

Complaint

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IN THE MATTER OF

PLAZA CLUB, INC., ET AL.

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

Docket C-2134. Complaint, Jan. 14, 1972—Decision, Jan. 14, 1972

Consent order requiring Kansas City, Mo., operators of four physical fitness and/or health salons to cease misrepresenting that their membership prices are special or reduced, failing to disclose that the purpose of their promotions is to sell memberships, failing to disclose the nature of the facilities at each club, misrepresenting that members can alleviate various health problems, failing to give notice that promissory notes may be sold to third parties, failing to furnish each customer with a copy of his contract, and not to negotiate any finance paper to a third party prior to midnight of the third day.

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 Plaza Club, Inc., a corporation, Health Spa, Inc., a corporation, European Health Spa, Inc., a corporation, James R. Booker, individually and as an officer of said corporations, and George E. Shore, individually and as a stockholder of said corporations, and European Health Spa & Country Club, Inc., and James R. Booker and George E. Shore, individually and as officers 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. Respondents Plaza Club, Inc., Health Spa, Inc., European Health Spa, Inc., and European Health Spa and Country Club, Inc., are corporations organized, existing, and doing business under and by virtue of the laws of the State of Missouri, with their principal office and place of business located at 5030 Main Street, in the city of Kansas City, State of Missouri.

Respondent James R. Booker is an individual and an officer of the corporate respondents. He formulates, directs, and controls the acts and practices of all of the corporate respondents, including the acts and practices hereinafter set forth. His address is 5030 Main Street, Kansas City, Missouri.

Respondent George E. Shore is an individual and an officer of the corporate respondent, European Health Spa and Country Club, Inc., and he is an individual and stockholder of the corporate respondents, Plaza Club, Inc., Health Spa, Inc., and European Health Spa, Inc. He formulates, directs, and controls the acts and practices of these corporate respondents, including the acts and practices hereinafter set forth. His address is 5030 Main Street, Kansas City Missouri.

The aforementioned respondents cooperate and act together in carrying out the acts and practices hereinafter set forth.

PAR. 2. Respondents are now, and for some time last past have been engaged in the operation of physical fitness and/or health salons, and in the advertising, offering for sale, and sale, of memberships and related services to the public in said physical fitness and/or health salons.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, their memberships to be advertised and sold 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 said memberships and related 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 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 related services in their physical fitness and/or health salons; said memberships and services being of the same general kind and nature as those sold by respondents' competition.

PAR. 5. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their memberships and related services, the respondents have made, and are now making, numerous statements and representations in advertisements inserted in newspapers of general interstate circulation, and by means of television broadcasts. Typical and illustrative of the foregoing, but not all inclusive thereof, are the following:

Call now; \$1.00 per visit on a course individually designed for you; rates good at all Spas.

LADIES! TODAY IS MARCH 17th

PICK OUT *YOUR* EASTER DRESS SIZE:

- IF YOU ARE A SIZE 14.—You can be a perfect size 12 by Easter
- IF YOU ARE A SIZE 16.—You can be a perfect size 14 by Easter

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—IF YOU ARE A SIZE 18.—You can be a perfect size 14 by Easter

—IF YOU ARE A SIZE 20.—You can be a perfect size 14 by Easter.

Lose 15 to 25 pounds the quick, easy mini/max way regardless of your age—usually without dieting.

20 INDIVIDUAL TREATMENTS—NOW ONLY \$10.00—

THAT'S THE FULL PRICE.

12 INDIVIDUAL TREATMENTS FOR ONLY \$7.00

FIRST 20 WHO CALL WILL RECEIVE 12 ADDITIONAL INDIVIDUAL

TREATMENTS FREE AT NO ADDITIONAL COST

FOR A LIMITED TIME ONLY PREFERRED MEMBERSHIP

NOW AVAILABLE

\$2.70 Average per week—FIRST 30 ONLY

LOSE UP TO 20 POUNDS IN JUST 20 VISITS REGARDLESS
OF YOUR AGE

JANE ZAX, AGE 33, MADE THESE CHANGES IN HER
FIGURE IN ONLY 68 DAYS! LOST 39 POUNDS

BEFORE SPA

AFTER SPA

38b	-----	BUST	-----	36c.
27"	-----	WAIST	-----	23"
42"	-----	HIPS	-----	36"
24"	-----	THIGHS	-----	19"

CLOSING OUT OUR LOW SUMMER RATES

\$1.00 PER VISIT * * *

LOSE 10-20-30 POUNDS OR MORE
IN JUST 60 TO 90 DAYS

SPECIAL MINI COURSES

6 DAYS \$3.00 LIMITED QUOTA

BACK-TO-SCHOOL SPECIAL

CALL NOW ½ PRICE

TV ADVERTISEMENTS:

* * * GRAND OPENING SPECIAL TRIAL PROGRAM OF 5
VISITS FOR \$5.00! * * * LOSE UP TO 5 INCHES AND 5
POUNDS DURING YOUR SPECIAL FIVE VISIT PRO-
GRAM

LADIES, YOU CAN LOSE UP TO 15 POUNDS IN 15 VISITS
FOR ONLY \$7.50! YOU'LL HAVE PERSONAL SUPER-
VISION WHILE YOU USE ALL THOSE FABULOUS FA-
CILITIES * * *

PAR. 6. By and through the use of the above-quoted statements and representations, and others of similar import and meaning, but not expressly set out herein, and through their agents and representatives, the respondents have represented, directly or by implication, that:

(1) Respondents are accepting contest registrations from which a drawing will be held and prizes awarded, including a valuable free membership in one of respondents' physical fitness and/or health facilities.

