

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 the order to cease and desist contained herein.

IN THE MATTER OF

SOUNDARAMA MARKETING COMPANY, INC., ET AL.

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

Docket C-2233. Complaint, June 12, 1972—Decision, June 12, 1972

Consent order requiring a Denver, Colorado, seller of stereo sound systems and related products to cease, among other things, misrepresenting the earnings the franchisees can expect or will make; misrepresenting the sales that franchisees can expect or will make; misrepresenting the period of time necessary for franchisees to realize the return of their investment; using hypothetical statistical data to project expected earnings; and misrepresenting that only one franchise is available in one specific geographical area. A further requirement is that the two officers of the respondent company may not sell any type franchise until full restitution has been made to every purchaser of a Soundarama franchise within the last three years. Respondent is also required to provide all prospective franchisees a 16 item information sheet which contains a provision to cancel any contract with franchisor within ten business days.

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 reasons to believe that Soundarama Marketing Company, Inc., a corporation, Oscar Herman Turk, Jr., and Roxie R. Turk, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act (15 U.S.C. 45), and it appearing to the Commission that

a proceeding by it in respect thereof would be in the interest of the public, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Soundara Marketing Company, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Colorado. It maintains its principal offices and place of business at 1035 South Galapago Street, Denver, Colorado.

Respondents Oscar Herman Turk, Jr., and Roxie R. Turk are individuals and officers of said corporation. Together they formulate, direct, and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent, Soundarama Marketing Company, Inc.

PAR. 2. Respondents have been and are now engaged in the purchase and modification of stereo sound systems and the subsequent advertisement, promotion, and sale of their stereo sound system franchises, related products, and services.

PAR. 3. Respondents Soundarama Marketing Company, Inc., Oscar Herman Turk, Jr., and Roxie R. Turk, in the course and conduct of their business as aforesaid, now cause, and for some time last past have caused, their stereo sound system franchises, related products, and services to be advertised and sold to purchasers thereof located in the various States of the United States and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said franchises, related products, and 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 stereo sound system franchises, related products, and services; said stereo sound system franchises, related products, and services being of the same general kind and nature as those sold by respondents' competition.

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

PAR. 5. In the course and conduct of their aforesaid business, respondents Soundarama Marketing Company, Inc., Oscar Herman Turk, Jr., and Roxie R. Turk, for the purpose of inducing the purchase of their stereo sound system franchises, related products, and services, have made, and are now making, numerous statements and representations in advertisements inserted in newspapers of general

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interstate circulation. Typical and illustrative of the foregoing, but not all inclusive thereof, are the following:

SALESMAN WANTED

BRAND X

is coming to town

and needs good representation
for a product that has been de-
scribed as the greatest item
since TV.

Phenomenal public acceptance. You have to see it to believe it.

Lazy man's dream—ambitious man's paradise.

\$1200 per month average commission.

For personal interview see: Mr. Campbell, 6901 E IVth St. July 13-14-15,
10 A.M.-5 P.M."

* * * * * * *

\$ \$ \$ \$ \$ \$ \$ \$

\$12,000

TOTAL INVESTMENT

Will put you in an extremely lucrative business. Six figure income possible.

Complete investment should be returned first 90 days.

Exclusive Dealership for Product that has been acclaimed as the greatest since TV.

Phenomenal public acceptance. You have to see it to believe it.

Assistance and Training furnished by Factory.

Factory Agent will be in Lubbock Tuesday, Feb. 16th through Saturday the 20th.

CALL MR. TURK AT 795-5281

Between the hours of 10 A.M. and 9 P.M.

Soundarama Marketing Inc. Denver

* * * * * * *

PAR. 6. Through the use of the statements and representations set forth above, and others similar thereto but not specifically set out herein, and through said statements orally made by respondents, their employees, agents, and representatives, respondents have represented, and do now represent, directly or by implication, to the purchasing public that:

1. Persons purchasing respondents' stereo sound system franchises, including related products and services, costing five thousand dollars (\$5,000), or more, can earn as much as one hundred thousand dollars (\$100,000) per year.
2. Persons purchasing one of respondents' stereo sound system franchises, including related products and services, can expect to have gross sales in excess of three hundred thousand dollars (\$300,000) per year.

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3. Persons purchasing one of respondents' stereo sound system franchises, including related products and services, can expect to have their investment returned within ninety (90) days.

4. Persons purchasing one of respondents' stereo sound system franchises, including related products and services, need not have any business or electronic experience as respondents will hire a sales manager and a sales crew, and will train them, and arrange for all financing and advertising.

