

Complaint

IN THE MATTER OF

COMPACT ELECTRA CORP., ET AL.

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

Docket C-2461. Complaint, Oct. 1, 1973—Decision, Oct. 1, 1973.

Consent order requiring a Bellerose, New York, five-corporation business engaged in the selling of vacuum cleaners and accessories to consumers, among other things to cease using deceptive and misleading selling and debt collection tactics.

Appearances

For the Commission: *James Manos.*

For the respondents: *Norman S. Langer, Brooklyn, N.Y.*

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 Compact Electra Corp., Compact Bellerose, Inc., Compact Discount, Inc., Northeast Discount Corp., Compact Associates, Inc., corporations and Hyman Sindelman, also known as Hy Delman individually and as an officer and Theodore Decker, individually, 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 Compact Electra Corp., Compact Bellerose, Inc., Compact Discount, Inc., Northeast Discount Corp. and Compact Associates, Inc. are corporations organized, existing and doing business under and by virtue of the laws of the State of New York. All of the above-named corporate respondents have their principal offices and places of business at 264-16 Jericho Turnpike, Bellerose, New York.

PAR. 2. Respondent Hyman Sindelman, also known as Hy Delman, is sole stockholder and an officer of each of the corporate respondents herein named, and he formulates, directs and controls the policies, acts and practices of said corporate respondents including the acts and practices hereinafter set forth. His address is the same as that of said corporations.

Complaint

83 F.T.C.

The corporate respondents do not operate as independent, individual corporations but are components of one business entity which respondent, Hyman Sindelman, also known as Hy Delman dominates and controls. He shifts and reassigns personnel of each corporate respondent to function and perform duties for other corporate respondents so that as a consequence a nexus of such degree exists between and among each of the corporate respondents that they have lost their individual identities. Thus the acts and practices of each of the corporate respondents named herein may be deemed the acts and practices of all of the other corporate respondents named herein.

PAR. 3. Respondent Northeast Discount Corp. is a corporation formed solely for the purpose of collecting debts incurred by purchasers of the other corporate respondents' products.

Respondent Theodore Decker is an individual engaged in the practice of law as a member of the bar of the State of New York, with his office and principal place of business located at 250 West 57th Street, New York, New York. In the course and conduct of his practice of law, respondent entered into a contractual agreement with respondent Northeast Discount Corp. regarding the preparation of form letters under his attorney's letterhead to be employed in the collection process of Northeast Discount Corp.

COUNT I

Alleging violations by respondents Compact Associates, Inc., Compact Electra Corp., Compact Bellerose, Inc., Compact Discount, Inc., and Hyman Sindelman, also known as Hy Delman of Section 5 of the Federal Trade Commission Act, the allegations of Paragraphs One and Two hereof are incorporated by reference in Count I as if fully set forth verbatim.

PAR. 4. In the course and conduct of its business, respondent Compact Associates, Inc., is now and for some time last past has been engaged in purchasing vacuum cleaners, parts and accessories and, as a franchisee, memberships in a shopping service which in turn it sells, transfers, and/or assigns to corporate respondents Compact Electra Corp., Compact Bellerose, Inc., and Compact Discount, Inc. The latter act as Compact Associates' sales representatives and are now and for some time last past have been engaged in the sale of vacuum cleaners, parts and accessories to consumers. For the purpose of inducing prospective purchasers to buy their Compact vacuum cleaners and accessories

respondents offer prospective purchasers a free one year membership to a shopping service. Respondents' salesmen and/or agents prepare at the purchaser's home an enrollment application to the shopping service which they then cause to be mailed from the State of New York to the shopping service in the State of New Jersey. The shopping service mails to enrolled purchasers in New York State price lists, instructions, booklets, pamphlets and other literature regarding merchandise which may be purchased through the shopping service.

In addition, Compact Associates, Inc., sells and ships its vacuum cleaner products from New York State to purchasers located in other states.

Thus, respondents Compact Associates, Inc., Compact Electra Corp., Compact Bellerose, Inc., Compact Discount, Inc., and Hyman Sindelman, also known as Hy Delman, 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. Respondents' products are identified by the trade name "compact."

PAR. 5. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their products, respondents, their agents and employees have made and are making numerous statements and representations to purchasers and prospective purchasers with respect to the terms and conditions of sale of their products, the savings available through memberships in the shopping service and the characteristics of memberships in the service.

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

1. An unconditional free gift is offered to respondents' prospective customers.
2. Purchasers of respondents' products will receive a free lifetime membership in the shopping service.
3. Members of the shopping service will enjoy substantial savings in the purchase of products through the service and such savings will provide monies for the payments due to respondents.
4. The shopping service is a wholesale service and members purchase items wholesale or at "cost" prices.
5. The shopping service has about one million members.
6. Normally, the price of a lifetime membership in the shopping service is \$360.

