

IN THE MATTER OF
SOLAR AGE INDUSTRIES, INC.

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

Docket C-3206. Complaint, Jan. 28, 1987—Decision, Jan. 28, 1987

This consent order prohibits, among other things, an Albuquerque, N.M. manufacturer and seller of solar energy heaters from misrepresenting the efficacy and performance of its solar space heaters or any other kind of solar energy equipment, unless it can substantiate its claims. Additionally, respondent is prohibited from using the phrase "up to" in energy-related claims, unless the upper limit of potential savings indicated in the claim can be achieved by an appreciable number of consumers.

Appearances

For the Commission: *Michael Dershowitz.*

For the respondent: *Robert N. Singer, Singer, Smith & Powell, Albuquerque N.M.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Solar Age Industries, Inc. ("Solar Age"), a corporation, has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Solar Age Industries, Inc. is a Nevada corporation with its principal office or place of business at 6400 Uptown Boulevard, Northeast, Albuquerque, New Mexico.

PAR. 2. Respondent manufactures, advertises, offers for sale, sells and distributes solar energy equipment including, *inter alia*, a "solar space heater" which consists of one or more rooftop collectors, one hot and one cold air duct and one small inlet fan, and which is designed to collect, but not store, the sun's rays for supplemental heating of individual residences or other small buildings.

PAR. 3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce.

PAR. 4. In advertisements and through the use of consumer testimonials contained therein, and through promotional materials disseminated to respondent's distributors, respondent has made various statements about the energy savings capability and area heating

capability of its solar space heater sold under the brand name "Solar Age Model 37," or sometimes referred to as "Solar Age Manufacturing Hot Air Collector Kit." Typical and illustrative of these statements, but not all-inclusive thereof, are the following from the advertisements attached hereto as Exhibits A, B and C:

Cut your heating bills up to 40%.

* * * * *
 . . . with a Solar Age Manufacturing Hot Air Collector Kit you can cut [heating] costs almost in half.

* * * * *
 Our Solar Age system has reduced our gas bills by over 30%.

* * * * *
 Enough [BTUS] to heat 600-800 sq. ft.!

* * * * *
 Our Solar Age heating system heats our whole house, even the garage!

* * * * *
 Solar Age Mfg. Collector Kits have an average 4 year pay back period.

* * * * *
 Solar Age Manufacturing collectors have been given a higher BTU output rating per square foot than any other in the country.

PAR. 5. Through the use of the above statements, and other statements in advertisements not specifically set forth herein, respondent has made the following material representations, directly or by implication:

1. Use of the Hot Air Collector Kit will save an appreciable number of consumers 40% or close to 40%, and possibly as much as 50%, on their heating bills under reasonably foreseen circumstances.

2. Advertised savings of over 30% on the heating bills of one consumer reflect savings that other consumers will obtain with the use of the Hot Air Collector Kit under reasonably foreseen circumstances.

3. The Hot Air Collector Kit will provide enough heat to heat 600-800 square feet of space in residences or other small buildings under reasonably foreseen circumstances.

4. Advertised whole-house heating of one consumer's residence with the use of the Hot Air Collector Kit reflects the heating performance that other consumers will obtain under reasonably foreseen circumstances.

5. It will take an average of 4 years for consumers to save enough money on their heating bills by using the Hot Air Collector Kit to recoup the retail cost of the Hot Air Collector Kit.

6. Solar Age collectors are the highest BTU-rated collectors, per square foot, in the country.

PAR. 6. In truth and in fact:

1. Few, if any, consumers will save 40% or close to 40%, on their heating bills as a result of using the Hot Air Collector Kit under reasonably foreseen circumstances.

2. Advertised savings of over 30% on the heating bills of one consumer do not reflect savings that other consumers will obtain with the use of the Hot Air Collector Kit under reasonably foreseen circumstances.

3. The Hot Air Collector Kit will almost never be able to provide enough heat to heat 600-800 square feet of space in residences or other small buildings under reasonably foreseen circumstances.

4. Advertised whole-house heating of one consumer's residence with the use of the Hot Air Collector Kit does not reflect the heating performance that other consumers will obtain under reasonably foreseen circumstances.