5. Respondents will place each stereo sound system franchise on a producing basis before the initial training assistance is terminated and will continue to assist their franchisees on a regular basis thereafter.

6. Respondents' franchisees will have continuous factory support, training, direction, and other assistance in becoming successful franchisees.

7. No selling will be necessary on the part of the persons investing in a stereo sound system franchise.

8. Geographical areas offered to prospective franchisees have not been previously franchised, and those persons purchasing a stereo sound system franchise, including related products and services, from respondents will receive an exclusive area in which to operate.

9. Respondents' stereo sound systems sell for five hundred ninety-nine dollars (\$599) per unit and are available solely through respondents.

10. Respondents unconditionally guarantee their Soundarama Tel Star sound systems for one year against defects in parts or labor.

11. Franchisees utilizing newspaper advertising provided by respondents will realize forty (40) telephone inquiries per week, or more, which will result in thirteen (13) appointments per week or more.

12. Franchisees' sales representatives will make three (3) sales for each five (5) demonstrations they give.

13. Respondents' stereo sound systems, and related products and services, have had phenomenal public acceptance and there is great demand by the consuming public for respondents' products.

14. Only one franchise is available in a specific area; therefore, persons must decide whether or not to execute a franchise agreement at the time of respondents' first call, or very shortly thereafter.

PAR. 7. In truth and in fact:

1. Persons purchasing one of respondents' stereo sound system franchises, including related products and services, have not realized the income in the manner, form, and amount as indicated by respond-

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ents and, in fact, have realized little, if any, net profit from their investments.

2. Persons purchasing one of respondents' stereo sound system franchises, including related products and services, have not realized gross sales in excess of three hundred thousand dollars (\$300,000) and, in fact, have consummated very few, if any, sales.

3. Persons purchasing one of respondents' stereo sound system franchises, including related products and services, do not realize a return of their investment within ninety (90) days, or in any other period of time.

4. Persons purchasing one of respondents' stereo sound system franchises, including related products and services, are required to have a business and electronics background because respondents do not hire and train a sales manager and a sales crew, nor do they arrange for the franchisee's financing and advertising.

5. Respondents do not place each stereo sound system franchise on a producing basis prior to terminating the initial training assistance and do not continue to assist their franchisees on a regular basis thereafter.

6. Respondents' franchisees do not have continuous factory support, training, direction, or other assistance.

7. Selling is necessary on the part of the franchise purchaser inasmuch as it is very difficult, if not impossible, for respondents and/or the franchisee to recruit and retain a sales manager and a sales crew to sell respondents' products.

8. Persons investing in one of respondents' stereo sound system franchises, including related products and services, are not always the first to purchase such a franchise in a specified territory and do not, in fact, receive an exclusive territory in which to operate.

9. Respondents' stereo sound system does not retail for five hundred ninety-nine dollars (\$599) per unit and, in fact, is difficult to sell for any amount, nor is similar merchandise available only through respondents.

10. Respondents do not unconditionally guarantee their Soundarama Tel Star sound system for one year against defects in parts or labor.

11. Franchisees who utilize newspaper advertising do not realize forty (40) telephone inquiries or any other specified number of inquiries per week from such advertising, nor does such advertising result in thirteen (13) appointments per week, or any other specified number of appointments.

12. Franchisees' sales representatives do not make three (3) sales out of every five (5) demonstrations made of respondents' stereo sound system and, in fact, seldom make any sales.

13. Respondents' stereo sound systems, and related products and services, have not had phenomenal public acceptance, nor is there a great demand by the consuming public for respondents' products, as such products are poorly designed and usually defective.

14. The number of franchises available in a specified area is not limited to one, and persons purchasing a franchise from respondents need not execute a franchise agreement during the first time they are contacted, or shortly thereafter, because there is not a great demand for such franchises.

Therefore, The statements, representations, and failures to make certain disclosures, as set forth in Paragraph Six hereof were and are unfair, 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 respondents' stereo sound system franchises and related products 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. Respondent Soundarama Marketing Company, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Colorado, with its principal office and place of business located at 1035 Galapago, Denver, Colorado.

Respondents Oscar Herman Turk, Jr., and Roxie R. Turk are individuals and officers of said corporate respondent. Together they formulate, direct, and control the policies, acts, and practices of the corporate respondent. Their address is 4605 Tule Lake Drive, Littleton, Colorado.

