

Consent order requiring an Elmwood Park, Ill., seller and distributor of photographs and television tapes of clients to a single model agency to cease using its present trade name unless it also states that it is not a model agency, misrepresenting to prospective clients that they have acting or modeling talent, misrepresenting that any particular person had obtained employment as the result of respondents' services, guaranteeing that their clients will get modeling or acting jobs, and misrepresenting that the price of respondents' services is less than the cost to them.

Complaint

79 F.T.C.

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 American Models Service, Inc., a corporation, and Forbes B. Lindenfeld, 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 American Models Service, Inc., is a corporation organized 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 7310 West North Avenue, Elmwood Park, Illinois.

Respondent Forbes B. Lindenfeld is an officer of said corporation. He formulates, directs and controls the acts and practices of the corporate respondent, 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 advertising, offering for sale and selling their services which consist of the preparation and distribution of photographs and television tapes of clients to a single model agency.

PAR. 3. In the course and conduct of their business, respondents have caused their services performed at their place of business located in the State of Illinois, to be sold to persons in States of the United States other than the State of Illinois. Respondents also disseminate advertisements by means of the United States mails, and use the services of salesmen who call on prospective purchasers of respondents' services located in states other than the State of Illinois. Respondents are now and at all times mentioned herein have been engaged in a substantial course of trade in said services 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 their services, the respondents have made, and are now making, numerous statements and representations in advertisements which appear in conjunction with respondents' corporate or trade name, American Models Service, Inc., and which are distributed to prospective purchasers through the United States mail in the states in which respondents do business. Typical, but not all inclusive thereof are the following:

Since I am looking for a child for use as a model for TV commercials, it was suggested that I contact you.

If your child has the necessary attributes, I would like to arrange a TV audition.

I have been advised that you have a child that may have the attributes to work as a professional model.

To determine if your child will fill our needs and for our mutual interest,
* * * would you please call me at your convenience.

PAR. 5. By and through the use of the above-quoted statements and representations referred to in Paragraph Four, and others not herein expressly set out, appearing in conjunction with respondents' trade or corporate name, American Models Service, Inc., the respondents have represented, and are now representing, directly or by implication that:

1. American Models Service, Inc., is a model agency.
2. Respondents undertake to secure employment for persons as models or actors.
3. Respondents have prior information about the modeling or acting talents or other qualifications of prospective clients or purchasers of respondents' services.

4. Respondents' services are offered only to persons who have the talent or qualities necessary to be a model or actor.

PAR. 6. In truth and in fact:

1. American Models Service, Inc., is not a model agency.
2. Respondents do not undertake to secure employment for persons as models or actors. Respondents' business is that of preparing photographs and television tapes of clients and submitting the photographs and tapes to a single model agency.
3. Respondents do not have prior information about the modeling or acting talents or other qualifications of prospective clients or purchasers of respondents' services. The names of such prospects are obtained by respondents from mailing lists.
4. Respondents' services are offered to prospective clients or purchasers without regard to their modeling or acting talent or qualifications. Respondents' services are offered to persons whose names appear on the above-mentioned mailing lists used by respondents.

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

PAR. 7. In the further course and conduct of their business as aforesaid, respondents cause their salesmen to visit persons who respond to such mail advertisement. For the purpose of inducing prospective clients to enter into contracts and pay fees, respondents, through oral statements by their salesmen represent directly or by implication that:

1. Other clients secured employment as models or actors for advertisements or commercials featuring:

- a. Bayer Aspirin
- b. Oscar Mayer Wieners
- c. Frito-Lay Potato Chips

2. Respondents' representatives are talent scouts who are qualified to determine the talent or qualities necessary to become a model or actor.

3. Prospective clients or purchasers of respondents' services are assured of employment as models or actors.

4. The fee paid by purchasers of respondents' services is only to show "good faith" and is far less than the cost of the services performed by respondents.

PAR. 8. In truth and in fact:

1. Other clients of respondents have not secured employment as models or actors in advertisements or commercials for the companies and products set forth in Paragraph Seven hereof.

2. Respondents' representatives are not talent scouts, nor are they qualified to determine the talent or qualities necessary to become a model or actor. Furthermore, respondents' representatives are salesmen who sell on commission.

3. Prospective clients or purchasers of respondents' services are not assured employment as a model or actor and employment as such is in all respects uncertain.

4. The fee paid by purchasers of respondents' services exceeds the cost to respondents of services performed by respondents and results instead in a profit to respondents.

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

PAR. 9. 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 services, facilities and products of the same general kind and nature as that sold by respondents.

PAR. 10. 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 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' services, facilities and products by reason of said erroneous and mistaken belief.

PAR. 11. The aforesaid acts and practices of the respondents, as herein alleged, were, and are, all to the prejudice and injury of the public and of respondents' competitors and constituted, and now con-

stitutes, 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 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 Consumer Protection 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 Section 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent American Models Service, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 7310 West North Avenue, Elmwood Park, Illinois.

Respondent Forbes B. Lindenfeld is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation and his address is the same as that of 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, American Models Service, Inc., a corporation, and its officer, Forbes B. Lindenfeld, individually, and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of their services in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the name "American Models Service, Inc.," or any abbreviation or simulation thereof as part of respondents' trade or corporate name, unless there is a clear and conspicuous disclosure, in immediate conjunction therewith, that respondents' business organization is not a model agency; or misrepresenting through the use of the trade or corporate name the nature or character of respondents' business.
2. Representing, directly or indirectly:
 - (a) That respondents have prior information concerning a prospective client's acting or modeling talent; or misrepresenting in any manner the method by which respondents obtain the names of prospective clients.
 - (b) That respondents' services are offered only to prospective clients who have the qualities or talent necessary to be a model or actor; or misrepresenting in any manner that prospective clients have the qualities or talent necessary to be a model or actor.
3. Representing directly or indirectly that any particular person had obtained employment as a model or actor generally or in a particular job as a result of respondents' services unless such is the fact.
4. Representing directly or indirectly that respondents utilize talent scouts who are qualified to determine if any person has the qualities necessary to become a model or actor.
5. Representing directly or by implication that respondents' clients are guaranteed or assured modeling or acting jobs; or misrepresenting in any manner the employment opportunities available to persons using respondents' services.
6. Representing directly or by implication that respondents' services are offered for sale at a price less than the cost to respondents; or misrepresenting in any manner the price at which such services are offered or the cost to respondents.

7. Failing to deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in selling respondents' 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 corporation notify the Commission at least thirty (30) days prior to any proposed change in its corporate structure 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 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 of their compliance with this order.

IN THE MATTER OF

ENCORE ELECTRONICS, INC., DOING BUSINESS AS CALTRADE
MANUFACTURING & TRADING COMPANY, ET AL.

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