5. Few, if any, consumers will save enough money on their home heating bills by using the Hot Air Collector Kit to recoup the retail cost of the Hot Air Collector Kit within an average of 4 years.

6. Solar Age collectors are not the highest BTU-rated collectors, per square foot, in the country.

Therefore, the representations set forth in Paragraph Five were, and are, false and misleading.

PAR. 7. Through the use of the statements set forth in Paragraph Four, and others not specifically set forth herein, respondent has represented, directly or by implication, that at the time of making the representations set forth in Paragraph Five it possessed and relied upon a reasonable basis for those representations.

PAR. 8. In truth and in fact, at the time of the initial dissemination of those representations and each subsequent dissemination, respondent did not possess and rely upon a reasonable basis for making those representations because, *inter alia*, respondent's field data, testimonials and calculations were not designed or conducted in a manner to produce competent, reliable and statistically meaningful results. Therefore, respondent's representations, as set forth in Paragraph Seven were, and are, false and misleading.

PAR. 9. The acts or practices of respondent as alleged in this complaint, and respondent's placement in the hands of its distributors of the means and instrumentalities by and through which others may have used the aforesaid false, misleading and deceptive representations, constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act.

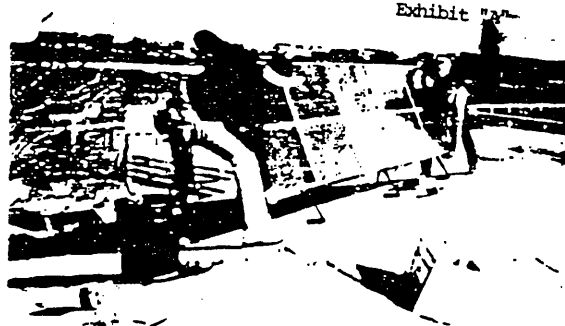
Complaint

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EXHIBIT A

Exhibit A

You can start saving today no matter where you live because now there's a solar hot air system good enough and simple enough to install yourself.



Cut your heating bills up to 40%.

Really.

No one has to tell you how expensive it is to heat your home. But with a Solar Age Manufacturing Hot Air Collector Kit you can cut those costs almost in half.

You can do-it-yourself.

Our collector kit really is easy to install. There's only 3 moving parts. You just mount it, duct it, and plug it in.

Our collector is cost effective.

Solar Age Manufacturing collectors have been given a higher BTU output rating per square foot than any other in the country. You can expect an efficiency of as much as 34,000 BTUs per day. Enough to heat 600-800 sq. ft.

Safe insulation.

Solar Age Mfg. does not use Polystyrene in its insulation. There's no chance of our system giving off harmful gases.

It's inexpensive.

We know that's a relative statement but once the collector is installed the sunshine is free. Solar Age Mfg. Collector Kits have an average 4 year pay back period. In addition the federal government will pay 40% in tax credits for your new heating system. With individual state credits the percentage could go even higher.

A reputation to maintain.

Solar Age Mfg. is the nation's largest solar air manufacturer. Nationally certified by the Solar Rating & Certification Corporation (SRCC) and the Air Conditioning and Refrigeration Institute (ARI) you can buy confidently knowing your system bears the high standards of industry excellence.

☐ Yes! I've enclosed \$4 for all the information on all three Solar Age Mfg. systems. I understand for that I will receive a cassette tape and tax credit information that pertains to my state.

Name _____
Address _____
City _____ State _____ Zip _____



SOLAR AGE MFG. INC.

Send to: Solar Age Manufacturing Inc.
Dept. 300
9001 Central N.E.
Albuquerque, NM 87123



SOLAR AGE

SOLAR HEAT/HOT WATER
SYSTEMS EVERYONE CAN AFFORD

Mr. George J. Spaulding Says:

"Our Solar Age system has reduced our gas bills by over 30%. Before we had the solar installed, our house was cold and our furnace ran continuously. It is maintenance-free, quiet operating and really circulates the heat in our house."



**SHOULDN'T YOU INVEST
IN A SOLAR AGE SYSTEM?**

- While the tax credits are still available
- While the 100% financing is still available

CALL TODAY FOR A FREE ESTIMATE!