Complaint

83 F.T.C.

7. Respondents control the shopping service, or that it is a subsidiary of or owned by the respondents.

8. Respondents and/or their methods of doing business have been approved by the Better Business Bureau.

9. The shopping service purchases in mass quantities and thereby obtains low prices for its members.

10. Purchasers of respondents' products may obtain memberships in the shopping service provided they purchase respondents' products at the initial visit by respondents' salesmen; if individuals decide to purchase respondents' products at a later time, they will not be entitled to become members of the shopping service.

11. The respondents' products are left with the customer on approval and the customer is required to sign a "receipt."

12. The contract to purchase respondents' products may be broken if the purchaser's spouse does not sign the contract.

13. The telephone numbers provided by respondents' salesmen to purchasers are the salesmen's "home" telephone numbers which customers may call to cancel their contracts.

14. Respondents' salesmen will sell the purchaser's old vacuum cleaner and send the proceeds of such sale to the purchaser and that the proceeds will equal at least two installment payments due on the Compact vacuum cleaner.

15. The price of the Compact vacuum cleaner may be substantially reduced if the purchaser provides respondents with names and addresses of friends who would be interested in respondents' product.

PAR. 6. In truth and in fact:

1. Respondents' "gifts" are not unconditionally free; the purchaser or prospective purchaser must permit a demonstration of respondents' products and/or furnish respondents with a sufficient number of names and addresses of prospective purchasers in order to receive the gift.

2. Respondents do not give free lifetime memberships in the shopping service; free membership is only for one year and thereafter the member must renew his membership by paying \$12.50 annually.

3. Members of the shopping service do not enjoy substantial savings in the purchase of goods and products; consequently, substantial savings are not available to defray payments due to respondents.

4. The shopping service is not a wholesale service and members do not purchase items wholesale or at cost prices.

5. The shopping service has fewer than 20,000 members.

6. Lifetime memberships in the shopping service are not sold, therefore the price of a lifetime membership is not \$360. The price of membership is \$12.50 per year, and must be renewed each year.

7. Respondents are merely franchisees of the shopping service; they do not control or own the service nor do they have any proprietary interest in it.

8. Respondents and their methods of doing business have not been approved by the Better Business Bureau.

9. The shopping service does not purchase in mass quantities but rather fills each member's order through soliciting sources of supply on an individual basis in order to furnish the member with the product that he desires.

10. Respondents' offer of a free membership in the shopping service is available at any time to the purchasers of respondents' products, and is not available only during the initial visit.

11. Respondents' products are not left with the customer on approval; the signed "receipt" is in fact a contract for the purchase of respondents' products.

12. Respondents enforce contracts signed by one spouse and not the other.

13. The telephone number provided by respondents' salesmen is actually the respondents' business telephone number; customers calling that number are informed that they have signed a binding contract and they must perform in accordance with its terms.

14. Respondents' salesmen rarely sell the purchaser's old vacuum cleaner; if the old vacuum cleaner is sold, the proceeds sent to the purchaser rarely if ever equal two payments due on respondents' contract.

15. The price of respondents' product is not reduced substantially even if the purchaser provides respondents with names and addresses of friends who would be interested in respondents' products.

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

PAR. 7. In the course and conduct of its business respondent

Complaint

83 F.T.C.

Compact Discount, Inc., has utilized the name "Compact Discount, Inc." on its contracts, stationery and other documents in connection with the sales of vacuum cleaners and other products to consumers in their homes.

PAR. 8. By and through the use of the aforesaid corporate name, respondent Compact Discount, Inc., represents that it is selling its products at discount prices.

PAR. 9. In truth and in fact:

Respondent does not sell its products at discount prices. "Compact" vacuum cleaners are not sold by any other firms in the retail trade area in which respondent Compact Discount, Inc. sells its products. Therefore, respondents' prices do not constitute a reduction or discount from the price at which said merchandise is usually and customarily sold at retail in the trade area in which the representation is made.

Therefore, the statements and representations as set forth in Paragraphs Seven and Eight are false, misleading and deceptive.

PAR. 10. 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 vacuum cleaners and accessories and other products of the same general kind and nature as that sold by respondents.

PAR. 11. 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 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 and services 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.

COUNT II

Alleging violations by respondents Northeast Discount Corp., Hyman Sindelman, also known as Hy Delman and Theodore

Decker of Section 5 of the Federal Trade Commission Act, the allegations of Paragraphs One, Two and Three hereof are incorporated by reference in Count II as if fully set forth verbatim.

