

Complaint

IN THE MATTER OF

FUNERAL DIRECTORS INSTITUTE INTERNATIONAL,
INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-1739. Complaint, May 21, 1970—Decision, May 21, 1970*

Consent order requiring a Chicago Heights, Ill., public relations agency which sells memberships, advertising and public relations programs to funeral directors, to cease misrepresenting that it is a large organization with several departments, using the words "institute" or "funeral directors institute" as part of its trade or corporate name, exaggerating the benefits accruing to its customers, and misrepresenting the nature and extent of its services.

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 Funeral Directors Institute International, Inc., a corporation, and John T. Arends, 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 charge in that respect as follows:

PARAGRAPH 1. Respondent Funeral Directors Institute International, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 2706 South Chicago Road, Chicago Heights, Illinois.

Respondent John T. Arends is an individual and 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 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 and distribution of memberships and services in connection therewith to funeral directors, morticians and similar corporations, firms and individuals for use in selling funeral services to the general public.

PAR. 3. In the course and conduct of their business as aforesaid,

respondents, their employees and agents, from their principal place of business in the State of Illinois, have sold memberships in and services offered, by the corporate respondent to purchasers thereof located in various other States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade 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 membership in and services from the corporate respondent, the respondents have made, and are now making, numerous statements and representations in advertisements inserted in magazines and professional publications, in promotional material, in written correspondence and in oral presentations to prospective member funeral directors.

Typical and illustrative of said statements and representations, but not all inclusive thereof, are the following:

1. Since that time [1961], Funeral Directors Institute has enjoyed phenomenal growth. . . .

Funeral Directors Institute, International, is now entering a world-wide expansion program which will give it an even stronger position, as the foremost leader in the funeral service profession.

2. Funeral Directors Institute, International.

3. "Qualification for Membership" requires an intensive investigation of the "applicant funeral director's business record, the policies and principles of the firm, ethical practices and reputation for honesty, integrity and sincerity of purpose." Qualification for membership is based upon the member's public concern, honesty and high standards of personalized service. And to maintain active membership requires yearly re-qualification.

4. The Institute is staffed with the top men in the field of Funeral Directing, Business Administration and Counseling (sic) and Public Relations.

5. The Institute is a fellowship organization. . .

6. All members of the Funeral Directors Institute have experienced and reported that they have met hundreds, yes even thousands, of new families through the use of the many progressive programs the institute provides for its members.

7. Quarterly survey by service representative Consultation Service

- 52 Pieces of Individual Prepared Copy

- Market survey

- Workshop

- Collection Service

- Accounting-Bookkeeping-Business Analysis.

PAR. 5. By and through the use of such statements and representations and others similar thereto, but not specifically set forth herein, separately and in connection with the oral sales presentations of the individual respondent and other representatives, agents and em-

Complaint

77 F.T.C.

ployees of the corporate respondent, respondents have represented, and are now representing, directly or by implication:

1. That respondent, Funeral Directors Institute International, Inc., is a large organization with many members which maintains more than one place of business and a substantial staff organized into several functional operating departments including an Art Department, Copy Department, Business Department, Production Department and Family Contact Department.

2. Through the corporate name Funeral Directors Institute International, Inc., that respondents are conducting an institution of learning with a competent, experienced and qualified staff offering instruction pertaining to the subjects of funeral home operation and management.

3. That respondents carefully screen applications for membership and limit membership to the most ethical and progressive funeral director in each community.

4. That the staff of the corporate respondent includes individuals highly skilled in the various fields of Funeral Directing, Business Administration, Counseling and Public Relations.

5. That corporate respondent is a fellowship organization, *i.e.*, a society or association of members with an equal voice in policy and planning which seeks to promote its cause through the mutual exchange of ideas and experiences.

6. That all funeral directors who have become members of the corporate respondent have met hundreds or thousands of new families through the use of the programs which the corporate respondent provides for its members.

7. That the respondents will provide member funeral directors with the following services:

- a. Public opinion surveys of the member funeral directors' communities performed at quarterly intervals by respondents, or their agents or representatives;

- b. Consultation with staff personnel of the corporate respondent concerning the problems of member funeral directors in the areas of funeral home operation and management;

- c. Advertising copy specially prepared for the member funeral director's particular market situation, if the advertising service was purchased;

- d. Complete market surveys of the areas in which the member's funeral home was located;

- e. Annual workshops which would be held at times and locations convenient for member funeral directors; and

f. Complete collection service, complete bookkeeping and tax service and complete business analysis service if any of these services were purchased.

PAR. 6. In truth and in fact:

1. The respondent, Funeral Directors Institute International, Inc., is a small organization with few members which maintains only one place of business and a staff which consists solely of the individual respondent and his secretary.

2. The respondents' business is not an institution of learning. Respondent has neither a curriculum, teaching faculty nor facilities for the purpose of teaching or providing educational courses to prospective members in the field of funeral home operation and management. Respondents are merely a commercial enterprise engaged in selling memberships and advertising and public relations programs in connection therewith for a profit.

3. The respondents do not carefully screen applications for membership, but admit to membership any funeral director willing to pay the annual dues.