(2) The recipient has been selected to receive a valuable and unconditionally free membership in one of respondents' physical fitness and/or health salons.

(3) The recipient has been selected to receive a valuable and unconditionally free membership in one of respondents' physical fitness and/or health salons and the recipient must only pay the dues and/or the maintenance cost of the equipment.

(4) Purchasers will only pay for their membership in respondents' health salons and/or physical fitness facilities if they attend and utilize the facilities.

(5) The purchaser may purchase a membership in one of respondents' physical fitness and/or health salons valued at nine hundred sixty dollars (\$960) for as little as two hundred sixty dollars (\$260), and thereby realize a savings of as much as seven hundred dollars (\$700).

(6) The purchaser may purchase a membership in one of respondents' physical fitness and/or health salons for one dollar (\$1) per visit, or seven dollars (\$7) for twenty (20) treatments.

(7) Participation in and use of the respondents' health salons and/or physical fitness facilities will eliminate or alleviate certain health problems, including constipation, arthritis, and high blood pressure.

(8) Participation in and use of respondents' health salons and/or physical fitness facilities will cause the purchaser to lose from fifteen (15) to twenty-five (25) pounds quickly, and usually without dieting, regardless of age.

(9) Participation in and use of respondents' health salons and/or physical fitness facilities will cause the purchaser to lose fifteen (15) pounds within fifteen (15) visits.

(10) Jane Zax, age 33, lost thirty-nine (39) pounds within sixty-eight (68) days as a result of using respondents' physical fitness and/or health salon facilities.

PAR. 7. In truth and in fact:

(1) The purchasers are not winners of any contest nor specifically selected to receive one of respondents' physical fitness and/or health salon memberships, but will be required to pay the customary purchase price ranging from two hundred sixty dollars (\$260) to four hundred eighty dollars (\$480).

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(2) The recipient has not been selected to receive a valuable and unconditionally free membership in one of respondents' physical fitness and/or health salons, but on arrival at respondents' facilities will be subjected to high-pressure selling techniques, and will be required to pay for any membership obtained from respondents and/or their representatives.

(3) The respondents do not sell their memberships for nine hundred sixty dollars (\$960), or for as little as one dollar (\$1) per visit, but usually and customarily sell such memberships for prices ranging between two hundred sixty dollars (\$260) and four hundred eighty dollars (\$480), depending upon the prospective purchasers' sales resistance.

(4) Purchasers of memberships in respondents' physical fitness and/or health salons do not realize savings in the amount of seven hundred dollars (\$700), or any other amount, but in fact are required to purchase a membership which generally sells for two hundred sixty dollars (\$260) to four hundred eighty dollars (\$480).

(5) Individuals purchasing memberships in respondents' health salons and/or physical fitness facilities are required to sign a promissory note which is discounted to a finance company, and the purchasers are required to pay for such memberships whether or not respondents' facilities are used.

(6) Participation in, and use of, the respondents' health salons and/or physical fitness facilities generally will not eliminate and/or alleviate certain health problems, including arthritis, constipation, and/or high blood pressure.

(7) Participation in the use of respondents' health salons and/or physical fitness facilities will not cause a purchaser to lose from fifteen (15) to twenty-five (25) pounds quickly, and usually without dieting, or fifteen (15) pounds within fifteen (15) visits.

(8) Jane Zax is not a member of any of respondents' health salons and/or physical fitness facilities, and in fact, is unknown to respondents, and it is unknown whether she lost thirty-nine (39) pounds within sixty-eight (68) days.

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

PAR. 8. The use by respondents of the aforesaid false, misleading, and deceptive statements, representations, and practices has had, and now has, a capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations are true, and into the purchase of

memberships in respondents' health salons and/or physical fitness facilities by reason of said erroneous and mistaken belief.

PAR. 9. The aforesaid acts and practices of respondents, as herein alleged, were 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 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 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 the agreement containing consent order having thereupon been placed 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 in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondents Plaza Club, Inc.; Health Spa, Inc.; European Health Spa, Inc.; and European Health Spa & Country Club, Inc., are corporations organized, existing, and doing business under and by virtue of the laws of the State of Missouri with their principal office and place of business at 5030 Main Street, Kansas City, Missouri.

Respondent James R. Booker is an individual and officer of said corporations. He formulates, directs, and controls the acts and practices of said corporations, and his address is the same as that of the corporations.

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Respondent George E. Shore is an individual and officer of European Health Spa & Country Club, Inc., and an individual and stockholder in Plaza Club, Inc.; Health Spa, Inc.; and European Health Spa., Inc. He formulates, directs, and controls the acts and practices of said corporations, and his address is the same as that of the corporations.