PAR. 13. In the course and conduct of its business, respondent Northeast Discount Corp. is engaging and for some time last past has engaged in the collection of debts allegedly due and owing the Compact corporate respondents pursuant to contracts or other agreements relating to the purchase of said respondents' products. In attempting to induce payments of purportedly due or delinquent accounts, respondent Northeast Discount Corp. has sent through the United States mail dunning letters, notices and similar instruments which contain false and misleading statements and representations.

Typical, but not all inclusive of such statements and representations, are the following:

Protect your credit by keeping your account up to date* * *

* * * * *

MORE DRASTIC ACTION MUST BE TAKEN to collect this account unless a substantial payment is made within the next **FIVE DAYS** * * *

* * * * *

Our association with a National Credit Bureau demands that we report all of our accounts to them that are one month delinquent. This Bureau furnishes credit information to all firms and lending institutions throughout the country.

If substantial payment is not received by us within 5 days, your delinquent account will be turned over to our collection attorneys for litigation * * *

* * * * *

If substantial payment is not received by us within 5 days a copy of the enclosed letter will be sent to your job * * *

* * * * *

Please let us know if the above person is now in your employ and kindly furnish us with the information requested. The purpose of this information is to proceed with our legal rights to collect an indebtedness incurred by this employee.

We would prefer to have the account paid voluntarily, and will withhold all action for the next 5 days.

Your cooperation in this respect will prove to be beneficial to all concerned * * *

* * * * *

We regret that this must be our final notice before placing your delinquent account in the hands of our attorneys—for whatever action they may feel is necessary.

We have tried to settle the matter on a friendly basis, but have not received your cooperation.

Such action would not be to your advantage, as it would involve additional expense and embarrassment which could result from legal proceedings, pos-

Complaint

83 F.T.C.

sible garnishee, etc. It is hoped that you will avoid all this, by sending payment AT ONCE.

If we do not hear from you in five (5) days, the matter will be referred to our attorneys for immediate action.

LAST CHANCE!!

Very truly yours,
NORTHEAST DISCOUNT CORP.
/s/ J. Greene
J. Greene
Credit Department

* * * * *
IF YOU ARE SUED * * * on a debt and the Court gives judgment against you, you are in SERIOUS TROUBLE.

AN EXECUTION CAN BE ISSUED AGAINST YOU!

Then an Officer of the Court may seize your goods, attach your wages, bank account or other property.

He may also be instructed to bring YOU and YOUR FAMILY into Court and force you and them to tell UNDER OATH what property you own. This will be EXPENSIVE and EMBARRASSING to you.

In addition, a Judgment hanging over your head will cost you many times the amount of the debt, in loss of credit and respect in your community.

IT'S IMPOSSIBLE TO ESCAPE A JUDGMENT

For a Judgment may be renewed and thus REMAIN IN EFFECT UNTIL PAID—and it may be recorded everywhere.

Your debt will have to be paid some day, so to save expense, loss of credit and embarrassment to you and your family. YOU MUST TAKE CARE OF IT immediately.

PAR. 14. By and through the use of the aforesaid statements and representations and others of similar import not specifically set out herein, respondent Northeast Discount Corp. has represented directly and by implication that:

1. If payment is not made, the delinquent customer's name is transmitted to a bona fide credit reporting agency.
2. If payment is not made, the respondent Northeast Discount Corp., will take some undisclosed affirmative action to injure the customer's credit rating.
3. If payment is not made within 5 days of the notice, the respondent Northeast Discount Corp. will take more drastic action of an undisclosed nature.
4. If payment is not made within 5 days, the debtor's account will be turned over to collection attorneys for litigation.
5. If payment is not made within 5 days, a letter will be sent to the debtor's employer which, in effect, calls upon the employer to assist in the collection of the debt.

6. If payment is not made, action will be taken to embarrass the debtor and his family and they will experience loss of respect in their community.

7. If payment is not made, it is impossible to escape a judgment because the debtor has no defenses and no opportunity for a trial.

8. If payment is not made, the debtor and his family will be forced into court to testify as to assets and that will prove to be expensive and embarrassing.

9. Respondent Northeast Discount, Inc. maintains a credit department.

PAR. 15. In truth and in fact:

1. Delinquent debtors' names are not transmitted to any credit reporting agency.

2. The respondent Northeast Discount Corp. does not take any affirmative or positive action to injure or affect the debtors' credit ratings.

3. The respondent Northeast Discount Corp. does not take any "drastic action" within five days other than to send further threatening collection letters to debtors.

4. Debtors' accounts are not turned over within five days to collection attorneys for litigation but instead are followed up by further collection letters.

6. Although the respondents threaten to take action to embarrass debtors and their families in their communities, respondents do not take affirmative steps to carry out this threat but make such threats solely for the purpose of harassing and intimidating debtors.

