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Complaint

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.

IN THE MATTER OF

BUSINESS DEVELOPMENT SALES, INC., ET AL.

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

Docket C-1138. Complaint, Nov. 18, 1966—Decision, Nov. 18, 1966

Consent order requiring a Minneapolis, Minn., distributor of coin-operated laundry and dry cleaning equipment and supplies to cease misrepresenting to its prospective customers the profits to be made from its equipment and the service it renders such customers.

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 Business Development Sales, Inc., a corporation, and Thomas H. Boulay and Albert J. DeMarsh, 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 Business Development Sales, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its principal office and place of business located at 7705 Morgan Avenue South, in the City of Minneapolis, State of Minnesota.

Respondents Thomas H. Boulay and Albert J. DeMarsh are 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 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 offering for sale, sale and distribution of coin-operated laundry and dry cleaning equipment and supplies to the public to be installed in stores servicing the public and operated by the purchasers for a profit.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said equipment and supplies, when sold, to be shipped and transported from their place of business in the State of Minnesota or from the place of business of the manufacturer or supplier thereof to purchasers located in various States of the United States other than the State of origination of said shipment and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said equipment and supplies 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 laundry and dry cleaning equipment and supplies, respondents have made certain statements and representations orally in sales presentations and through means of a prospectus.

Among and typical of such statements and representations, but not all inclusive thereof, are the following:

(a) That operators of stores in which respondents' equipment will be installed will realize a gross monthly income varying in amount from approximately \$1,000 to \$2,000 and a net monthly income varying in amount from approximately \$500 to \$1,000.

(b) That the usual operating time per day for a piece of equipment is four hours.

(c) That respondents will provide to purchasers of their equipment continuing assistance in the operation of their stores.

PAR. 5. In truth and in fact:

(a) Said representations as to monthly gross and net income are greatly exaggerated.

(b) The usual operating time per day for a piece of equipment in a substantial number of installations is not four hours but two or less hours per day.

(c) Respondents in a significant number of instances do not render to purchasers of their equipment the assistance promised in the operation of their stores.

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

PAR. 6. In the conduct of their business, at all times mentioned

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herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of laundry and dry cleaning equipment and supplies of the same general kind and nature as that sold by respondents.

PAR. 7. 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' said equipment and supplies by reason of said erroneous and mistaken belief.

PAR. 8. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of the 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:

Order

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1. Respondent Business Development Sales, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its office and principal place of business located at 7705 Morgan Avenue South, Minneapolis, Minnesota.

Respondents Thomas H. Boulay and Albert J. DeMarsh are officers of the 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 Business Development Sales, Inc., a corporation, and its officers, and Thomas H. Boulay and Albert J. DeMarsh, 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 coin-operated laundry or dry cleaning equipment or supplies or any other equipment or product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or indirectly:

(a) That an operator of a store utilizing said coin-operated laundry or dry cleaning equipment or supplies or any other equipment can realize a gross income of from \$1000 to \$2000 per month or a net income of from \$500 to \$1000 per month or any other gross or net income in any amount for any period of time: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that any represented amount of gross or net income is the amount generally realized by others in the operation of stores located in similar type communities and locations and utilizing equipment of similar kind and quantity;

(b) That said coin-operated laundry or dry cleaning equipment will be used by the public for four hours per day or that any of respondents' equipment or products will be used or operated with any degree of frequency or

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for any period of time: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that equipment of a similar kind installed in stores located in similar type communities and locations is used by the public generally with the degree of frequency or to the extent represented.

2. Misrepresenting in any manner the degree or amount of assistance or guidance given to a purchaser of any of the aforesaid equipment or supplies.

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.
