

IN THE MATTER OF

KRR, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-1645. Complaint, Dec. 8, 1969—Decision, Dec. 8, 1969*

Consent order requiring a Toledo, Ohio, seller of meat products to cease using bait advertising, making deceptive guarantees, misrepresenting the grade and quality of its meat, and furnishing others with means to deceive purchasers.

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 KRR, Inc., a corporation, and William Richards, Jr., 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 KRR, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its principal office and place of business located at 1928 Sylvania Avenue, Toledo, Ohio.

Respondent William Richards, Jr., is an officer of the corporate respondent. Said individual respondent formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His business address is 1549 Western Avenue, Toledo, Ohio.

PAR. 2. Respondents, for some time last past, have been engaged in the advertising, offering for sale, sale and distribution of meat and meat products, to members of the purchasing public. Said meat and meat products come within the classification of food, as "food" is defined in the Federal Trade Commission Act.

PAR. 3. In the course and conduct of their business and at all times mentioned herein, respondents have disseminated advertising by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including advertising mate-

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rial for use in newspapers of general circulation, for the purpose of inducing, or which was likely to induce, the purchase of meat and meat products.

PAR. 4. Among and typical of the statements and representations contained in said advertisement disseminated as hereinabove set forth were the following:

"Lean" U.S.D.A. choice Black Angus beef sides 49¢ per lb.

Top of the Beef Tender Delicious Beef Sides 35¢ per lb.

"Lean" U.S.D.A. choice Black Angus steak hinds 69¢ per lb.

Lean U.S.D.A. choice Chuck-A-Loin includes: Porterhouse, T-Bone, Sirloin, Roast, Bar-B-Q, Steaks 55¢ per lb.

Petite Black Angus beef orders include: Steaks, Roasts, Ground Beef, Example—100 lbs. \$58.00.

Satisfaction Guaranteed.

Guaranteed to Satisfy. If not satisfied return within ten days. Your purchase will be replaced or money refunded.

Lean U.S.D.A. choice beef sides 250 pounds. Example: 41¢ per day. \$3.29 per week.

You may purchase NOW—freezer and meat for only 98¢ per day.

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

(1) Offers set forth in said advertisements were bona fide offers to sell products of the kind therein described at the prices stated therein.

(2) The advertised meats were guaranteed and a purchaser who was not satisfied with the product purchased by him would, upon request, receive a full refund of the purchase price or a different order of meat upon tendering the unsatisfactory order.

(3) Beef offered for sale was obtained from the Black Angus breed of cattle, and was high quality meat.

(4) Meat advertised, including "Chuck-A-Loin" and "Steak Hinds" consisted entirely or primarily of high quality graded cuts of meat including steaks.

(5) "Top of the Beef" sides consisted of a complete side of beef.

(6) Persons purchasing at a stated price per day or per week were paying a significantly lower total price than that which they had been paying.

PAR. 6. In truth and in fact:

(1) The offers set forth in said advertisement and other offers

not set forth in detail herein were not bona fide offers to sell said meat products but to the contrary were made to induce prospective purchasers to visit respondents' place of business for the purpose of purchasing said advertised meat. When prospective purchasers, in response to said advertisements attempted to purchase the advertised products, respondents informed them that the advertised prices applied only to very low quality meat and respondents made no effort to sell such low quality advertised meat but in fact disparaged it in a manner calculated to discourage the purchase thereof, and attempted to and frequently did sell much higher-priced meats.

(2) The advertised guarantee failed to clearly and conspicuously set forth the nature and extent of said guarantee. Contrary to the representation appearing therein that the order would be replaced at the request of an unsatisfied purchaser, any replacement was subject to limitations and conditions which were not revealed in their advertising of said guarantees.

(3) Beef offered for sale by respondents did not necessarily come from the Black Angus breed of cattle.

(4) "Top of the Beef" sides did not consist of a complete side of beef but were less than a complete side.

(5) The meat advertised did not consist of high quality graded cuts of meat, including steaks, but was meat of very low quality.

(6) The stated prices per day or per week did not represent a significant saving to prospective purchasers over the price of similar meat available to such purchasers. Furthermore, respondents failed to disclose the number of days or weeks which such payments were required to be made in order to complete a purchaser's obligation.

PAR. 7. Respondents by their advertising disseminated as aforesaid have represented directly or by implication and by failure to disclose the average weight loss in meat due to cutting, dressing and trimming that the meat advertised and sold by respondents would weigh approximately its advertised or purchased weight, and that other meat purchases when ready for home freezer storage would equal or approximate their total purchase weight. Said representations were contrary to the fact as respondents' beef sides were sold by the pound at their carcass or uncut weight. The cutting, dressing and removal of fat, bone and waste material greatly reduced the total weight, and a meat order when

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ready for home freezer storage was neither equal to nor did it approximate the total weight of said meat at the time of purchase.