7. Debtors always have the right to a trial and they may be able to establish valid defenses; thus, it is not impossible to escape a judgment.

8. Under customary court procedures debtor-defendants are not required to testify as to assets until supplementary proceedings held only after trial and judgment.

9. Respondent Northeast Discount Corp. does not maintain a credit department.

PAR. 16. In the course and conduct of its business, respondent Northeast Discount Corp. makes the following representation to persons purchasing Compact products on credit:

We have acquired your contract covering your recent Compact purchase * * *
In addition, respondents Compact Electra, Compact Bellerose and

Complaint

83 F.T.C.

Compact Discount indicate through statements and representations to purchasers that they have negotiated the purchasers' installment contracts to a third party, namely, Northeast Discount Corp.

PAR. 17. By and through the use of the aforesaid statements and representations respondents have represented directly and indirectly that:

1. As a purchaser of retail installment contracts from the other corporate respondents Northeast Discount Corp. is a holder in due course.

2. Respondent Northeast Discount Corp. is an independent corporation having no connection with the other corporate respondents.

PAR. 18. In truth and in fact:

1. Respondent Northeast Discount Corp. does not purchase retail installment contracts from the other corporate respondents or any other firm.

2. Respondent Northeast Discount Corp. is not a holder in due course with respect to the purchasers of respondents' products.

3. Respondent Northeast Discount Corp. and the other corporate respondents have not operated and do not operate as independent, individual corporations but are components of a single business entity operated as an integrated operation by respondent Hyman Sindelman, also known as Hy Delman.

4. Respondent Northeast Discount Corp. was formed and is operated solely for the purpose of collecting debts incurred by purchasers of the respondents' products.

Therefore, the statements, representations and practices as set forth in Paragraphs Thirteen, Fourteen, Sixteen and Seventeen were and are, false, misleading and deceptive.

PAR. 19. In the course and conduct of its business respondent Northeast Discount Corp., and respondent, Theodore Decker, entered into an agreement for the sale of form collection letters by Theodore Decker to Northeast Discount Corp. The agreement provides for the preparation of form collection letters by respondent Theodore Decker, an attorney and member of the bar of the State of New York, under the latter's letterhead showing as his address the address of the corporate respondent including a telephone number of a telephone situated on the premises of the corporate respondent. Said telephone is never answered by re-

Complaint

spondent Decker but is answered only by employees of respondent Northeast Discount Corp. The form letters are printed at the sole cost and expense of the corporate respondent who has the further discretion of selection of debtors to whom the letters are sent and complete control over the usage of the letters in the collection process. Respondent Theodore Decker's sole undertaking is to sign each such form letter.

Respondent Theodore Decker has made certain statements and representations in the aforementioned letters bearing his letterhead and in notices disseminated by respondent Northeast Discount Corp. through the United States mails to purportedly delinquent debtors or their employers.

Typical, but not all inclusive of such statements and representations, are the following:

Theodore Decker
 Attorney at Law
 246-16 Jericho Turnpike
 Bellerose, L.I., New York 11426
 Re: Northeast Discount Corp.

The above account has been placed with me for collection. * * *

Very truly yours,
 /s/ Theodore Decker

* * *
 Since my letters to you in which you were advised that I have been retained to prosecute an action against you for the recovery of the above claim, I have investigated further into this matter and have determined that you are fully liable for the amount claimed. *
 Consequently, unless a satisfactory payment of your debt is received in my office within five (5) days from the date of this letter, I will commence court action against you for the recovery of said amount, together with interest and court costs.
 This will be your final notice.

* * *
 I am about to bring action against the above-named employee for monies due my client, Northeast Discount Corp., Bellerose, L. I.
 In order to avoid needless effort and expense, which can result in further inconvenience to all concerned, I would appreciate your advising me of the following information. * * *
 Thank you for your cooperation in this matter * * *

* * *
 I have no wish to embarrass you unnecessarily, but I must dispose of the matter immediately. I trust you will make satisfactory arrangements without further delay.

Complaint

83 F.T.C.

* * * * *

PAR. 20. By and through the use of the aforesaid statements, representations and practices, and others of similar import not specifically set out herein, respondent Theodore Decker has represented directly and by implication, to debtors or their employers receiving collection letters on the stationery of respondent Decker that.

1. He is an attorney who has offices at 246-16 Jericho Turnpike, Bellerose, Long Island, and he represents the respondent, Northeast Discount Corp., as its collection attorney.