UPTOWN 881-2315 6400 Uptown Blvd NE 457-W	RIO RANCHO 892-9589 1453 Rio Rancho Dr Suite E	DOWNTOWN 242-2867 117 Marquette NW #228	JUAN TABO 292-6092 2705 Juan Tabo N Bldg. A Suite 1
ASK ABOUT OUR NEW SOLAR SUNSCREEN — SAVING YOU MONEY "YEAR ROUND"			CENTRAL AVE. 298-3258 9001 Central NE

FEDERAL TRADE COMMISSION DECISIONS

Complaint

EXHIBIT C

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Exhibit "C"



SOLAR AGE

SOLAR HEAT/HOT WATER
SYSTEMS EVERYONE CAN AFFORD



*Mr. Arthur
Moreland Says:*

"Our Solar Age heating system heats our whole house, even the garage! It has no maintenance and quiet operation."

SHOULDN'T YOU INVEST IN A SOLAR AGE SYSTEM?

- While the tax credits are still available
- While the 100% financing is still available

CALL TODAY FOR A FREE ESTIMATE!

CENTRAL AVE. 296-3256	RIO RANCHO 892-9589	DOWNTOWN 242-2867	JUAN TABO 292-5092
9001 Central NE	1453 Rio Rancho Dr. Suite E	117 Marquette NW #228	2705 Juan Tabo NE Bldg. A Suite 1

ASK ABOUT OUR NEW SOLAR
SUNSCREEN SAVING YOU
MONEY "YEAR ROUND"

UPTOWN
881-3215
6400 Uptown Blvd NE
457-W

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent, its attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent 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 respondent 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 respondent has 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 Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Solar Age Industries, Inc., is a corporation with its office and principal place of business located at 6400 Uptown Boulevard, Northeast, Albuquerque, New Mexico.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

Definitions

For purposes of this order, the following definitions shall apply:

Energy-related claim means any general or specific, oral or written representation that, directly or by implication, describes or refers to energy savings, energy cost savings, area heating capability, efficiency or conservation, "payback," or "payback" potential.

A competent and reliable test means any scientific, engineering,

laboratory, or other analytical report, study, or survey prepared by one or more persons with skill and expert knowledge in the field to which the material pertains and based on testing, evaluation and analytical procedures that ensure accurate, reliable and statistically meaningful results.

A *solar space heater* is a particular type of solar energy equipment. Specifically, it is equipment which typically consists of one or more rooftop collector panels, one hot and one cold air duct and a small inlet fan, and which is designed to collect, but not store, the sun's rays for supplemental heating of individual residences or other, small buildings. The term describes, *inter alia*, respondent's "Solar Age Model 37," also referred to by respondent as its "Hot Air Collector Kit."

PART I

It is ordered, That respondent Solar Age Industries, Inc., a corporation, its successors and assigns, and its officers, and respondent's agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacture, advertising, offering for sale, sale, or distribution of any solar space heater or any other solar energy equipment in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, in any manner that:

(1) More than a few consumers may be able to reduce their heating bills by 40%, or close to 40%, by using the Hot Air Collector Kit or any other such solar space heater, as defined herein.

(2) Any one consumer's experience with respondent's solar space heater reflects what other consumers will experience under circumstances they can reasonably foresee, unless such is the case.

(3) The Hot Air Collector Kit or any other such solar space heater will provide more than a few consumers enough heat by itself to heat 600–800 square feet of space in residences or small buildings.

(4) More than a few consumers may be able to save enough money on their heating bills by using the Hot Air Collector Kit by itself to recoup the retail cost of the Hot Air Collector Kit or any other such solar space heater which ranges in cost from \$1,095 to \$3,595, within an average of 4 years.

(5) Its solar collector is the highest Btu-rated solar collector per square foot, in the country, unless such is the case.

B. Making any energy-related claim for any solar space heater, or any other solar energy equipment, unless at the time that the claim

is made, respondent possesses and relies upon a competent and reliable test or other objective material which substantiates the claim.

C. Making any energy-related claim which uses the phrase "up to" or words of similar import unless the maximum level of savings or performance can be achieved by an appreciable number of consumers; and, further, in any instances where consumers could not reasonably foresee the major factors or conditions affecting the maximum level of savings or performance, cease and desist from failing to disclose clearly and prominently the class of consumers who can achieve the maximum level of savings or performance.

