

FEDERAL TRADE COMMISSION DECISIONS

FINDINGS, OPINIONS, AND ORDERS, JULY 1, 1966, TO
DECEMBER 31, 1966

IN THE MATTER OF

DECORWOOD CORPORATION OF AMERICA ET AL.

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

Docket C-1080. Complaint, July 6, 1966—Decision, July 6, 1966

Consent order requiring a Philadelphia, Pa., corporation to cease using deceptive means to recruit franchised dealer-applicators for its wall-covering materials.

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 Decorwood Corporation of America, a corporation, and D. Bernard Kirschner, individually and as an officer 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 Decorwood Corporation of America is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 628 West Rittenhouse Street, Philadelphia, Pennsylvania.

Respondent D. Bernard Kirschner is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. For some time last past the respondents have been en-

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gaged in the advertising, offering for sale, sale and distribution of "Decorwood" wall covering materials to dealer-applicators on a franchise basis for resale and installation.

PAR. 3. In the course and conduct of their aforesaid business, the respondents have caused their said materials, when sold, to be shipped from their place of business in the State of Pennsylvania 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 materials in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid business, and for the purpose of recruiting dealer-applicators, the respondents have made numerous statements and representations in advertisements inserted in newspapers and magazines with respect to the nature of their business and the terms and conditions of their franchise agreements.

Typical and illustrative of the aforesaid statements are the following:

A 45 year old national company is expanding. Will appoint one man in each local area to service commercial, industrial and residential accounts.

* * * * *

NATIONALLY PUBLICIZED

Written in in American Home, New York Times, Phila. Bulletin.

* * * * *

The company absorbs all training costs, national advertising costs. . . .

* * * * *

Cash required \$975 for inventory only, 100% refundable.

* * * * *

A RESALE SERVICE FOR YOUR PROTECTION!

Decorwood maintains a resale service to help dealers who have to sell due to sickness, moving, etc.

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

(a) The Decorwood Corporation of America has been in existence for 45 years.

(b) Articles relating to the Decorwood Corporation of America or its products have appeared in American Home, The New York Times and The Philadelphia Bulletin.

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(c) The Decorwood Corporation of America absorbs all costs incidental to the training of its dealer-applicators.

(d) The Decorwood Corporation of America engages in national advertising.

(e) The capital which is required to be invested by a dealer-applicator is fully secured by inventory.

(f) The capital which is required to be invested by a dealer-applicator is fully refundable upon return of inventory.

(g) The Decorwood Corporation of America provides direct assistance to a dealer-applicator who is forced to sell out due to sickness, moving, or other distress circumstance.

PAR. 6. In truth and in fact:

(a) The Decorwood Corporation of America has not been in existence for 45 years.

(b) No articles relating to the Decorwood Corporation of America or its products have appeared in American Home, The New York Times or The Philadelphia Bulletin.

(c) The Decorwood Corporation of America does not absorb all costs incidental to the training of its dealer-applicators.

(d) The Decorwood Corporation of America does not engage in national advertising.

(e) The capital which is required to be invested by a dealer-applicator is not fully secured by inventory.

(f) The capital which is required to be invested by a dealer-applicator is not fully refundable upon return of inventory.

(g) The Decorwood Corporation of America does not provide direct assistance to a dealer-applicator who is forced to sell out due to sickness, moving, or other distress circumstance.

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

PAR. 7. 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 wall-covering materials 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, representations and practices has had, and now has, the capacity and tendency to mislead members of the public into the erroneous and mistaken belief that said statements and representations were and are true and into the

payment of substantial sums of money 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 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. Respondent Decorwood Corporation of America is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business located at 628 West Rittenhouse Street, Philadelphia, Pennsylvania.

Respondent D. Bernard Kirschner is an officer of the corporation and his 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.

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Order

ORDER

It is ordered, That respondents Decorwood Corporation of America, a corporation, and its officers, and D. Bernard Kirschner, individually and as an officer of said corporation, 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 wall-covering materials or any other product in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that:

1. The Decorwood Corporation of America has been in existence for 45 years; or misrepresenting in any manner the period of time during which the corporate respondent or the individual respondent has been engaged in business.

2. Articles relating to the Decorwood Corporation of America or its products have appeared in American Home, The New York Times or The Philadelphia Bulletin; or misrepresenting in any manner the nature or extent of any publicity which the corporate respondent, its products, or the individual respondent may have received.

3. The Decorwood Corporation of America absorbs all costs incidental to the training of its dealer-applicators; or misrepresenting in any manner the nature or extent of any costs which are absorbed by the corporate respondent or the individual respondent.

4. The Decorwood Corporation of America engages in national advertising; or misrepresenting in any manner the nature or extent of any advertising program which the corporate respondent or the individual respondent may have undertaken.

5. All or any part of any investment or payment solicited from a dealer-applicator or any other party is secured in any manner or to any extent: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that in every instance security was in fact provided in the nature and to the extent represented.

6. All or any part of any investment or payment solicited from a dealer-applicator or any other party is refundable in any manner or to any extent: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted

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hereunder for respondents to establish that in every instance a refund was in fact provided in the manner and to the extent represented.

7. The Decorwood Corporation of America provides direct assistance to a dealer-applicator who is forced to sell out due to sickness, moving, or other distress circumstance; or misrepresenting in any manner the nature or extent of any assistance which may be provided in connection with the resale or liquidation of distributor assets.

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.
