

Complaint

IN THE MATTER OF

REGAL WARE, INC., ET AL.

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

Docket C-2299. Complaint, Oct. 6, 1972—Decision, Oct. 6, 1972.

Consent order requiring a Kewaskum, Wisconsin, distributor and seller of cooking utensils, among other things to cease misrepresenting the nature and properties of its products; representing respondents' sales personnel as members of its advertising department; and representing its guarantees as unconditional without revealing, in advertising, any conditions to which they are subject.

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 Regal Ware, Inc., a corporation, and James D. Reigle, 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 Regal Ware, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Wisconsin, with its principal office and place of business located at Kewaskum, Wisconsin.

Respondent James D. Reigle is an individual and officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices 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 the advertising, offering for sale, sale and distribution of stainless steel cookware and teflon coated aluminum cookware to dealers and distributors for resale to the public. The said cooking utensils are represented by respondents as utilizing the "waterless" method of cooking in which no water or a small amount of water is used depending upon the nature of the food to be cooked.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, their products, when sold, to be shipped from their place of business in the

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State of Wisconsin to dealers, distributors and purchasers thereof located in various other States of the United States, and maintained, and at all times mentioned herein have maintained, substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business as aforesaid, respondents have furnished and supplied to dealers and distributors and to the agents and representatives thereof, who sell said products to the public, various types of advertising literature, including, but not limited to, sales manuals, charts, leaflets, cookbooks and brochures.

The method of sale chiefly employed by said dealers, distributors, and their agents and representatives, is the display and demonstration of respondents' products accompanied by sales talks, the material for which has been supplied by respondents. Statements and representations made by said dealers and distributors and their agents and representatives are therefore, suggested by, and have expressed or implied approval of the respondents, and sales made in the course, or as a result of said sales talks, displays or demonstrations inure to the benefit of the respondents.

PAR. 5. In the further course and conduct of their business as aforesaid, respondents cause persons who respond to offers of free gifts seeking leads to prospective purchasers to be visited by respondents' salesmen. For the purpose of inducing sale of respondents' stainless steel cooking utensils, respondents through their said advertising material and through said dealers and distributors and their agents and representatives, as outlined in Paragraph Four herein, and otherwise, have represented directly and by implication that:

1. When their cooking utensils are covered for cooking, with the lids supplied therewith a vapor "seal" or "lock" is formed, and as a result no vapor loss occurs during the cooking of food in said utensils.

2. The use of respondents' cooking utensils will enable users to realize substantial savings in time spent in the kitchen.

3. The sales agents and representatives of respondents' dealers and distributors are members of respondents' advertising department, and that said persons are conducting an advertising campaign on behalf of the respondents and in regard to respondents' products.

PAR. 6. In truth and in fact:

1. The so-called vapor "seal" or "lock" formed by placing a cover, or lid, on respondents' stainless steel cookware does not prevent all vapor loss during the cooking of food in said utensils.

2. The use of respondents' cooking utensils will not enable users to save any substantial amount of time, from the time spent daily in the kitchen in the cooking of food.

3. The agents and representatives of respondents' dealers and distributors who sell respondents' cooking utensils to the public are not members or employees of respondents' advertising department, nor are they conducting an advertising campaign on behalf of respondents. On the contrary, they are salesmen whose sole purpose is to sell such products to the public.

Therefore, the representations referred to in Paragraph Six hereinabove were and are false, misleading and deceptive.

PAR. 7. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their products, the respondents have made, and are now making, numerous statements in advertisements inserted in magazines and in promotional materials with respect to their product guarantees.

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

FULLY GUARANTEED

A written guarantee by the manufacturer is included with each set.

PAR. 8. 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, the respondents have represented that their products are guaranteed without any conditions or limitations.

PAR. 9. In truth and in fact, respondents' guarantees of their products are subject to conditions and limitations which are not revealed in their advertised guarantees. Typical and illustrative of such conditions, but not all inclusive thereof are :

- (a) The nature and extent of the guarantee is not revealed ; and
- (b) The identity of the guarantor and the manner in which the guarantor will perform under the guarantee is not revealed.

PAR. 10. In the course and conduct of their business, at all times mentioned herein, respondents have been in substantial competition with corporations, firms and individuals likewise engaged in the business of selling and distributing cooking utensils of the same general kind and nature as those sold by respondents.

PAR. 11. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices, has had, and now has, the tendency and capacity to mislead and deceive 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 respondents' products by reason of said erroneous and mistaken belief.

PAR. 12. 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 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 Chicago Regional Office 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 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 Regal Ware, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Wisconsin, with its office and principal place of business located at Kewaskum, Wisconsin.