2. The collection letters are sent to debtors pursuant to the direction and control of respondent Theodore Decker.

3. The debtor's account has been placed with respondent, Theodore Decker, as attorney for collection.

4. Respondent, Theodore Decker, has been retained by respondents to prosecute an action against the debtor.

5. Respondent, Theodore Decker, as attorney, has investigated further into the matter and has determined that the debtor is fully liable for the amount claimed.

6. Unless payment is received personally by Mr. Decker in his office within five (5) days from the date of his letter, court action will be commenced by respondent, Theodore Decker, as attorney to recover the amount claimed.

7. The collection letter purportedly sent by respondent Theodore Decker, to the debtor is a final notice before litigation.

8. Further inconvenience to the employer of the debtor will occur if the employer does not cooperate in aiding respondent Decker in collecting the indebtedness from the employee.

9. Respondent, Theodore Decker, will cause embarrassment to the debtor if the debtor does not pay.

PAR. 21. In truth and in fact:

1. Respondent, Theodore Decker, does not maintain an office for the practice of law at 246-16 Jericho Turnpike, Bellerose, New York, said address being that of the corporate respondents, and his sole function is to prepare collection letters and forms for Northeast Discount Corp.

2. The collection letters are sent pursuant to the complete direction and control of the corporate respondent Northeast Discount Corp. who pays for all expenses in connection with their use.

3. The collection of debtors' accounts has never left the control of corporate respondent Northeast Discount Corp. and said corpo-

rate respondent is in direct communication with debtors under the guise and ruse of an attorney's letterhead.

4. Similarly, as in (1), (2) and (3) above, said representation that corporate respondent Northeast Discount Corp. has retained respondent, Theodore Decker, as attorney is a guise and ruse and, in fact, no such retainers are entered into.

5. Respondent Decker makes no independent investigation into the merits of any debt allegedly due to Northeast Discount Corp., his sole function being as hertofore stated.

6. Any payments made by debtors pursuant to demands and threats made upon debtors in letters under the letterhead of Theodore Decker are not received by respondent Decker, but are paid directly to respondent Northeast Discount Corp. which, in fact, controls receipts of monies paid by debtors who mistakenly believe that they are making payments to an attorney. Respondent Decker does not commence court actions if payment is not forthcoming.

7. Collection letters sent on the letterhead of Theodore Decker, Attorney, containing threats that the same are final notices, are, in fact, not final, inasmuch as further and additional threatening collection letters are sent to the same debtor containing the same threat of final notice.

8. The prejudgment letters sent to employers of the debtors are, in effect, idle threats upon such employers because no further inconvenience to employers is caused by respondent Decker.

9. Collection letters sent to debtors are, in effect, mere threats to cause the debtor some undisclosed form of unnecessary embarrassment, since no further action is taken by respondent Decker to cause embarrassment.

PAR. 22. By furnishing the aforesaid form collection letters to the corporate respondent Northeast Discount Corp., respondent Theodore Decker, has placed in the hands of the corporate respondent the means and instrumentalities by which it may, and does mislead members of the consuming public in the respects herein described.

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

PAR. 23. The use by respondents, of the unfair, deceptive and misleading acts and practices described in Count II in connection with respondents' business has enabled respondents unfairly to

Complaint

83 F.T.C.

receive remuneration and financial gain in connection with respondents' other deceptive and unfair sales practices in commerce as set forth in Count I of this complaint. All of respondents' practices are intertwined and mutually supportive so as to comprise a totality of unfair and deceptive practices in commerce.

PAR. 24. 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 engaged in the business of collecting due or delinquent accounts in connection with the sales of their products.

PAR. 25. 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 purchasing public into the erroneous and mistaken belief that said statements and representations were, and are true, and into the payment of alleged debts by reason of said erroneous and mistaken belief.

PAR. 26. The aforesaid acts and practices of respondents, as herein alleged, are inequitable, oppressive, exploitative and cause substantial injury to consumers, and constituted, and now constitute unfair acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

PAR. 27. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce 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 New York 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 the respondents have violated the said Act, and the 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. Respondents Compact Electra Corp., Compact Bellerose, Inc., Compact Discount, Inc., Northeast Discount Corp., Compact Associates, Inc., Hyman Sindelman a/k/a Hy Delman, and Theodore Decker are corporations organized, existing and doing business under and by virtue of the laws of the State of New York with their office and principal place of business located at 246-16 Jericho Turnpike, Bellerose, New York.

Respondent Hyman Sindelman, a/k/a Hy Delman, is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation, and his principal office and place of business is located at the above stated address.

Respondent Theodore Decker is an individual engaged in the practice of law as a member of the bar of the State of New York, with his office and principal place of business located at 250 West 57th Street, New York, New York. In the course and conduct of his practice of law, respondent Theodore Decker entered into a contractual agreement with one or more of the respondents herein in connection with form collection letters involved as the subject matter, in part, of this proceeding.