4. The corporate respondent is staffed only by the individual respondent and his secretary and not by persons highly skilled in Funeral Directing, Business Administration and Counseling and Public Relations.

5. The respondent is not a society of members with an equal voice in policy and planning which seeks to promote its cause through the mutual exchange of ideas and experiences but is a corporation organized for profit.

6 Few, if any, members have experienced and reported that they have met hundreds or thousands of new families through the use of programs which the corporate respondent provides for its members.

7. a. Public surveys are not performed at quarterly intervals by respondents or their representatives, agents or employees, on behalf of members;

b. The respondents do not provide members with an expert consultation service;

c. The advertising copy supplied to members by respondents is not specially prepared for the individual members' market situation;

d. Complete market surveys are not performed;

e. Annual workshops are not held at times and locations convenient to member funeral directors; and

f. Respondents do not provide complete collection services, complete bookkeeping and tax services and complete business analysis services to member funeral directors.

Therefore, the statements and representations set forth in Paragraphs Four and Five were, and are 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 of memberships and services of the same general kind and nature as those sold by respondents.

PAR. 8. The use by the 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 funeral service industry and the public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of memberships and services offered for sale by respondents on the part of the said funeral directors, and into the patronage of the establishments of members of the corporate respondent, on the part of the general public, because of such 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 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 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 Funeral Directors Institute International, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 2706 South Chicago Road, Chicago Heights, Illinois.

Respondent John T. Arends is an individual and an officer of said corporation. He formulates, directs and controls the acts and practices of said corporation. His address is the same as that of the 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 Funeral Directors Institute International, Inc., a corporation, and its officers, and John T. Arends, 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 advertising, offering for sale, sale or distribution of memberships in the corporate respondent and services in connection therewith, do forthwith cease and desist from:

1. Representing, directly or by implication, that respondent, Funeral Directors Institute International, Inc., is a large organization, or has many members, or maintains more than one place of business, or has a substantial staff, or is organized into several functional operating departments including but not limited to an Art Department, Copy Department, Business Department, Production Department or Family Contact Department; or misrepresenting, in any manner, the size, scope, extent or amount or volume of respondents' business or operations; or misrepresenting, in any manner, the number or size of separate functional departments or divisions; or using any fictitious organizational description or designation.

2. Using the words "institute" or "funeral directors institute"

Order

77 F.T.C.

either singly or together or in conjunction with any other word or words of similar import and meaning or any abbreviation or simulation thereof as part of respondents' trade or corporate name, or using said word or words in any other manner to designate, describe or refer to respondents' business; or misrepresenting, in any manner, the nature of respondents' organization.

3. Representing, directly or by implication, that respondents screen applications for membership or limit membership to the most ethical and progressive funeral director in each community; or misrepresenting, in any manner, the criteria for admission to membership in the corporate respondent.

4. Representing, directly or by implication, that the staff of the corporate respondent includes individuals highly skilled in the various fields of funeral directing, business administration, counseling and public relations; or misrepresenting, in any manner, the number, kind or qualifications of the persons employed in the respondents' organization.

5. Representing, directly or by implication, that the corporate respondent is a fellowship or other nonprofit organization; or misrepresenting, in any manner, the nature of respondents' business.

6. Representing, directly or by implication, that all persons who have purchased memberships in the corporate respondent have met a large number of new potential customers through the use of the programs which the respondents provide for their customers; or misrepresenting, in any manner, the effect or benefits that membership in the corporate respondent has bestowed upon member funeral directors.

7. Representing, directly or by implication, that for the basic purchase price of membership, or for an additional fee, the respondents will provide any of the following named items or services to persons purchasing memberships in the corporate respondent:

(a) Public opinion surveys of the member funeral directors' community performed at quarterly intervals by respondents, or their agents or representatives;

(b) Consultation services with staff personnel of the corporate respondent concerning the problems of member funeral directors in the areas of funeral home operation and management;

(c) Advertising copy specially prepared for the member funeral director's particular market situation;

- (d) Complete market surveys of the areas in which the member funeral director's establishment is located;
 - (e) Annual workshops which are held at times and places convenient to member funeral directors; or
 - (f) Complete collection service, complete bookkeeping and tax services and complete business analysis service;
- or, misrepresenting, in any manner, the services or items which the respondents provide member funeral directors.

8. Failing to deliver a copy of this order to cease and desist to all operating divisions of the corporate respondent, and to all present or future salesmen or other persons engaged in the sale of respondents' memberships or services in connection therewith, and failing to secure from each such salesman or other person a signed statement acknowledging receipt of said order.

It is further ordered, That respondents 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 of subsidiaries or any other change in the corporation 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 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
TEXTRON INC.

CONSENT ORDER, OPINION, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
SEC. 7 OF THE CLAYTON ACT

Docket C-1740. Complaint, May 22, 1970—Decision, May 22, 1970

Consent order requiring a major manufacturer of industrial machinery and other products headquartered in Providence, R.I., to divest within one year its Aetna Bearing Co. Division and to refrain from acquiring any manufacturer of antifriction bearing assemblies for a period of ten years without prior Commission approval.