

Complaint

84 F.T.C.

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 the order to cease and desist contained herein.

IN THE MATTER OF

INTERNATIONAL SERVICE INDUSTRIES, INC., ET AL.

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

Docket C-2539. Complaint, Sept. 5, 1974—Decision, Sept. 5, 1974

Consent order requiring a Downey, Calif., operator of physical fitness and/or health salons, among other things to cease misrepresenting its promotional sales plans, services as free, limited offers, savings which purchasers may achieve, and guarantees.

Appearances

For the Commission: *William M. Rice, Jr.*

For the respondents: *Raymond Jackson*, Beverly Hills, Calif., *Kevin J. Quinn*, *Refkind & Sterling*, Beverly Hills, Calif.

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 International Service Industries, Inc., a corporation, and Sidney Craig and Allen Bergendahl, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent International Service Industries, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Utah, with its principal office and place of business located at 9132 East Stonewood Street, in the city of Downey, State of California.

Respondent Sidney Craig is an individual and an 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.

Respondent Allen Bergendahl is an individual and an 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.

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

PAR. 2. Respondents are now, and for some time last past have been engaged in the operation of physical fitness and/or health salons, and in the advertising, offering for sale, and sale of memberships and related services to the public in said physical fitness and/or health salons. Respondents' physical fitness and/or health salons are operated under the name Gloria Marshall Figure Control Salons.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, memberships in their fitness and/or health salons to be advertised and sold to purchasers thereof located in various other States of the United States, and maintain and, at all times mentioned herein, have maintained a substantial course of trade in said memberships and related services, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of memberships in their fitness and/or health salons, and related services, respondents have made, and are now making, numerous statements and representations in advertisements inserted in newspapers of general interstate circulation, by means of television broadcasts and in other promotional material. Typical and illustrative of the foregoing, but not all inclusive thereof, are the following:

Call your nearest salon for FREE figure analysis and complimentary treatment.

* * * * *

Start Now You Can Lose 2 Bathing Suit Sizes in 1 month.

* * * * *

Only \$2.50 per 1/2 hour treatment on any program.

* * * * *

Pay Less Because You Reduce Faster.

* * * * *

Quick Lasting Results.

* * * * *

PAR. 5. By and through the use of the above-quoted statements and representations, and others of similar import and meaning, but not expressly set out herein, and through their salesmen, agents and representatives, the respondents have represented, and are now representing directly or by implication, that:

1. Prospective customers will receive free figure analyses and/or complimentary treatments without any obligation.
2. Purchasers will lose two bathing suit sizes or some substantial reduction in body size and weight within one month, or some similarly short period of time.
3. Purchasers may purchase a membership in one of respondents' health salons for two dollars and fifty cents (\$2.50) per treatment.
4. Respondents' program is the least expensive method of figure reduction, since it allows faster reductions than other reducing programs.
5. Weight and figure reduction accomplished through respondents' programs will last without any dietary restrictions.

PAR. 6. In truth and in fact:

1. Prospective customers do not receive free figure analyses and/or complimentary treatments; instead, when prospective customers are induced into respondents' salons by such offers, respondents' sales personnel expose them to sales pitches by which they attempt to sell and do sell them expensive health and weight programs.
2. Few, if any, purchasers are able to achieve a specified reduction in body size or in weight in a stated period of time.
3. Purchasers may not purchase treatments at two dollars and fifty cents (\$2.50) per treatment, but must purchase a minimum contract of one hundred forty (140) treatments.
4. Respondents' program does not permit purchasers to save money by their losing weight more quickly than in other programs. On the contrary, respondents' use of minimum contracts often requires customers to spend more money than necessary.
5. Purchasers losing weight as a result of respondents' programs cannot achieve lasting results without dietary restrictions.

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

PAR. 7. In the course and conduct of their business as aforesaid, respondents have made, and are now making numerous statements and representations that guaranteed weight reduction is assured to all purchasers of respondents' health salon programs without adequately disclosing: (1) the nature and extent of the guarantee, (2) conditions and

limitations on the guarantee, (3) which programs are guaranteed, (4) the duration of the guarantee, and (5) the manner in which the guarantor will perform.

