

Complaint

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IN THE MATTER OF

WASHINGTON GAS & ELECTRIC APPLIANCE COMPANY
INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-1518. Complaint, Apr. 7, 1969—Decision, Apr. 7, 1969*

Consent order requiring three affiliated Washington, D.C., distributors of air conditioning and heating units to cease using or simulating the trade names of any public utility or competitors, using dummy addresses to falsify the size of their operations, and disparaging the installed equipment of competitors.

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 Washington Gas & Electric Appliance Company, Inc. and Allison Air Conditioning & Heating Service, corporations, and Sidney Grossman, individually and as an officer of said corporations, and Abatt Air Conditioning & Heating Company, Inc., a 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 Washington Gas & Electric Appliance Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the District of Columbia, with its principal office and place of business located at 2206 14th Street, NW., Washington, D.C.

Respondent Allison Air Conditioning & Heating Service is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 2212 14th Street, NW., Washington, D.C.

Respondent Abatt Air Conditioning & Heating Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the District of Columbia, with its

principal office and place of business located at 2206 14th Street, NW., Washington, D.C.

Respondent Sidney Grossman is an individual and is an officer of corporate respondents Washington Gas & Electric Appliance Company, Inc., and Allison Air Conditioning & Heating Service, and he owns the stock and manages the business of corporate respondent Abatt Air Conditioning & Heating Company, Inc. He formulates, directs and controls the acts and practices of the aforesaid corporate respondents, including the acts and practices hereinafter set forth. His business address is 2206 14th Street, NW., Washington, D.C.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale, distribution, installation and service of air conditioning and heating units to and for the public.

PAR. 3. In the course and conduct of their business as aforesaid, 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 District of Columbia to purchasers thereof located in various 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 business as aforesaid, and for the purpose of inducing the purchase of their heating and air conditioning units, or their services, respondents have made, and are now making, numerous statements and representations in newspaper advertisements and telephone directories, as well as through oral statements and representations by their employees, of which the following are typical and illustrative, but not all inclusive thereof:

1. Respondents have placed listings for the Washington Gas & Electric Appliance Company, Inc., in telephone directories and yellow pages, immediately preceding the listing for the Washington Gas Light Company, the public gas utility company for the Washington, D.C., metropolitan area, and respondents have made other representations, in a manner which had the tendency and capacity to lead the public to believe that respondent corporation is the same as, or is affiliated with the Washington Gas Light Company.

2. Respondents have placed listings for the Ream Air Condi-

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tioning Company in the yellow pages of telephone directories preceding listings for factory authorized "Rheem" air conditioning and furnace dealers and have advertised the aforesaid company in newspapers in a manner which had the tendency and capacity to lead the public to believe that respondents regularly sell "Rheem" air conditioning and heating units.

3. Respondents have placed multiple listings for the following companies in telephone directories and under various classifications throughout the yellow pages and have placed advertisements for these companies in newspapers representing that these companies had offices, branch offices or dispatch offices at various locations in the Washington, D.C., metropolitan area, including Virginia and Maryland, which had the tendency and capacity to lead the public to believe that respondents operate sales and service facilities in their neighborhood or vicinity:

Washington Gas & Electric Appliance Company, Inc.,	
1835 K NW	483-4900
BarrBG	483-4900
3801 N Fairfax Dr Arl	528-6488
Allison Air Conditioning & Heating Service,	
2212 14thNW	AD 4-4206
941 N Highland Arl	JA 5-1448
3801 N. FairfaxDr Arl	525-1448
2112 Ellis SilSpg	589-4851
6800 20th Av Hyatts	422-2207
Abatt Air Conditioning & Heating Company, Inc.,	
2206 14thNW	265-0405
6900 WisAv Beth	656-3665
8634 ColsvlRd SilSpg	587-6463
4400 StampRd SilHill	423-0333
200 N Wash Alex	548-2844
1207 King Alex	KI 8-2844
2523 Wilsn Blvd Arl	522-1006
3801 N Fairfax Dr Arl	522-1006
Lennard Air Conditioning & Heating Company,	
6800 20th Av Hyatts	422-2207
2112 Ellis SilSpg	589-4851
941 N Highland Arl	JA 5-1448
2212 14thNW WashDC	AD 4-4206
Charter Air Conditioning & Heating Company,	
6800 20th Av Hyatts	422-2207
2112 Ellis SilSpg	589-4851
941 N Highland Arl	JA 5-1448
2212 14thNW WashDC	AD 4-4206
General Air Conditioning & Electric Company,	
6800 20thAv Hyatts	422-2207

2112 Ellis SilSpg	589-4851
941 N Highland Arl	JA 5-1448
2212 14thNW WashDC	AD 4-4206
Ream Air Conditioning Company, 2212 14thNW	AD 4-4206
AAA Air Conditioning & Heating Co. Inc., 2206 14thNW	265-0405
ABACO Air Conditioning & Heating Co. Inc. 2206 14thNW	265-0405

PAR. 5. In truth and in fact:

1. Respondents are not the same as nor are they affiliated with the Washington Gas Light Company, but use the similarity of the corporate names to obtain leads to prospective customers. Respondents and their employees fail to disclose to prospective customers that they are not the same as or affiliated with the Washington Gas Light Company and take advantage of the customer's misunderstanding as to respondents' identity to induce the purchase of products and services.

2. Respondents do not regularly sell "Rheem" air conditioning or heating units. The Ream Air Conditioning Equipment Company is a bogus company conceived by respondents to capitalize upon the goodwill of "Rheem" equipment and the dealers of "Rheem" equipment and to divert customers from these dealers.