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 Plaza Club, Inc., Health Spa, Inc., and European Health Spa, Inc., corporations, and their officers, and James R. Booker, individually and as an officer of said corporations, and George E. Shore, individually and as a stockholder of said corporations, and European Health Spa & Country Club, Inc., a corporation, and its officers, and James R. Booker and George E. Shore, individually and as officers of said corporation, and respondents' agents, representatives, salesmen, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, and sale of health club memberships or other services or products, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

I. A. Representing, directly or by implication, that any price charged for respondents' memberships and/or services is a special or reduced price, or misrepresenting, in any manner, the savings available to purchasers.

B. Representing, directly or by implication, that health club memberships are available for any period of time less than the shortest period for which a significant number of memberships are in fact sold to the public.

C. Using any promotion for the purpose of obtaining leads to prospective purchasers of memberships in respondents' health salons and/or physical fitness facilities, unless respondents disclose fully and conspicuously in each and every announcement, advertisement, or other description of such promotion:

(1) That, the purpose of such promotion is to induce prospective purchasers of physical fitness and/or health salon memberships to come to respondents' place of business, and

(2) That, once at respondents' place of business, the prospective purchaser will be subjected to attempts by respondents, through their employees or representatives, to sell said

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prospective purchasers a membership in one of respondents' physical fitness and/or health salon facilities.

D. Using any advertising, sales plan or procedure involving the use of false, deceptive, or misleading statements, or representations, which are designed to obtain leads or prospects for the sale of memberships in respondents' physical fitness and/or health salon facilities.

E. Representing, directly or by implication, that any facilities are available at all clubs referred to in any particular advertisement and are available to persons of either sex at all said clubs during all of said clubs' business hours. If the facilities are not available to all members at all hours at each club referred to in such advertisement, such representation shall be qualified by a clear and conspicuous disclosure in immediate conjunction therewith providing that "such facilities and hours may differ at each location." Such disclosure shall appear in a type size larger than the size used to set out the facilities.

F. Representing, directly or by implication, that participation in and use of respondents' physical fitness and/or health salon facilities will eliminate or alleviate constipation, arthritis, high blood pressure and/or any other health problems.

G. Representing, directly or by implication, that purchasers of memberships in respondents' physical fitness and/or health salon facilities will lose weight as a result of using the facilities of respondents' physical fitness and/or health salons without regulating caloric intake.

H. Representing, directly or by implication, that any individual has realized a loss in weight or has reduced or increased said individual's physical measurements, unless such individual is actually a member at one of respondents' physical fitness and/or health salons and has actually experienced such loss of weight or increase or decrease in physical measurements.

I. Using any picture of any individual in connection with any testimonial, unless such individual is the person experiencing such claims and is a member of one of respondents' physical fitness and/or health salon facilities at the time of said advertisement.

J. Failing to incorporate the following statement on the face of all contracts executed by respondents' customers with such conspicuousness and clarity as is likely to be observed, read, and understood by the purchaser:

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IMPORTANT NOTICE

If you are obtaining credit in connection with this contract, you will be required to sign a promissory note. This note may be purchased by a bank, finance company or any other third party. If it is purchased by another party, you will be required to make your payments to the purchaser of the note. You should be aware that if this happens you may have to pay the note in full to the new owner of the note even if this contract is not fulfilled.

K. Representing, directly or by implication:

(1) That any amount is respondents' usual and customary retail price for memberships in their physical fitness and/or health salons, unless such amount is the price at which said memberships have been usually and customarily sold at retail by respondents in the recent regular course of business.

(2) That any savings is afforded in the purchase of memberships to respondents' physical fitness and/or health salons in the retail price, unless the price at which the membership is offered constitutes a reduction from the price at which said membership is usually and customarily sold at retail by respondents in the recent regular course of business.

L. Failing to deliver to each party a copy of every contract entered into by such party providing for membership and/or other services in respondents' physical fitness and/or health salons.

M. Failing to deliver a copy of this order to cease and desist to all present and future employees, instructors, or other persons engaged in the sale of respondents' memberships and/or services, and failing to secure from each employee or other person, a signed statement acknowledging receipt of said order.

N. Failing to post in a prominent place in each physical fitness and/or health salon, a copy of this cease and desist order, with a notice that any member or prospective member may receive a copy on demand.

O. Failing, after the acceptance of the initial report of compliance, to submit a report to the Commission once every year during the next three years, describing all complaints respecting unauthorized representations, all complaints received from customers respecting representations by salesmen, which are claimed to have been deceptive, the facts uncovered by respondents in their investigation thereof, and the action taken by such respondents with respect to each such complaint.

II. *It is further ordered*, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corpo-

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rate respondents, such as dissolution, assignment or sale, resulting in the emergence of a successor corporation and/or corporations, the creation or dissolution of subsidiaries or any other changes in the corporation and/or corporations, which may affect compliance obligations arising out of this order.

III. *It is further ordered*, That respondents not negotiate any conditional sales contract, promissory note, or other instrument of indebtedness to a finance company or other third party prior to midnight of the third day, excluding Sundays and legal holidays, after the date of execution by the buyer.

IV. *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.