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

I

It is ordered, That respondents Compact Electra Corp., Compact Bellerose, Inc., Compact Discounts, Inc., Northeast Discount

Decision and Order

83 F.T.C.

Corp., Compact Associates, Inc., corporations, their successors and assigns and their officers, and Hyman Sindelman, also known as Hy Delman, individually and as an officer of said corporate respondents, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the offering for sale, sale, or distribution of vacuum cleaners or memberships in group purchasing programs or other products or services in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing orally, visually, in writing or in any other manner, directly or indirectly that any merchandise is free without clearly revealing all of the terms, conditions or obligations necessary to the receipt and retention of said merchandise.

2. Representing orally, visually, in writing or in any other manner, directly or indirectly that membership in any group buying program is free; or representing in any manner, the nature of any offer of anything of value to purchasers or prospective purchasers without clearly disclosing all of the terms, conditions and limitations with respect thereto.

3. Representing orally, visually, in writing or in any other manner, directly or indirectly that purchasers of respondents' products will enjoy substantial savings in the purchase of products through any group buying program, or representing, in any manner, the amount of savings available to purchasers of respondents' products as members of any group buying program.

4. Representing orally, visually, in writing or in any other manner, directly or indirectly that respondents' buying program purchases in mass quantities and thereby obtains low prices for its members; representing that products are available at wholesale or cost prices through the group buying program; and representing that respondents own or control the group buying program.

5. Representing orally, visually, in writing or in any other manner, directly or indirectly that respondents' group buying program has about one million members, or any other number of members that is in excess of the actual number of members enrolled in the group buying program.

6. Representing orally, visually, in writing or in any other manner, directly or indirectly that respondents and/or their

methods of doing business are approved by the Better Business Bureau.

7. Representing orally, visually, in writing or in any other manner, directly or indirectly that unless the prospect is enrolled as a purchaser of respondents' products the cost of membership alone in respondents' group buying program is substantial or that said membership is available to the prospective purchaser only if he purchases respondents' products at the first offering.

8. Representing orally, visually, in writing or in any other manner, directly or indirectly that respondents' products are being left at consumers' homes on approval; or that respondents' retail installment contract is only a receipt for goods left at prospective purchasers' homes; or that the contract is not effective without the approval of purchasers' or prospective purchasers' spouses.

9. Representing orally, visually, in writing or in any other manner, directly or indirectly that purchasers' old vacuum cleaners will be sold by respondents or that a specific price will be realized from the sale unless the representation including the specific amount of the sales price is incorporated in the retail installment contract and payment or credit therefor assured by the respondents.

10. Representing orally, visually, in writing or in any other manner, directly or indirectly that the cost to purchasers of respondents' products may be substantially reduced if purchasers provide respondents with names and addresses of individuals who will buy respondents' products.

11. Representing orally, visually, in writing or in any other manner, directly or indirectly that the telephone numbers provided by respondents' salesmen to purchasers are the home telephone numbers of such salesmen which purchasers may call in order to cancel their contracts.

12. Representing orally, visually, in writing or in any other manner, directly or indirectly that respondent Compact Discount, Inc., sells its vacuum cleaners and accessories at a discount, or that its prices for said products constitute a reduction from the prices at which said merchandise is usually and customarily sold at retail in the trade area where the representation is made, or misrepresenting in any manner the amount of savings available to purchasers of respondent's merchandise.

Decision and Order

83 F.T.C.

13. Using "Discount" or any abbreviation or simulation thereof as part of respondent Compact Discount's trade or corporate name except for the collection of accounts of indebtedness incurred by consumers as a result of sales made to them prior to the effective date of this order; or misrepresenting through the use of a trade or corporate name the nature or character of respondent's business.

14. Making any statements or representations described in Paragraphs 2 and 3 of this order, or furnishing the means and instrumentalities through or by means of which any person or firm may make any statement or representation described in the paragraphs enumerated herein unless the statement or representation is true, and respondents maintain, or cause to be maintained, for a period of three years after the statement or representation and, upon reasonable notice, provide access to the Commission or its representatives for purposes of inspection or copying, full, complete and accurate records which will disclose a factual, documented and verifiable basis in substantiation of the statement or representation, and the period of time during which the statement or representation is made.

II

It is further ordered, That respondents Compact Electra Corp., Compact Bellerose, Inc., Compact Discount, Inc., Northeast Discount Corp., Compact Associates, Inc., corporations, their successors and assigns and their officers, and Hyman Sindelman, also known as Hy Delman, individually and as an officer of said corporate respondents, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the collection of, or attempt to collect, accounts allegedly due and owing pursuant to any contract or other agreement relating to the purchase of any Compact vacuum cleaner or accessory, or any other merchandise or service, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

15. Representing orally, visually, in writing or in any other manner, directly or indirectly that delinquent accounts are referred to bona fide credit reporting agencies.