Therefore the advertisements referred to in Paragraphs Four and Seven were and have been misleading in material respects and have constituted "false advertisements" as that term is defined in the Federal Trade Commission Act, and the representations referred to in Paragraphs Five and Seven were and have been false, misleading and deceptive.

PAR. 8. Use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices have had the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were true and into the purchase of substantial quantities of the aforesaid products, including higher priced products than those advertised because of said mistaken and erroneous belief.

PAR. 9. The aforesaid acts and practices of respondents, as herein alleged, including the dissemination by respondents of false advertisements as aforesaid, were all to the prejudice and injury of the public and constituted unfair and deceptive acts and practices in commerce in violation of Sections 5 and 12 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 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 thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent, KRR, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at 1928 Sylvania Avenue, Toledo, Ohio.

Respondent, William Richards, Jr., is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation and his address is 1549 Western Avenue, Toledo, Ohio.

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 KRR, Inc., a corporation, and its officers, and William Richards, Jr., 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 offering for sale, sale or distribution of meat and other food products, do forthwith cease and desist from:

1. Disseminating, or causing the dissemination, by means of United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, of any advertisement which represents directly or by implication:

(a) That any products are offered for sale, when the purpose of such representations is not to sell the offered products, but to obtain prospects for the sale of other products at higher prices.

(b) That any product is offered for sale when such an offer is not a bona fide offer to sell such product.

(c) That any product is guaranteed unless the nature, conditions and extent of the guarantee and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed in immediate conjunction therewith.

(d) That beef offered for sale comes entirely or primarily from the Black Angus breed of cattle.

(e) That beef offered for sale consists entirely or primarily of top quality cuts of meat or steak.

(f) That beef offered for sale may be purchased at any stated price per day, per week, or for any other specified period of time unless in immediate conjunction with any such representation it is clearly and conspicuously disclosed the total number of payments, and the total sum which the purchaser will be required to pay pursuant to any time payment plan so advertised.

2. Disseminating, or causing the dissemination, of any advertisement by means of United States mails, or by means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which:

(a) Fails to clearly and conspicuously disclose:

(1) That beef sides, hindquarters and other untrimmed pieces of meat offered for sale are sold subject to weight loss due to cutting, dressing and trimming.

(2) That the price charged for such untrimmed meat is based on the hanging weight before cutting, dressing and trimming occurs.

(3) The average percentage of weight loss of such meat due to cutting, dressing and trimming.

(b) Fails to clearly and conspicuously include:

(1) When United States Department of Agriculture graded meat is advertised which is below the grade of "USDA Good," the statement "This meat is of a grade below U.S. Prime, U.S. Choice, and U.S. Good."

(2) When meat not graded by the United States Department of Agriculture is advertised,

(a) The statement "This meat has not been

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graded by the United States Department of agriculture," and

(b) If such meat is a portion of the total meat offered, a statement indicating the portion which is ungraded and the percentage of such ungraded portions, by weight, of the total meat offered.

3. Disseminating, or causing the dissemination, of any advertisement by means of United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which misrepresents in any manner the price, quantity or quality of product, the savings available to purchasers thereof, or the terms, conditions and requirements of any installment payment contracts executed by the purchasers thereof.

4. Disseminating, or causing to be disseminated, by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of any meat or other food product in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations prohibited in Paragraph 1, or the misrepresentations prohibited in Paragraph 3, or fails to comply with the affirmative requirements of Paragraph 2 hereof.

5. Discouraging the purchase of, or disparaging in any manner, or encouraging, instructing or suggesting that others discourage or disparage any meat or other food products which are advertised or offered for sale in advertisements, disseminated or caused to be disseminated by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act.

6. Supplying or placing in the hands of any salesman or agent sales manuals, brochures, advertising mats, or any other advertising or sales aid materials for the purpose of inducing or which are likely to induce, directly or indirectly, the purchase of meat or other food products in commerce, as "commerce" is defined in the Federal Trade Commission Act, and which contain any of the false, misleading or deceptive representations prohibited in this order, or which are designed for use, or could be used, to carry out or enhance the practices prohibited in this order.

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7. Failing to deliver a copy of this order to cease and desist to all operating divisions of the corporate respondent, and to all officers, managers, and salesmen thereof, both present and future, and to any other person now engaged or who becomes engaged in the sale of meat or other food products as respondents' agent, representative or employee, and to secure from each of said persons a signed statement acknowledging receipt of a copy thereof.

8. Failing to make any of the disclosures required in the Truth in Lending Act (P.L. 90-321; 82 Stat. 146, *et seq.*) and the Act's implementing Regulation Z (12 CFR 226) in the manner and form prescribed therein.

It is further ordered, That respondent corporation notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution which may affect compliance obligations arising out of the order.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.
