

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
KING-SEELEY THERMOS CO.

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

Docket C-1712. Complaint, Mar. 24, 1970—Decision, Mar. 24, 1970

Consent order requiring an Ann Arbor, Mich., manufacturer of tents, sleeping bags, cot pads, camp pads and sleeping bag mattresses to cease using exaggerated retail prices of its products as regular and customary in any trade area, furnishing means of deception to others, and failing to maintain pricing records.

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 King-Seeley Thermos Co., a Michigan corporation hereinafter referred to as "Predecessor" which Predecessor has been acquired by a new corporate subsidiary of Household Finance Corporation created for that specific purpose under the laws of Delaware, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that 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 King-Seeley Thermos Co. 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 3853 Research Park Drive, Ann Arbor, Michigan.

PAR. 2. Respondent or Predecessor is now and for some time last

past has been engaged in the manufacture, advertising, offering for sale, sale and distribution of tents, sleeping bags, cot pads, camp pads and sleeping bag mattresses, hereinafter referred to as "Products," to retailers for resale to the public.

PAR. 3. In the course and conduct of its business, respondent or Predecessor now causes, or for some time last past has caused, Products, when sold, and related advertising copy and catalogues, to be shipped from its places of business in the State of Connecticut to retailers thereof located in various other States of the United States and maintains, and at all times mentioned herein has maintained, a substantial course of trade in Products and advertising in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondent or Predecessor, for the purpose of inducing the purchase of Products, has engaged in the practice of using fictitious prices in connection therewith by the following method and means:

By distributing, or causing to be distributed to retailers and others, catalogs which depict and describe the Products and contain a stated price for each.

In the manner aforesaid respondent or Predecessor thereby represents, directly, or indirectly, that the amounts shown are a *bona fide* estimate of the actual retail prices of Products in respondent's trade area and that they do not appreciably exceed the highest prices at which substantial sales of Products are made at retail in said trade area.

In truth and in fact said amounts shown are not a *bona fide* estimate of the actual retail prices of Products in respondent's trade area and they appreciably exceed the highest prices at which substantial sales of Products are made at retail in said trade area.

Therefore, the statements and representations set forth above are false, misleading and deceptive.

PAR. 5. By the aforesaid acts and practices, respondent or Predecessor places in the hands of retailers the means and instrumentalities by and through which they may mislead the public as to the usual and regular retail price of Products.

PAR. 6. In the course and conduct of its business and at all times mentioned herein, respondent or Predecessor has been engaged in substantial competition, in commerce, with corporations, firms and individuals in the sale of products of the same general kind and nature as those sold by respondent or Predecessor.

PAR. 7. The use by the respondent or Predecessor of the aforesaid false, misleading and deceptive statements, representations and prac-

tices, 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 Products by reason of said erroneous and mistaken belief.

PAR. 8. The aforesaid acts and practices of respondent or Predecessor, as herein alleged, were and are all to the prejudice and injury of the public and of respondent's 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 respondent named in the caption hereof, and the respondent 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 respondent with violation of the Federal Trade Commission Act; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent 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 respondent 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 respondent has 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 King-Seeley Thermos Co. 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 3853 Research Park Drive, Ann Arbor, Michigan.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent King-Seeley Thermos Co., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of tents, sleeping bags, cot pads, camp pads or sleeping bag mattresses (hereinafter referred to as "Products"), in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Advertising, disseminating or distributing any purported retail price of Products unless (a) it is respondent's *bona fide* estimate of the actual retail price of the Products in the area where respondent does business and (b) it does not appreciably exceed the highest price at which substantial sales of those products are made in said trade area.

2. Misrepresenting in any manner either the prices at which Products are sold at retail or the amount of savings available to purchasers or prospective purchasers of Products at retail.

3. Furnishing to others any means or instrumentalities whereby the purchasing public may be misled as to the retail prices of Products.

It is further ordered, That respondent maintain full and adequate records supporting claims as to the price at which Products are sold at retail or the amount of savings available to purchasers or prospective purchasers of Products at retail for a period of three (3) years after making any such claim and that respondent notify the Commission at least thirty (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 of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

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

It is further ordered, That the respondent 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.

Complaint

77 F.T.C.

IN THE MATTER OF

DONAHUE SALES CORPORATION

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

Docket C-1713. Complaint, Mar. 25, 1970—Decision, Mar. 25, 1970

Consent order requiring a New York City sales corporation which is the exclusive distributor of "Talon products," consisting of packaged zippers, spooled thread, tape, and braid, to cease preticketing its merchandise, making agreements with purchasers prescribing minimum prices for a period of three years, effectuating any plan involving resale price maintenance, restricting the classes of retailers to whom its wholesalers may sell, and buying up retail stocks of home sewing products manufactured or distributed by any competitor.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act (U.S.C., Title 15, Sec. 41), and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the party named in the caption hereof, and more particularly described and referred to hereinafter as respondent, has violated the provisions of Section 5 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 respect thereto as follows:

PARAGRAPH 1. Respondent Donahue Sales Corporation (hereafter sometimes referred to as "Donahue") is incorporated under the laws of the State of New York having its executive offices located at 41 East 51st Street, New York City, New York. In 1968, Donahue's sales were approximately \$48,000,000.

PAR. 2. Respondent Donahue Sales Corporation entered into a contractual arrangement with Talon, Inc. (hereafter sometimes referred to as "Talon") in 1946, whereby Donahue agreed to sell Talon packaged zippers to retail and wholesale outlets for resale in the home sewing market. In the 1960's, spooled thread, tape and braid, bearing the "Talon" trademark were sold by Talon to Donahue and resold by Donahue pursuant to the Talon-Donahue contractual arrangement. Since 1946, Donahue has purchased "Talon" trademarked products and has been the exclusive distributor of said products to retailers and wholesalers serving the home sewing market.