other promotional materials—which they also furnished their jobbers for use in promoting sales—that all component parts of said water soften-

ing devices were "GUARANTEED FOR LIFE AGAINST CORROSION AND RUST", when the guarantee applied only to the "pressure vessel" portion of the device and had numerous undisclosed conditions.

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 Radiant Industries Corporation, a corporation, and Norman Krisberg and Fred Levitan, 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 Radiant Industries Corporation 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 1227 Rockaway Avenue, city of Brooklyn, State of New York.

Respondents Norman Krisberg and Fred Levitan, are individuals and are officers of the corporate respondent. Respondents Norman Krisberg and Fred Levitan 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 of water softening and conditioning devices, pump equipment and other merchandise to wholesalers and jobbers for resale to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said products, 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 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 sale of their water softening devices, respondents have made certain statements and representations in advertisements in magazines, catalog sheets and other promotional materials in respect to the guarantee furnished with their products.

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Typical and illustrative of said representations and statements, but not all inclusive thereof, are the following:

Guaranteed for life against corrosion and rust; Lifetime guarantee against corrosion and rust.

PAR. 5. By and through the use of the aforesaid statements and representations, and others of similar import not specifically set out herein, respondents represent, directly or by implication that all component parts of said water softening devices are unconditionally guaranteed against rust and corrosion for the lifetime of the purchaser.

PAR. 6. In truth and in fact, all component parts of said water softening devices are not unconditionally guaranteed for the lifetime of the purchaser. Such guarantee as may be given by respondents is applicable only to the "pressure vessel" portion of said water softening devices, and is honored only if numerous conditions and prerequisites, which are not disclosed in the aforesaid advertising, are met.

Therefore, the statements and representations referred to in Paragraphs Four and Five hereof are false, misleading and deceptive.

PAR. 7. Respondents also provide to distributors, jobbers and others the aforesaid catalog sheets and promotional materials for their use in promoting the sale of respondents' merchandise. By this practice, respondents place in the hands of said distributors, jobbers and others, the means and instrumentalities whereby the purchasing public may be mislead and deceived in the aforesaid manner.

PAR. 8. 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 water softening and conditioning devices, pump equipment and other merchandise of the same general kind and nature as that sold by respondents.

PAR. 9. 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.

PAR. 10. 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 constitutes, 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 Radiant Industries Corporation 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 1227 Rockaway Avenue, in the city of Brooklyn, State of New York.

Respondents Norman Krisberg and Fred Levitan 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 Radiant Industries Corporation, a corporation, and its officers, and Norman Krisberg and Fred Levitan, 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 water softening and conditioning devices, pump equipment or other merchandise 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 any of respondents' products are guaranteed unless the nature, duration and extent of the guarantee, the identity of the guarantor, and

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the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed, and the respondents do in fact fulfill all of their requirements under the terms of said guarantee.

2. Furnishing or otherwise placing in the hands of distributors, jobbers and others 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.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the