

IN THE MATTER OF

BELLEVUE LABORATORIES, INC., ET AL.

ORDER DISMISSING A COMPLAINT IN REGARD TO THE ALLEGED
VIOLATION OF THE FEDERAL TRADE COMMISSION ACT*Docket 8758. Complaint, March 6, 1968—Decision, Nov. 12, 1968*

Order dismissing a complaint against a former Bellevue, Iowa, distributor of electric broilers and equipment charging use of deceptive means to recruit franchised dealers, the corporate respondent being dissolved and the individuals no longer in business.

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 Bellevue Laboratories, Inc., a corporation, and Leo P. Reistroffer, individually and as an officer of said corporation, and William B. Rice, individually and as a salesman for 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 Bellevue Laboratories, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Iowa, with its office and principal place of business located at 108 North Second Street, in the city of Bellevue, State of Iowa.

Respondent Leo P. Reistroffer is president and principal stockholder of the corporate respondent and maintains business offices at the same address as the corporate respondent. This individual respondent formulates, directs and controls the acts, policies and practices of the corporate respondent, including the acts and practices hereinafter set forth.

Respondent William B. Rice was a salesman of the corporate respondent. His address is 195 Roscoe Boulevard, Ponte Vedra, Florida, 32082. He cooperated in and effectuated the acts, policies and practices of the corporate respondent, including the acts and practices hereinafter set forth.

PAR. 2. Respondents Bellevue Laboratories, Inc., and Leo P. Reistroffer are now, and for some time last past have been, and respondent William B. Rice, during the time he was in the employ of corporate respondent, was engaged in the advertising, offering for sale, sale and distribution of electric broilers called "Charcoal-

Quartz Cook-Outs" and routes, licenses and franchises in relation thereto and food, supplies and equipment for use in connection therewith to members of the general public.

PAR. 3. In the course and conduct of their business respondents have caused said products, when sold, to be shipped from their place of business in the State of Iowa to purchasers thereof located in various other States of the United States and in the District of Columbia, and 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 the "Charcoal-Quartz Cook-Out" and the other aforesaid business opportunities and products, respondents have made numerous statements and representations in oral sales presentations to prospective purchasers and in newspaper advertisements and promotional literature respecting profits, location of routes, character of business, selection of persons, nature of employment and investment and security of investment.

Typical and illustrative of the statements and representations contained in said advertising and promotional material, but not all inclusive thereof, are the following:

Everyone must eat. The food business is one of the safest, surest businesses on earth. It is permanent and depression proof.

Very unique and attractive cooking equipment is being used and locations will ask for this equipment. Locations will be plentiful.

There will be no need to wait six months or a year to build up your business. You start making a profit the very minute your "Cook-Outs" go on location.

Your mark-ups and your net profits are exceptionally high. Your average mark-up will be approximately 100 percent. Most businesses do not have such a large mark-up * * *.

Spare time: \$400 extra per month opportunity for local man with car, for service route in spare time along with present job or business or full time with unlimited earnings. NO SELLING. All accounts established by us. \$650 cash investment required for inventory and supplies.

Franchise distributor: Man or woman with car and \$1,000 for inventory can make up to \$200 per week and over. Spare time, parley [sic] to full time can make up to \$50,000 per year and over, delivering our frozen foods to establish accounts. No selling or franchise fee.

Spare time—Full time: \$400 to \$800 per month possible for man with car to service route on weekends or evenings. NO SELLING. Can be worked full time with unlimited income. \$590 to \$1,475 cash required for inventory and supplies. Only honest, reliable person who can make and give decisions considered. Immediate income. No waiting or delays. Investigate this if you want something real good. NOT VENDING.

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 forth herein, and through oral statements and representations to prospective purchasers, respondents have represented, directly or by implication, that:

1. Purchasers of respondents' products will obtain a business which is permanent and depression proof.

2. Purchasers will have no difficulty establishing or maintaining locations.

3. Persons investing \$650 will earn \$400 per month in their spare time, and those investing \$1,000 will earn \$200 per week and over and those investing \$595 to \$1,475 will earn \$400 to \$800 per month and other equally substantial earnings are assured to persons who purchase respondents' products and engage in business.

4. Respondents offer employment to persons responding to their advertisements.

5. In certain instances respondents have established accounts and routes for their products at the time the offer is made and in other instances respondents will establish profitable accounts and routes.

6. Any amount invested is secured by an inventory worth the amount invested and there is no risk of losing any part of the investment.

7. Persons selected by the respondents will not be required to engage in any kind of selling activity.

8. The offer is made only to selected persons.

PAR. 6. In truth and in fact:

1. The business opportunity offered by the respondents is not permanent and is not depression proof.

2. In most instances, purchasers of respondents' products who engage in business are unable to establish or maintain locations.

3. Persons investing \$650 will not earn \$400 per month in their spare time, and those investing \$1,000 will not earn \$200 per week and over, and those investing \$595 to \$1,475 will not earn \$400 to \$800 per month and substantial earnings are not assured to persons who purchase respondents' products and engage in business. Actually, persons purchasing respondents' products and engaging in business have made little or no profits.

4. Respondents do not offer employment to persons responding to their advertisements. Respondents' sole purpose and intent is to sell their products to such persons.

5. The respondents do not have established accounts or routes

at the time of the making of the offer of sale or at any time thereafter and do not establish profitable accounts or routes.

6. Invested sums of money are not secured by an inventory worth the amount invested and there is a real and substantial risk assumed by the purchaser of losing all or a substantial portion of the money invested.

7. Persons purchasing respondents' products are required to engage in extensive selling or soliciting in order to establish, operate and maintain locations for said products.

8. The offer is not made only to selected persons, but is open to anyone who has the money to purchase respondents' products.

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 corporate name, "Bellevue Laboratories, Inc.," separately and in conjunction with the above quoted statements and representations and others of similar import and meaning but not expressly set out herein, respondents have represented, directly or by implication, that they own, operate or control an appropriately equipped laboratory in which their products are developed and tested, or where research work in connection with their business is conducted by trained technicians, a fact of which the Commission takes official notice.

PAR. 8. In truth and in fact, the respondents do not own, operate or control any appropriately equipped laboratory in which their products are developed or tested, or where research work in connection with their business is conducted by trained technicians.

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

PAR. 9. By the aforesaid practices, respondents have placed in the hands of jobbers, retailers, dealers and others the means and instrumentalities by and through which they may mislead and deceive the public in the manner and as to the things hereinbefore alleged.

PAR. 10. In the course and conduct of their business, and at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of products of the same general kind and nature as those sold by the respondents.

PAR. 11. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had the capacity and tendency to mislead members of the purchas-

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ing 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. 12. 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.

ORDER DISMISSING COMPLAINT

The hearing examiner having on October 24, 1968, certified the motion of complaint counsel, dated October 21, 1968, to dismiss the complaint in this matter on the grounds that further proceedings are not in the public interest; and the hearing examiner having determined that the corporate respondent has been legally dissolved, that the individual respondents are no longer engaged in the business referred to in the complaint, and that the resumption of the sale of the commodity involved in the complaint by the individual respondents appears to be remote; and it appearing to the Commission, in view of the factors mentioned and all the circumstances, that further proceedings in this matter would not be in the public interest:

It is ordered, That the complaint be, and it hereby is, dismissed.
