

Complaint

87 F.T.C.

IN THE MATTER OF

RENTEX, INC. T/A HOMEFINDERS OF AMERICA, ETC.,
ET AL.

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

Docket 9024. Complaint, April 1, 1975—Decision, May 25, 1976

Consent order requiring a Denver, Colo., real estate listing agency, among other things, to cease misrepresenting the availability of rental housing and failing to disclose relevant facts concerning said housing. Respondent is required to verify every 72 hours (in advertising, verification must be made every 24 hours) if rental housing is still available or remove listing; post and present to customers, prior to purchase of service, a statement containing a description and limitations of the offered services and advise whether rental housing currently available suits their needs. Further, the order requires respondents to disclose to purchasers the availability date, monthly rent, landlord restrictions, deposit requirements and other pertinent information.

Appearances

For the Commission: *Barry E. Barnes.*

For the respondents: *Paul A. Goodin, Seattle, Wash., Myers, Woodford & Hopper, Denver, Colo.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Rentex, Inc., a corporation now or previously doing business as Homefinders of America, Homelocators of America, North American Homefinders, and various other names; Larry S. Glist and Larry Senderhauf, individually and as officers of said corporation; Homelocators, Inc., a corporation doing business as Rentex of Seattle and Rentex of Tacoma, and Rodney Molzahn, individually and as an officer of said corporation, hereinafter sometimes referred to as respondents, have violated Section 5 of the Federal Trade Commission Act and that a proceeding in respect thereof would be in the public interest, hereby issues this complaint, stating its charges as follows:

PARAGRAPH 1. Rentex, Inc. is a Colorado corporation with its office and principal place of business located at 3321 East Colfax, Denver, Colorado.

Larry S. Glist and Larry Senderhauf are individuals, officers and directors of Rentex, Inc. Together they formulate, direct and control the policies, acts and practices of Rentex, Inc., including the acts and practices hereinafter set forth. Their addresses are the same as that of the corporate respondent.

Homelocators, Inc. is a Washington corporation with its office and principal place of business located at 7712 Greenwood Ave. North, Seattle, Washington. Said corporation is a licensee of Rentex, Inc. and is doing business as Rentex of Seattle and Rentex of Tacoma.

Rodney Molzahn is an individual, officer and director of Homelocators, Inc. and the holder of a license from Rentex, Inc. He formulates, directs and controls the policies, acts and practices of Homelocators, Inc., including the acts and practices hereinafter set forth. His address is the same as that of Homelocators, Inc.

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

PAR. 2. Unless otherwise required by context, the following definitions shall apply for purposes of this complaint and the accompanying order:

A. "Rental housing" means any housing accommodation, whether real or personal property and including apartment housing, which may be leased, subleased, or rented as a private dwelling, abode or place of residence.

B. "Rental listing" means any list or other source of information concerning the location, availability and characteristics of rental housing.

C. "Landlord" means the person or persons legally empowered to lease, sublease or rent particular rental housing.

PAR. 3. Respondents are now, and for some time last past, have been engaged in the advertising, offering for sale and sale of rental listings to consumers for fees of from \$20 to \$30. Respondents Rentex, Inc. and its officers named herein have also conducted said business through individuals who have entered into license agreements with them which grant said individuals the exclusive right to offer such listings in connection with the use of the trade name "Rentex" in designated territories surrounding various metropolitan areas in the United States and Canada.

Respondent Rentex, Inc. receives ten percent of each licensee's gross sales as royalty payments, an additional five percent of each licensee's gross sales as a reserve account to ensure performance of the agreement until such account reaches \$10,000, and other covenants from each licensee.

Respondents Rentex, Inc. and its officers named herein dominate, control, furnish various means, instrumentalities, services and facilities for their licensees, and condone, approve, and accept pecuniary and other benefits flowing from the acts and practices hereinafter set forth of said respondents and their licensees.

PAR. 4. Respondents are engaged in business in or affecting

commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended. Advertising of particular rental housing and respondents' services appears in newspapers of interstate circulation and on television and radio broadcasts of interstate transmission. Personnel, monies, accounts, records, correspondence and other documents flow across State lines between Rentex, Inc. and its licensees, including respondent Homelocators, Inc., located in various States of the United States and various provinces in Canada and customers and landlords located throughout the United States and Canada. The volume of such business in or affecting commerce is and has been substantial.

PAR. 5. In the course and conduct of their aforesaid business, respondents have:

A. Advertised and/or listed rental housing as available for rent when it was not in fact available for rent.

B. Advertised and/or listed rental housing information which is inaccurate, including but not limited to information concerning rental price, location, rental terms and restrictions.

