

IN THE MATTER OF
LIFETIME FILTER EQUIPMENT CORP., ET AL.
CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket 8942. Complaint, Nov. 16, 1973-Decision, Sept. 10, 1975

Consent order requiring a Freeport, N.Y., seller and distributor of filters and other swimming pool products, among other things to cease using a misleading corporate name; misrepresenting the durability or permanence of its products; furnishing means and instrumentalities of misrepresentation or deception; and misrepresenting guarantees.

Appearances

For the Commission: *John A. Crowley* and *Alan F. Rubinstein*.

For the respondents: *George Maislen*, Freeport, 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 Lifetime Filter Equipment Corp., a corporation, and Peter A. Cattano, Sr., 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 Lifetime Filter Equipment Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 6 Brooklyn Ave., Freeport, N.Y.

Respondent Peter A. Cattano, Sr. 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 have been engaged in the advertising, offering for sale, sale and distribution to dealers and the public of products used in connection with swimming pools, including, but not limited to filters, diving boards, handrails, steps, pumps, chemicals, piping, heaters and instruments.

PAR. 3. In the course and conduct of their business, as aforesaid, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of New York 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 products 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 their products by dealers and consumers, respondents have made, and are now making, numerous statements and representations in advertising and promotional material with respect to the nature and limitations of their warranty, the durability of their products, and their business affiliations.

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

LIFETIME is revolutionizing
the swimming pool market
THE DYNAMIC NEW
LIFETIME FILTER
HPF 1000

Unconditional
GUARANTEE
Lifetime Filter

PAR. 5. By and through the use of the aforesaid statements and representations and others of similar import and meaning, but not specifically set out herein, respondents have represented, and are now representing, directly or by implication, that:

1. Since the swimming pool filters manufactured and sold by respondents are the products of a corporation denominated Lifetime Filter Equipment Corp., said filters are designed to be operative for the lifetime of the original owner.

2. The swimming pool filters sold by respondents are unconditionally guaranteed.

PAR. 6. In truth and in fact:

1. The swimming pool filters sold by respondents are not lifetime filters since they are not designed to last for the lifetime of the purchaser and the guarantee offered by respondents is limited to a maximum duration of five years.

2. The swimming pool filters sold by respondents are not unconditionally guaranteed. The filters are guaranteed for a period of five years. The first year of the guarantee provides for replacement of parts at no charge to the user. The remaining four years of the guarantee provide for parts replacement on a sliding scale of charges. Therefore, the guarantee provided by respondents is subject to conditions and limitations.

Therefore, the statements and representations, 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, 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 products used in connection with swimming pools, including, but not limited to, filters and other swimming pool accessories.

PAR. 8. The use by the respondents of the aforesaid false, misleading and deceptive statements and representations, 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 by reason of said erroneous and mistaken belief.

PAR. 9. 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 Commission having heretofore issued its complaint charging the respondents named in the caption hereof with violation of Section 5 of the Federal Trade Commission Act and the respondents having been served with a copy of that complaint; and

The Commission having withdrawn the matter from adjudication for the purpose of considering settlement by the entry of a consent order; 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, 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 set forth in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having considered the agreement and having provisionally accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby makes the following jurisdictional findings, and enters the following order:

1. Respondent Lifetime Filter Equipment Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 140 E. Merrick Rd., in the Village of Freeport, State of New York.

Respondent Peter A. Cattano, Sr. 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 said corporation.

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 Lifetime Filter Equipment Corp., a corporation, its successors and assigns, and its officers, and Peter A. Cattano, Sr., individually and as an officer of said corporation, and respondents' agents, representatives and employees directly or

through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale and distribution of swimming pool products such as filters, diving boards, handrails, steps, pumps, chemicals, piping, heaters and instruments, or any other products, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "Lifetime" or any word or term denoting a definite period of time, in the corporate or trade name, to designate or describe any of the corporate respondent's products which is in excess of that for which said product is usually and customarily effective.

2. Representing, directly or by an implication, that any product sold by respondents will last or endure for a "lifetime" or for any other period beyond what can reasonably be expected for said product.

3. Using, in any manner, in conjunction with the model designations or specifications of any product sold by the respondents the word lifetime or any such word or phrase which exaggerates the life expectancy of the product.

4. Furnishing to dealers or any other persons, any written, printed, or photographic material in which the word lifetime is used in any manner in describing any product sold by the respondents.

5. Representing, directly or by implication, that any of respondents' products are warranted or guaranteed, unless:

- (1) the nature and extent of the warranty or guarantee, the identity of the warrantor or guarantor and the manner in which the warrantor or guarantor will perform thereunder are clearly and conspicuously disclosed in immediate conjunction therewith, and,

- (2) the guarantor does in fact perform all of the actual and represented obligations and requirements, directly or impliedly represented, under the terms of each such warranty or guarantee.

It is further ordered, That the prohibitions contained in provision 1. of this order shall become effective as of Oct. 1, 1975.

It is further ordered, That respondents shall forthwith deliver a copy of this order to cease and desist to all present and future personnel and distributors of respondents engaged in the advertising, offering for sale or sale of respondents' products, installations or services, and that respondents secure a signed statement acknowledging the receipt of said order from each such person.

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 individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

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.