16. Representing orally, visually, in writing or in any other manner, directly or indirectly that affirmative action will be

taken against an alleged delinquent debtor to injure his credit rating.

17. Representing orally, visually, in writing or in any other manner, directly or indirectly the nature and extent of respondents' debt collection procedures.

18. Representing orally, visually, in writing or in any other manner, directly or indirectly that a delinquent account will be referred to an attorney for the institution of legal proceedings.

19. Representing orally, visually, in writing or in any other manner, directly or indirectly that where payment is not received, alleged delinquent debtors' employers will be contacted prior to judgment.

20. Communicating, or threatening to communicate, or implying the fact of a debt or alleged debt other than to a person who might reasonably be expected to be liable therefor, to any person, including an employer, unless specifically authorized by statute or by written permission of the alleged debtor.

21. Representing orally, visually, in writing or in any other manner, directly or indirectly that where payment is not received, legal action will be instituted which will result in embarrassment to, and loss of respect of the debtor and his family in the community; or employing in collection letters, or in any other form of communication with debtors, any statement, word or phrase which is unfair by reason of it being exaggerative, exploitative or oppressive.

22. Representing orally, visually, in writing or in any other manner, directly or indirectly the legal consequences of non-payment; or representing orally, visually, in writing or in any other manner, directly or indirectly that the debtor's account has been placed with an attorney for collection.

23. Representing orally, visually, in writing or in any other manner, directly or indirectly that any collection letter or notice is a "final notice" before litigation.

24. Representing orally, visually, in writing or in any other manner, directly or indirectly that respondents maintain a separate department for collection purposes, or misrepresenting in any manner any departmentalization of respondents' business.

25. Using forms, letters or materials printed or written,

Decision and Order

83 F.T.C.

which misrepresent, directly or by implication, that a debtor's account has been turned over to an attorney for collection, or that said attorney is actually corresponding with said debtor, or misrepresenting that a collection attorney maintains his law office at the principal place of business of respondents.

26. Using, preparing, furnishing or placing in the hands of others letters, letterheads, forms and other written materials which appear and purport to be letters, letterheads, forms and other written materials utilized by an attorney for collection of debts where such attorney does not have continuous control and supervision over their preparation, use, and processing in the collection of debtors' accounts.

27. Representing orally, visually, in writing or in any other manner, directly or indirectly that a debtor's account has been investigated.

28. Representing orally, visually, in writing or any other manner, directly or indirectly, that a debtor has been found liable for the debt prior to a determination of such liability by a court or other tribunal, except that such representation may be made to a court, or an officer of the court, in connection with court proceedings relative to the indebtedness.

29. Representing orally, visually, in writing or in any other manner, directly or indirectly that Northeast Discount Corp. is a holder-in-due course respecting the commercial paper issued by the other corporate respondents named herein or any other affiliated firm; or that Northeast Discount Corp. purchases or acquires any contract or commercial paper from the other corporate respondents named herein or any other affiliated firm; or misrepresenting in any manner, directly or indirectly the corporate or business relationship existing among the corporate respondents.

30. Failing to include the following statement, captioned by the word "NOTICE" in bold face type, clearly on the face of any note, contract or other instrument of indebtedness executed by or on behalf of respondents' customers:

NOTICE

The seller herein agrees not to transfer or assign this contract or the debt evidenced hereby.

31. Contracting for any sale obtained by home solicitation which shall preclude or waive the right of the buyer to cancel

the sale prior to midnight of the third day excluding Sundays and legal holidays after the date of signing the contract.

32. Failing to disclose prior to the time of any home solicitation sale, both orally, and in writing on any conditional sales contract promissory note or other instrument executed by the buyer, that the buyer may rescind or cancel the sale by written notice of cancellation to respondents' address prior to midnight of the third day, excluding Sundays and legal holidays, after the date of the sale. Upon such cancellation the burden shall be on respondents to collect any goods left in the buyer's home and to return any payments received from him. Nothing contained in this right-to-cancel provision shall relieve buyers of the responsibility for taking reasonable care of the goods prior to, and for a reasonable period following, cancellation; the written disclosure required by this paragraph shall be clearly stated, and headed by the following in bold face type:

NOTICE—BUYER'S RIGHT OF CANCELLATION

Provided, however, That nothing contained in Paragraphs 31 and 32 of this order shall relieve respondent of any contractual obligations required by federal law or that law of the state in which the contract is negotiated. When such obligations are inconsistent, respondent may apply to the Commission for relief from this provision with respect to contracts executed in the state in which such different obligations are required.