C. Advertised and/or listed rental housing information which is incomplete since it fails to disclose material facts, including but not limited to information concerning damage deposits, security deposits, clean-up fees, and other rental terms and restrictions.

D. Represented, directly or by implication, that rental housing fitting a prospective customer's stated needs is currently available for rent in respondents' rental listings, when in fact no such rental housing was available for rent at that time.

The aforesaid acts and practices were and are false, misleading, deceptive, or unfair.

PAR. 6. In the course and conduct of their business, and at all times mentioned herein, respondents have been and now are in substantial competition, in or affecting commerce, with corporations, firms and individuals engaged in the sale and performance of services of the same general nature as those sold and performed by the respondents.

PAR. 7. 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 or affecting commerce and unfair and deceptive acts and practices in or affecting 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 hereto with violation of Section 5 of

the Federal Trade Commission Act, and the respondents having been served with a copy of the complaint; 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 withdrawn the matter from adjudication for the purpose of considering the agreement containing consent order; 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 3.25(d) of its Rules, the Commission hereby makes the following jurisdictional findings, and enters the following order:

A. Respondent Rentex, Inc. is a Colorado corporation with its office and principal place of business located at 4633 East Colfax, Denver, Colorado.

Respondents Larry S. Glist and Larry Senderhauf are individuals, officers and directors of Rentex, Inc. Together they formulate, direct and control the policies, acts and practices of Rentex, Inc., including the acts and practices hereinafter set forth. Their addresses are the same as that of the corporate respondent.

Respondent Homelocators, Inc. is a Washington corporation with its office and principal place of business located at 7712 Greenwood Ave. North, Seattle, Washington. Said corporation is a licensee of Rentex, Inc. and is doing business as Rentex of Seattle and Rentex of Tacoma.

Respondent Rodney Molzahn is an individual, officer and director of Homelocators, Inc. and the holder of a license from Rentex, Inc. He formulates, directs and controls the policies, acts and practices of Homelocators, Inc., including the acts and practices hereinafter set forth. His address is the same as that of Homelocators, Inc.

B. 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 Rentex, Inc. and Homelocators, Inc., corporations, their successors and assigns, and their officers, Larry S

Glist and Larry Senderhauf, individually and as officers of Rentex, Inc., and Rodney Molzahn, individually and as an officer of Homelocators, Inc., and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division, franchisee, licensee or other device, in connection with the advertising, offering for sale or sale of rental housing information or similar information services to consumers in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

I

A. Advertising or representing, directly or by implication, that:

1. Rental housing is available for lease, sublease or rent *unless*

a. All rental housing which is being advertised has been verified daily as actually available for rent and all rental housing which has not been verified as actually available for rent that day is cancelled the same day or promptly in the morning of the next business day if cancellation is not possible on the same day due to the business hours of the advertising medium involved;

b. In the case of all other representations, the rental housing has been verified as actually available for rent within the previous 72 hours or removed from the rental listings until so verified.

2. Rental housing is available for lease, sublease or rent unless the following information is fully and accurately and clearly and meaningfully disclosed:

a. The date of availability of the rental housing, if it is not currently available;

b. The monthly rent;

c. The fact that damage deposit, security deposit, clean-up fees, rent prepayment, or any similar charges over and above the monthly rent are required, if applicable;

d. The number of bedrooms;

e. The fact that a lease is required, if applicable;

f. Any landlord restrictions (such as no pets, no children, etc.) except those prohibited by Federal, State, or local law;

g. The type of neighborhood (residential, rural, commercial, high-rise or other similar description);

h. The type of dwelling (single family, apartment, duplex, house-oat, etc.);

i. The location of the rental housing by appropriate reference to the reasonably smallest definable neighborhood (whether community district, zip code district or otherwise) in which it is located;

j. The utilities paid for, if any;

k. The telephone number of the landlord.

Provided that, in the case of advertising, only a., b., and h. must be disclosed and *provided further* that respondents shall not be liable under this order provision where it neither knew nor upon reasonable inquiry could have known that the information was false.

3. Rental housing fitting a person's stated needs is currently listed as available for lease, sublease or rent unless such is the fact.

B. Failing to disclose to each prospective customer of the service whether or not rental housing fitting a person's stated needs is currently listed as available for lease, sublease or rent prior to the time such person enters into any agreement obligating him or her to undertake the service.

C. Failing to provide to each prospective customer of the service, prior to the time such person enters into any agreement obligating him or her to undertake the service, in boldface capital letters of 14-point or larger type with no information to the contrary or in mitigation thereof, the following statement exactly as it appears below:

NOTICE

We are an information service only. We make no attempt to secure you housing. The service offers only compiled information concerning available rental housing units. No guarantee is made that you will find rental property by using this service [and no refund is offered.]*

*The material in brackets shall be included, if no refund is offered.