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 Soundarama Marketing Company, Inc., a corporation, and Oscar Herman Turk, Jr., and Roxie R. Turk, individually and as officers of said corporation, and their successors, assigns, officers, directors, agents, representatives, and employees, individually or in concert, directly or through any corporate device, in connection with the advertising, promotion, and sale of stereo sound system franchises and related products and services, or any other business in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

- A. 1. Misrepresenting the earnings that franchises can expect or will make; or in any manner misrepresenting the earnings of its franchisees.
2. Misrepresenting the sales that franchisees can expect or will make; or in any manner misrepresenting the sales of its franchisees.
3. Misrepresenting the period of time necessary for franchisees to realize the return of their investment.

4. Using any hypothetical statistical data of any nature which projects expected earnings not based on the actual earnings of a substantial number of their franchisees within the past 12 months.

5. Misrepresenting the quality, amount, and nature of assistance to be provided franchisees by respondents.

6. Representing the value of their products to be other than the price at which they customarily are sold by a substantial number of respondents' franchisees.

7. Representing that respondents' stereo sound systems can be sold with ease; or misrepresenting, in any manner, the saleability of respondents' stereo sound systems or the acceptance of respondents' stereo sound systems.

8. Representing that any geographical area offered as a franchise has not been previously franchised by the respondents, unless in fact the said geographical area has not been previously franchised by the respondents.

9. Representing that a franchisee needs no skill, knowledge, prior training, or experience to operate a successful franchise.

10. Representing that a franchisee need not engage in personal sales efforts or actively work in their franchise business to have a successful franchise.

11. Representing, in any manner, that respondents' stereo sound system has received national acceptance; or misrepresenting, in any manner, the extent or degree of acceptance or approval of respondents' stereo sound systems and/or stereo sound system franchises.

12. Representing that newspaper or any other form of advertising will be effective in the solicitation and sale of respondents' stereo sound systems.

13. Representing that respondents' stereo sound system units are guaranteed without disclosing in writing the identity and address of the guarantor, the nature of the guarantee as to refund, replacement, and/or repair, and what, if anything, the purchaser must do in order to make the guarantee operative.

B. Failing to furnish any prospective franchisee with all of the following information, in a clear, permanent, and straight-forward form, at the time when contact is first established between such prospective franchisee and respondents or their representatives:

1. A factual description of the franchise offered or to be sold.

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2. The business experience stated individually, of each of the franchisor's directors, stockholders owning more than ten percent of the stock, and the chief executive officers for the past ten years; and biographical data concerning all such persons.

3. The business experience of the franchisor, including the length of time the franchisor has conducted a business of the type to be operated by the franchisee; has granted franchises for such business; and has granted franchises in other lines of business.

4. Where such is the case, a statement that the franchisor or any of its directors, stockholders owning more than ten percent of the stock, or chief executive officers:

a. has been held liable in a civil action, convicted of a felony, or pleaded *nolo contendere* to a felony charge in any case involving fraud, embezzlement, fraudulent conversion, or misappropriation of property; or

b. is subject to any currently effective injunctive or restrictive order or ruling relating to business activity as a result of action by any public agency or department; or

c. has filed bankruptcy or been associated with management of any company that has been involved in bankruptcy or reorganization proceedings; or

d. is, or has been, a party to any cause of action brought by franchisees against the franchisor.

Such statement shall set forth the identity and location of the court, date of conviction or judgment, any penalty imposed or damages assessed, and the date, nature, and issuer of each such order or ruling.

5. The financial history of the franchisor, including balance sheets and profit and loss statements for the most recent five-year period; and a statement of any material changes in the financial condition of the franchisor since the date of such financial statements.

6. A description of the franchise fee; and a statement indicating whether all or part of the franchise fee may be returned to the franchisee and the conditions under which the fee will be refunded.

7. The formula by which the amount of such franchise fee is determined if the fee is not the same in all cases.

8. A statement of the number of franchises presently operating and the number proposed to be sold, indicating which existing franchises, if any, are company owned and their addresses.

9. A statement of the number of franchises, if any, that operated at a loss during the previous year.

10. A statement that the prospective franchisee may inspect the profit and loss statements of all existing franchisees. (The names and addresses of the franchisees may be deleted from these profit and loss statements, which must be provided to any prospective franchisee requesting to inspect them.)

11. A statement of the conditions under which the franchise agreement may be terminated or renewal refused, or repurchased at the option of the franchisor, and a statement of the number of franchisees that fell into each of these categories during the past 12 months.