33. Failing to provide a separate and clearly understandable form which the buyer may use as a notice of cancellation.

34. Making any statements or representation described in Paragraphs 17, 18, 22, 23 and 27 of this order, or furnishing the means and instrumentalities through or by means of which any person or firm may make any statement or representation described in the paragraphs enumerated herein unless the statement or representation is true, and respondents maintain or cause to be maintained for a period of three years after the statement or representation and, upon reasonable notice, provide access to the Commission or its representatives for purposes of inspection or copying, full, complete and accurate records which will disclose a factual, documented and verifiable basis in substantiation of the

Decision and Order

83 F.T.C.

statement or representation, and the period of time during which the statement or representation is made.

III

It is further ordered, That the respondent Theodore Decker, an individual, and his agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the collection of, or attempt to collect, accounts allegedly due and owing on merchandise or services purchased by consumers, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

35. Representing orally, visually, in writing or in any other manner, directly or indirectly, the extent of his debt collection procedures.

36. Representing orally, visually, in writing or in any other manner, directly or indirectly, that where payment is not received the debtors' employers will be contacted prior to judgment.

37. Communicating, or threatening to communicate, or implying the fact of a debt or alleged debt, other than to a person who might reasonably be expected to be liable therefor, to any person, including an employer, unless specifically authorized by statute or by written permission of the alleged debtor.

38. Representing orally, visually, in writing or in any other manner, directly or indirectly, that where payment is not received, legal action will be instituted which will result in embarrassment to, and loss of respect of the debtor and his family in the community; or employing in collection letters, or in any other form of communication with debtors, any statement, word or phrase which is unfair by reason of it being exaggerative, exploitative or oppressive.

39. Representing orally, visually, in writing or in any other manner, directly or indirectly, the legal consequences of non-payment.

40. Representing orally, visually, in writing or in any other manner, directly or indirectly, that any collection letter or notice is a final notice before litigation.

41. Using, or providing to others for their use, forms, letters or materials printed or written, which misrepresent, directly or by implication, that a debtor's account has been turned over to him for collection as attorney or that he is

actually corresponding with the debtor, or misrepresenting that he maintains his law office at the place of business of his client.

42. Using, preparing, furnishing or placing in the hands of others, letters, letterheads, forms and other written materials which appear and purport to be letters, letterheads, forms and other written materials utilized by him for the collection of debts where he does not have continuous control over their preparation, use and processing in the collection of debtors' accounts.

43. Representing orally, visually, in writing or in any other manner, directly or indirectly that a debtor's account has been investigated.

44. Representing orally, visually, in writing or in any other manner, directly or indirectly, that a debtor has been found liable for the debt prior to a determination of the debtor's liability by a court or other tribunal, except that such representation may be made to a court, or to an officer of the court in connection with court proceedings relative to the indebtedness.

45. Making any statement or representation described in Paragraphs 35, 39, 40, and 43 of this order, or furnishing the means and instrumentalities through or by means of which any person or firm may make any statement or representation described in the paragraphs enumerated herein unless the statement or representation is true, and respondent Theodore Decker maintains or causes to be maintained for a period of three years after the statement or representation and, upon reasonable notice, provides access to the Commission or its representatives for purposes of inspection or copying, full, complete and accurate records which will disclose a factual, documented and verifiable basis in substantiation of the statement or representation, and the period of time during which the statement or representation is made.

IV

It is further ordered, That nothing in this order shall be construed to imply that any past or future conduct of respondents is subject to and complies with the rules and regulations of, or the statutes administered by the Federal Trade Commission, nor shall execution of this or any agreement or order evidence good or bad faith on the part of the respondents.

Decision and Order

83 F.T.C.

It is further understood that nothing contained in this order shall be construed in any way to annul, invalidate, repeal, terminate, modify or exempt respondents from complying with agreements, orders or directives of any kind obtained by any other agency or act as a defense to actions instituted by municipal or state regulatory agencies.

It is further ordered, That the respondent corporations shall forthwith distribute copies of this order to each of its operating divisions and to all salesmen.

It is further ordered, That the individual respondents named herein promptly notify the Commission in the event that they discontinue their present business or employment, and become affiliated with a new business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which they are engaged as well as a description of their duties and responsibilities.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in 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 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
DURA-HAIR INTERNATIONAL, INC.

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

Docket 8830. Complaint, Jan. 12, 1971—Decision, Oct. 2, 1973.*

Consent order requiring a Beverly Hills, Calif., corporation which acquired assets, including patent rights, from the now-bankrupt franchisor of the "Medi Hair" hair replacement system, to cease representing that the