3. Respondents do not operate offices, branch offices or dispatch offices at various locations in the Washington, D.C., metropolitan area or in Virginia or Maryland. The corporations named as respondents operate at two adjacent locations under the management, control and ownership of the individual respondent. The companies listed and advertised by respondents, except those named in the complaint, are nonexistent bogus companies.

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

PAR. 6. In the course and conduct of their business, as aforesaid, respondents' employees have on occasions made oral and written representations to prospective customers that the customer's air conditioning or heating unit was materially defective, not repairable or in a condition which might endanger life or property when such representations were contrary to the fact. In some instances, these misrepresentations were made to prospective customers who believed that respondents' employees were representatives of a gas or utility company. Such misrepresentations had the effect of inducing prospective customers to

purchase new air conditioning or heating units from respondents or to authorize extensive and unneeded repairs.

Therefore, such statements, representations and practices were and are unfair, false, misleading and deceptive.

PAR. 7. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and now are, in substantial competition, in commerce, with corporations, firms and individuals in the sale and service of air conditioning and heating units of the same general kind and nature as those sold and serviced 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 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 and services 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 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 the 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 alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having considered the agreement and having accepted same, and having thereupon placed such agreement on

the public record and having duly considered the comment filed thereafter pursuant to § 2.34(b) of its Rules, now, in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Washington Gas & Electric Appliance Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the District of Columbia, with its office and principal place of business located at 2206 14th Street, NW., Washington, D.C.

Respondent Allison Air Conditioning & Heating Service is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 2212 14th Street, NW., Washington, D.C.

Respondent Abatt Air Conditioning & Heating Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the District of Columbia, with its office and principal place of business located at 2206 14th Street, NW., Washington, D.C.

Respondent Sidney Grossman is an officer of Washington Gas & Electric Appliance Company, Inc., and Allison Air Conditioning & Heating Service, and he owns the stock and manages the business of Abatt Air Conditioning & Heating Company, Inc. His business address is 2206 14th Street, NW., Washington, D.C.

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 Washington Gas & Electric Appliance Company, Inc., and Allison Air Conditioning & Heating Service, corporations, and their officers, and Sidney Grossman, individually and as an officer of said corporations, and respondent Abatt Air Conditioning & Heating Company, Inc., a corporation, and its officers, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale, distribution or service of air conditioning or heating units or 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 representations are made in order to obtain leads or prospects for the sale of merchandise or services or to induce sales of any merchandise or services.

2. Using the name Washington Gas & Electric Appliance Company, Inc., or any variation thereof, or any substantially similar name or designation in the greater Washington D.C., metropolitan area: *Provided, however*, That nothing herein shall be construed to prohibit respondents from using the name Washington Electric & Gas Furnace and Air Conditioning Company, Inc.

3. Representing, directly or indirectly, that respondents' employees are in the employ of any gas or utility company.

4. Misrepresenting, in any manner, the nature of respondents' business, or affiliations or connections with any public utility or publicly franchised company, or any other organization.

5. Using the name "Ream" or any substantially similar name or designation in any telephone directory listing, or advertising of any nature.

6. The adoption, advertising, or listing in telephone directories of any trade or corporate name which simulates the trade or corporate name of an established competitor or the product sold by an established competitor of respondents.

7. Representing, directly or indirectly, that respondents regularly sell any trade name product unless respondents regularly sell said products in the course of their business.

8. Listing in telephone directories, or advertising, in any manner, a sales, service, dispatch or other facility, at various addresses unless they, in fact, maintain either sales, service, dispatch or other facilities at the addresses advertised and listed and truthfully so designate the nature of such facilities at each address in any such advertising and listing.

9. Listing in telephone directories, or advertising, in any manner, a corporation, company, or other business concern, unless such corporation, company or other business concern, is a viable business entity, which maintains books and records and has a full time force of personnel which conduct business on a daily basis.

10. Listing in telephone directories, or advertising, in any

manner, the same company or corporation under more than one name.

11. Misrepresenting, in any manner, the location or extent of the sales or services facilities operated by respondents.

12. Representing, directly or by implication, that any furnace or air conditioning unit is defective in any manner, not repairable, or in a condition which may endanger life or property: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that such representation or representations were based upon adequate inspection or analysis of the unit and respondents thereby knew or had valid reason to believe in good faith that said representation or representations were true.

13. Making any representations, in any manner, with respect to the condition of any air conditioning or heating unit: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that such representation or representations were based upon adequate inspection or analysis of the unit and respondents thereby knew or had valid reason to believe in good faith that said representation or representations were true.

14. Failing to deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of respondents' products or services, and failing to secure from each such salesman or other person a signed statement acknowledging receipt of said order.

It is further ordered, That respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

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.

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IN THE MATTER OF

JACOBY-BENDER, INC., ET AL.

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

Docket 8728. Complaint, Jan. 27, 1967—Decision, April 8, 1969

Consent order requiring a Queens County, N.Y., distributor of watchbands and identification bracelets to cease mislabeling its products as to the foreign origin of certain component parts.

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 Jacoby-Bender, Inc., a corporation, and William E. Stark, 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 Jacoby-Bender, Inc., 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 62-10 Northern Boulevard, Woodside, Queens County, New York.

Respondent William E. Stark 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. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale or distribution of metal expansion watch bands, identification bracelets and other products to distributors, jobbers and retailers for resale to the public.

PAR. 3. In the course and conduct of their aforesaid 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