

IN THE MATTER OF

HOME CARPET COMPANY, INC., ET AL.

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

Docket C-1118. Complaint, Oct. 3, 1966—Decision, Oct. 3, 1966

Consent order requiring a Silver Spring, Md., dealer in carpeting to cease using bait advertising in promoting the sale of its carpets.

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 Home Carpet Company, Inc., a corporation, and Henry Richter, 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 Home Carpet Company, Inc., is a corporation organized, existing and doing business under and by vir-

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tue of the laws of the State of Maryland, with its principal office and place of business located at 8307 Fenton Street, in the city of Silver Spring, State of Maryland.

Respondent Henry Richter 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 business 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 floor covering products 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 Maryland 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 aforesaid business, and for the purpose of inducing the purchase of their carpeting, respondents have made numerous statements and representations in advertisements appearing in newspapers of general circulation, respecting the character of their offer to sell and the merchandise included in such offer.

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

BROADLOOM CARPET
3 Rooms Wall to Wall
COMPLETELY INSTALLED
270 Sq. Ft. (30 sq. yds.)
15 Ft. and 12 Ft. Widths
CARPET & PADDING & INSTALLATION
Perfect First Quality Only
PROMPT DELIVERY — ALL COLORS
NO DOWN PAYMENT
Low Monthly Payments
SERVING AREA SINCE 1945
NO EXTRA CHARGES
\$109
Completely
Installed

PAR. 5. By and through the use of the above-quoted statements and representations, and others of similar import and meaning, but not specifically set out herein, the respondents have represented, directly or by implication, that they were making a bona

fide offer to sell the advertised carpeting at the price and on the terms and conditions specified in the advertisement.

PAR. 6. In truth and in fact, respondents' offers were not bona fide offers to sell the said carpeting at the aforestated advertised price and on the terms and conditions therein stated but were made for the purpose of obtaining leads and information as to persons interested in the purchase of carpeting. After obtaining leads through response to said advertisements, respondent Henry Richter called upon such persons but made no effort to sell the carpeting at the aforesaid advertised price. Instead, he exhibited samples of the advertised carpeting, in demonstrating that it was manifestly unsuitable for the purpose intended, in disparaging the advertised carpeting and in using other tactics in such a manner as to discourage its purchase, and attempted to and frequently did, sell much higher priced carpet.

Therefore, the statements and representations as set forth in Paragraphs Four and Five hereof were and are false, misleading and deceptive.

PAR. 7. By and through the use of the phrase "CARPET & PADDING & INSTALLATION" in said advertising, respondents represent and have represented, directly or by implication, that all of the carpet mentioned in such advertisements is installed with separate padding included at the advertised price.

PAR. 8. In truth and in fact, some of the carpet mentioned in such advertisements has a rubberized backing and is not installed with separate padding included at the advertised price.

Therefore, the statements and representations as set forth in Paragraphs Four and Seven 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 floor covering products of the same general kind and nature as those 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.

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 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 Home Carpet Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its office and principal place of business located at 8307 Fenton Street, in the city of Silver Spring, State of Maryland.

Respondent Henry Richter is an officer of said 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.

ORDER

It is ordered, That respondents Home Carpet Company, Inc., a corporation, and its officers, and Henry Richter, 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 floor covering products, or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using, in any manner, a sales plan, scheme or device wherein false, misleading or deceptive statements or representations are made in order to obtain leads or prospects for the sale of merchandise or services.

2. Making representations purporting to offer merchandise for sale when the purpose of the representation is not to sell the offered merchandise but to obtain leads or prospects for the sale of other merchandise at higher prices.

3. Discouraging the purchase of, or disparaging, any merchandise or services which are advertised or offered for sale.

4. Representing, directly or by implication, that any merchandise or services are offered for sale when such offer is not a bona fide offer to sell said merchandise or services.

5. Representing, directly or by implication, that floor covering products are installed with separate padding included at a stated price: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that where so represented separate padding is in fact installed at the stated price.

6. Misrepresenting, in any manner, the prices, terms or conditions under which respondents supply separate padding in connection with the sale of floor covering products.

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.