D. Misrepresenting, directly or by implication, in any manner, the purpose, content, or conclusion of any test, study, analysis, rating or survey upon which respondent relies as substantiation for any energy-related claim, or making any representation which is inconsistent with the results or conclusions of any such test, study, rating or survey.

PART II

It is further ordered, That respondent Solar Age Industries, Inc., a corporation, its successors and assigns, and its officers, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacture, advertising, offering for sale, or distribution of any solar space heater or any other solar energy equipment in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall, for at least three years from the date of the last dissemination of energy-related claims, maintain and upon request make available to Federal Trade Commission staff for inspection and copying, copies of:

1. all materials relied upon to substantiate any energy-related claim; and
2. all test reports, studies, surveys or demonstrations in their possession that contradict, qualify, or call into question any energy-related claim.

PART III

It is further ordered, That respondent shall:

A. Within thirty (30) days after the date of service of this order, send the following material via first class mail to every person or firm that is a current distributor of respondent's solar energy equipment and thereafter to every person or firm that becomes a distributor during the first year from the date of service of this order:

1. a copy of this order, and
2. a copy of the cover letter attached to this order as Attachment A, incorporated herein by reference.

B. Distribute a copy of this order to each of respondent's operating divisions, and to each of its officers, agents, representatives or employees engaged in the preparation or placement of advertisements or other sales materials.

C. Supply to the Federal Trade Commission upon request the names and addresses of those parties to whom respondent distributed the material required by Paragraphs A and B of Part III of this order.

PART IV

It is further ordered, That respondent shall notify the Commission at least thirty (30) days prior to the effective date of 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 this order.

PART V

It is further ordered, That respondent shall, within sixty (60) days after this order becomes final, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with the order.

ATTACHMENT A

[Solar Age Letterhead]

[Solar Age Distributors]

Re: Advertising Claims and Practices

Dear Solar Age Distributors:

As a result of a Federal Trade Commission investigation of advertising claims for our Solar Age Model 37 Solar Space Heater (the Hot Air Collector Kit), we have entered into the enclosed Consent Order Agreement. The agreement is for settlement purposes only and does not constitute an admission that Solar Age or its distributors have violated the law. At issue in the investigation were a number of energy cost savings, performance and payback claims.

We agree to conform our future advertising practices to the standards set forth in this agreement, and to refrain from the use of all promotional material that may contain contrary claims. In order to insure that such claims will no longer be made, we request that you refrain from making them, either orally or in writing, and to advise your dealers to do so as well. Please forward to us any remaining literature relating to our products which may be in your possession or that of your dealers and which does not conform to the enclosed agreement.

Thank you very much for your assistance in this regard.

Sincerely,
SOLAR AGE INDUSTRIES, INC.

By: _____
Alan D. Schwanke, President

Complaint

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IN THE MATTER OF

AQUANAUTICS CORPORATION

CONSENT ORDER IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-3207. Complaint, Feb. 17, 1987—Decision, Feb. 17, 1987*

This consent order requires, among other things, a San Francisco manufacturer of marine survival suits to notify owners and users of its suits of a safety defect that is potentially life-threatening and send a repair kit to all users and purchasers it can identify to correct the product defect.

Appearances

For the Commission: *Theodore H. Hoppock.*

For the respondents: *Theodore C. Whitehouse, Willkie, Farr & Gallagher, Washington, D.C.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, 15 U.S.C. 45 *et seq.*, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that respondent Aquanautics Corporation, hereinafter referred to as respondent, has 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 as follows:

PARAGRAPH 1. Respondent is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 4560 Horton Street, Building Q, #111, Emeryville, CA.

PAR. 2. Respondent owns and controls a wholly-owned subsidiary, Bremerton Asset Corporation, formerly called Imperial Manufacturing Corporation ("Imperial"). Prior to the sale of part of Imperial's assets on or about March 1985, Imperial was engaged in the manufacturing, advertising, marketing, distributing, and selling to the public of exposure suits—one-piece, hooded, jump suit-like garments made of flexible, buoyant material—which are designed for emergency use to increase the chance of survival in cold water.

PAR. 3. Prior to April 1980, a predecessor to respondent's wholly-owned subsidiary Imperial, called Imperial Manufacturing Company,