Respondent James D. Reigle 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 the corporate respondents.

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

ORDER

It is ordered, That respondents Regal Ware, Inc., a corporation, its successors and assigns and officers, and James D. Reigle, individually and as an officer of said corporation, and respondents' officers, agents, representatives and employees directly or through any corporation, subsidiary, division or other device, in connection with the offering for sale, sale, distribution or advertising of stainless steel or aluminum cookware, coated or uncoated, presently in respondents' line of products, or any other cookware products of substantially similar properties which they may offer for sale in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, orally or in writing, that:

(a) When their cooking utensils are covered with the lids supplied therefor, a vapor "seal" or "lock" is formed or that no vapor loss occurs during the cooking of food in said utensils, except that such representations may be used when expressly limited to that portion of the cooking time after the heat is turned down in the method of cooking recommended by respondents.

(b) The use of said cookware products will enable users to realize substantial savings in time spent in the kitchen in connection with the cooking of food.

(c) The sales agents and representatives of respondents' dealers, distributors and franchisees are members of respondents' advertising department; that such persons are conducting an advertising campaign, or that such persons are other than salesmen whose purpose is to sell said cookware products.

2. Representing, directly or by implication, orally or in writing, that any product or service is guaranteed unless:

(a) The nature and extent of the guarantee, the identity of the guarantor, and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed, and

(b) The guarantor does in fact perform all of the actual and represented obligations under the terms of the guarantee.

3. Failing to disclose, clearly and conspicuously, in offers of free gifts or other promotional offers seeking leads to prospective purchasers of cookware products which are sold through sales representatives, that prospective purchasers may be visited by sales representatives.

4. Supplying to or placing in the hands of any distributor, dealer, franchisee or salesman, brochures, sales manuals, charts, pamphlets, or any other advertising material which are displayed or may be displayed to the purchasing public which contain any of the representations prohibited in Paragraphs 1, 2 and 3 hereof.

5. Failing to deliver a copy of this order to cease and desist to all of respondents' present and future salesmen, distributors, dealers and franchisees engaged in the sale of respondents' cookware products, and failing to secure from such persons a signed statement acknowledging receipt of said order.

It is further ordered, That the aforesaid respondents shall direct all of respondents' salesmen, distributors, dealers or franchisees possessing respondents' products to remove and destroy all brochures, sales manuals, flip-charts, pamphlets, or any other advertising material which are displayed, or may be displayed, to the purchasing public which contain any of the representations or practices prohibited in Paragraphs 1, 2 and 3 hereof; and in the event any such salesman, distributor, dealer or franchisee refuses to, or does not, cooperate fully with respondents in this regard, respondents shall in that event cease to furnish and supply such salesman, distributor, dealer or franchisee their products for resale to the public until such time as he does so cooperate.

It is further ordered, That respondents 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 a subsidiary or any other change in the corporation which may affect compliance obligations arising out of the order; *Provided, however,* that if respondents do not have thirty (30) days lead time between proposal of such change and its consummation, respondents shall notify the Commission thereof at the earliest feasible time before consummation and any entity which may succeed to any part of the business covered by this order will have been advised of every provision of this order and will have agreed to be bound thereby.

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 in which they have complied with this order.

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IN THE MATTER OF

PLAYFIELD INDUSTRIES, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FLAMMABLE FABRICS ACTS*Docket C-2300. Complaint, Oct. 6, 1972—Decision, Oct. 6, 1972.*

Consent order requiring a Chatsworth, Georgia, manufacturer and seller of carpets and rugs, among other things to cease selling and distributing carpeting which does not meet the acceptable criteria for carpeting under the Flammable Fabrics Act, as amended.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Playfield Industries, Inc., a corporation, and John B. Whisnant, Jr., individually and as an officer of the said corporation, hereinafter referred to as respondents, have violated the provisions of the said Acts and the rules and regulations promulgated under the Flammable Fabrics Act, as amended, 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 Playfield Industries, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia. Respondent John B. Whisnant, Jr., is an officer of the said corporate respondent. He formulates, directs, and controls the acts, practices, and policies of the said corporation.

Respondents are engaged in the manufacture and sale of carpets and rugs, with their principal place of business located at P.O. Box 8, Murray Industrial Park, Chatsworth, Georgia.

PAR. 2. Respondents are now and for some time last past have been engaged in the manufacture for sale, sale and offering for sale, in commerce, and have introduced, delivered for introduction, transported and caused to be transported in commerce, and have sold or delivered after sale or shipment in commerce, products, as the terms "commerce" and "product," are defined in the Flammable Fabrics Act, as amended, which products fail to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the Flammable Fabrics Act, as amended.