D. Failing to post the notice statement required by paragraph I.C. of this order with nothing to the contrary or in mitigation thereof in a clear and conspicuous manner and in a location and print size easily viewable by the customer at respondents' place of business.

E. Failing to keep adequate records, which may be inspected by Federal Trade Commission staff members upon reasonable notice, of the following:

1. Customer contracts including a complete and up-to-date description of the customer's needs for rental housing;
2. Information on rental housing obtained from the landlord, including but not limited to the following:
 - a. Name and telephone number of the landlord;
 - b. Date or dates the information was received;
 - c. All the information contained in paragraph I.A.2. of this order.
3. Information which will disclose the date and, in the case of advertised rental housing, the time of day of each verification of availability for rent of rental housing in respondents' rental listings.
4. A cross-reference system which will enable a person to find in

respondents' rental listings information concerning any specifically advertised rental housing.

Such records shall be retained by respondents for two years after such record is made.

II

It is further ordered, That:

A. Respondent Rentex, Inc. deliver a copy of this order to each of its present or future franchise or license holders or to any other person or entity connected with said respondent who sells or promotes the sale of rental housing information to consumers;

B. Respondent Rentex, Inc. provide each person or entity described in paragraph A above with a form, returnable to said respondent, clearly stating his or her intention to be bound by and to conform his or her business practices to the requirements of this order; respondent Rentex, Inc. shall retain said statement during the period said person or entity is so engaged, and make said statement available to the Commission's staff for inspection and copying upon request;

C. Respondent Rentex, Inc. inform each person or entity described in paragraph A above that respondent Rentex, Inc. shall not use or engage or shall terminate the use or engagement of any such person or entity, unless such person or entity agrees to and does file notice with said respondent that he or she will be bound by the provisions contained in this order; and that said respondent is obligated by this order to discontinue dealing with or to terminate the use or engagement of those persons or entities who engage on their own in the acts or practices prohibited by this order;

D. In the event such person or entity will not agree to file notice set forth in paragraph B above with respondent Rentex, Inc. and be bound by the provisions of this order, respondent Rentex, Inc. shall not use or engage or continue the use or engagement of such person or entity to sell or promote the sale of rental housing information to consumers;

E. Respondent Rentex, Inc. institute a program of continuing surveillance adequate to reveal whether the business practices of each of said persons or entities described in paragraph A above conform to the requirements of this order; and

F. Respondent Rentex, Inc. discontinue dealing with or terminate the use or engagement of any person or entity described in paragraph A above, who continues on his or her own any act or practice prohibited by this order, as revealed by the aforesaid program of surveillance.

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 or corporations, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

In the event that either of the corporate respondents merges with another corporation or transfers all or a substantial part of its business or assets to any other corporation or to any other person, said respondent shall require said successor or transferee to file promptly with the Commission a written agreement to be bound by the terms of this order; *provided* that if respondent wishes to present to the Commission any reasons why said order should not apply in its present form to said successor or transferee, it shall submit to the Commission a written statement setting forth said reasons prior to the consummation of said succession or transfer.

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment in which (1) they are involved in a management, policy-making or ownership capacity, and (2) which involves the sale of information to consumers for a fee. 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 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.

FEDERAL TRADE COMMISSION DECISIONS

Complaint

87 F.T.C.

IN THE MATTER OF

LE CONTE COSMETICS, INCORPORATED, ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECTIONS 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT

Docket 9031. Complaint, Apr. 29, 1975—Decision, May 27, 1976

Consent order requiring a Los Angeles, Calif., manufacturer and mail order seller and distributor of drug and cosmetic preparations, among other things to cease misrepresenting their products prevent baldness, stimulate hair growth, eliminate dandruff, and have Food and Drug Administration approval to be labeled "hair grow" or "growhair." Respondents are further required to institute a surveillance program to insure their franchisees and distributors comply with the provisions of the order.

Appearances

For the Commission: *Blanche R. Deight.*

For the respondents: *Louis W. Shaffer*, Los Angeles, Calif., *Pastoriza & Kelly*, Santa Monica, 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 Le Conte Cosmetics Incorporated, a corporation, trading and doing business under its own name and as Many Ways to Beauty Corporation, and Elton C. Toland, individually, and as an officer of said corporation, and trading and doing business as University Health & Beauty Discount Center, and Lamar Toland, and James Toland, individually and as officers of said corporation, hereinafter sometimes 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 Le Conte Cosmetics, Incorporated is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 2520 South Main St., in the city of Los Angeles, State of California.

The corporate respondent trades and does business under its own name and as Many Ways to Beauty Corporation.

Respondent Elton C. Toland is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the