PAR. 8. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and are now in substantial competition in commerce with corporations, firms and individuals in the sale of memberships and related services in their physical fitness and/or health salons, said memberships and related services being of the same general kind and nature as those sold by respondents.

PAR. 9. The use by respondents of the unfair, false, misleading and deceptive statements, representations and practices has had, and now has, a capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations are true, and into the purchase of memberships in respondents' physical fitness and/or health salons by reason of said erroneous and mistaken belief.

PAR. 10. 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 the respondents have

violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Sec. 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent International Service Industries, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Utah, with its office and principal place of business located at 9132 East Stonewood Street, city of Downey, State of California.

Respondents Sidney Craig and Allen Bergendahl are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation, and their principal office and place of business is located at the above address.

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

ORDER

It is ordered, That respondents International Service Industries, Inc., a corporation, its successors and assigns, and its officers, and Sidney Craig and Allen Bergendahl, individually and as officers of said corporation, and respondents' officers, agents, affiliates, franchisees, licensees, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, and sale of health salon memberships, or related services, 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) Prospective purchasers will receive free figure analyses, complimentary treatments or similar inducements to visit respondents' health salons, without disclosing, clearly and conspicuously, in writing, that an attempt will be made to sell fitness and/or health salon memberships to said prospective customers.

(b) Membership in respondents' fitness and/or health salon programs and/or use of respondents' fitness and/or health salon facilities automatically means that every such member will alter his body size or configuration or will lose weight.

Decision and Order

(c) Respondents' fitness and/or health salon memberships are available for any period of time less than the shortest period for which a significant number of memberships are in fact sold to the public.

(d) Respondents' fitness and/or health salon programs will allow purchasers to save money, by producing weight reduction more rapidly than comparable weight reduction programs.

(e) Any reduction in body size or configuration or in weight will be lasting, without regard to dietary habits.

2. Representing that any of respondents' health salon programs or related services are guaranteed unless:

(a) Respondents disclose clearly, adequately and accurately in immediate conjunction therewith:

- (1) The nature and extent of the guarantee;
 - (2) The conditions and limitations on the guarantee;
 - (3) Which programs are guaranteed;
 - (4) The duration of the guarantee;
 - (5) The manner in which the guarantor will perform;
- and

(b) Respondents promptly and fully perform all of their obligations and requirements, directly or impliedly represented, under the terms of each such guarantee; and

(c) Respondents honor the guarantees of all purchasers who have substantially complied with the conditions of their guarantee, allowing flexibility for sickness and vacations.

It is further ordered, That respondents herein deliver by registered mail a copy of this decision and order to each of the present and future employees, salesmen, agents, solicitors, independent contractors, advertising agent, or to any other person who promotes, offers for sale, sells or distributes any health club membership or any other product or service offered by respondents.

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 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.

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84 F.T.C.

IN THE MATTER OF

MEYERS OUTFITTERS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-2540. Complaint, Sept. 5, 1974—Decision, Sept. 5, 1974*

Consent order requiring a Newark, N.J., retailer of furniture and appliances, among other things to cease using bait advertising.

*Appearances*For the Commission: *William Popoff.*For the respondents: *Samuel March*, Livingston, N.J.

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 Meyers Outfitters, Inc., a corporation and Charles Adler, 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 Meyers Outfitters, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its principal office and place of business located at 78 Springfield Avenue, Newark, N.J.

Respondent Charles Adler is an 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 been engaged in the purchasing, offering for sale, sale and distribution of furniture, appliances and related products to the public at retail in the metropolitan New Jersey area.

PAR. 3. In the course and conduct of their business as aforesaid, and at all times mentioned herein, respondents have been and now are in substantial competition in commerce, as "commerce" is defined in the Federal Trade Commission Act, with corporations, firms and individuals in the sale of furniture, appliances and related products.