12. A statement of the conditions and terms under which the franchisor allows the franchisee to sell, lease, assign, or otherwise transfer his franchise, or any interest therein.

13. A statement of the terms and conditions of any financing arrangements offered directly or indirectly by the franchisor or affiliated persons, and a description of any payments received by the franchisor from any persons for the placement of financing with such persons.

14. A list of at least ten representatives operating franchisees with addresses and telephone numbers, similarly situated to the franchise offered and located in the same geographic area, if possible.

15. A statement of the average length of service of personnel who are responsible for assisting the franchisee at his location, and the average number of hours such personnel spent during the past year with each franchisee that was in business for less than one year.

16. If the franchisor informs the prospective franchisee that it intends to provide him with training, the franchisor must state the number of hours of instruction and furnish the prospective franchisee with a brief biography of the instructors who will conduct the training.

All of the foregoing information 1. to 16. is to be contained in a single disclosure statement, which shall not contain any promotional claims or other information not required by this order. The statement shall carry a distinctive and conspicuous cover sheet with the following notice (and no other) imprinted thereon in bold face type of not less than 10 point size:

INFORMATION FOR PROSPECTIVE FRANCHISEES
REQUIRED BY FEDERAL TRADE COMMISSION DECISION AND ORDER

This information is provided for your own protection. It is in your best interest to study it carefully before making any commitment. If you do sign a contract, you may cancel it, and obtain a full refund of any money paid, for any reason, within ten business days after either signing such contract or receiving this disclosure statement, whichever occurs later. Details appear on the contract itself.

C. Failing to include immediately above and on the same page as the franchisee's signature line of any contract establishing or confirming a franchise agreement, the following statement in bold face print at least 50 percent larger than any other print in the body of such contract, or in bold face print of a contrasting color:

NOTICE: YOU ARE ENTITLED TO CERTAIN IMPORTANT INFORMATION CONCERNING THIS TRANSACTION ENTITLED, "INFORMATION FOR PROSPECTIVE FRANCHISEES REQUIRED BY FEDERAL TRADE COMMISSION DECISION AND ORDER." IT IS IN YOUR BEST INTEREST TO DEMAND AND STUDY SUCH INFORMATION. YOU MAY CANCEL THIS CONTRACT FOR ANY REASON WITHIN TEN BUSINESS DAYS AFTER EITHER SIGNING THIS CONTRACT OR RECEIVING THE REQUIRED INFORMATION, WHICHEVER OCCURS LATER. If you do choose to cancel, you will be entitled to receive a full refund within ten business days after franchisor receives notice of your cancellation. You may use any reasonable method to notify franchisor of your cancellation within the grace period. For your own protection you may wish to use certified mail with return receipt requested, or a telegram, either of which should be sent to the address below. (Franchisor will insert here the address and telephone number to which such notices should be sent.)

D. Failing to cancel any contract for which a notice of cancellation was sent by any reasonable means within ten business days after either the contract's execution, or the franchisee's receipt of all required information, whichever occurs later, or to refund any money paid by franchisee within ten business days after the date of receipt of such notice of cancellation.

E. Failing to furnish the prospective franchisee, upon request at any time and in the absence of any request, before consummation of any agreement, with a copy of the franchise agreement proposed to be used.

It is further ordered, That respondents provide each and every person, who purchased one of their franchises within the past three (3) years, a true and correct copy of this cease and desist order.

It is further ordered, That respondents Oscar Herman Turk, Jr., and Roxie R. Turk not engage in the promotion, advertisement, solicitation and/or sale of any type of franchise, until such time as full restitution of all monies has been made to those persons who purchased a Soundarama Telstar Sound System franchise within the past three (3) years.

It is further ordered, That respondents Oscar Herman Turk, Jr., and Roxie R. Turk shall not act as officers or directors, or become agents or employees of any corporation or partnership or other form of business engaged in the promotion, advertisement, or solicitation and/or sale of any type of franchise, until such time as full restitution of all monies has been made to each and every person who purchased a Soundarama Telstar Sound System franchise within the past three (3) years.

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.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in any of the corporate respondents 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 corporations, or any of them, which may affect compliance obligations arising out of this order.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all of their present and future personnel engaged in the offering for sale, or sale of franchises, services, or any other products or services, or in any aspect of preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

IN THE MATTER OF
GEM FURNITURE, ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE TRUTH IN LENDING ACTS

Docket C-2234. Complaint, June 14, 1972—Decision, June 14, 1972

Consent order requiring an Evansville, Indiana, retail seller of household