

IN THE MATTER OF

RONBY CORPORATION, ET AL.

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket 8560. Consent Order, Mar. 12, 1964—Modifying Order, Apr. 27, 1989

This order modifies the Commission's 1964 order (64 FTC 1294) with Fred Astaire Dance Studios Corp., the corporate predecessor to the Ronby Corp., by providing students with absolute cancellation and refund rights.

ORDER MODIFYING ORDER TO CEASE AND DESIST

The Commission on January 26, 1989, issued its order to show cause why this proceeding should not be reopened and its order of March 12, 1964 ("the Commission order of 1964"), modified.

Ronby Corporation, Chester F. Casanave and Charles L. Casanave having consented to the reopening of this proceeding, to being added as parties respondent thereunder and to the modification of the Commission order of 1964, as set forth in the show cause order, and the Commission having placed the show cause order on the public record for thirty (30) days and no comments having been filed by interested persons,

Now, therefore, *it is hereby ordered*, that the Commission order of 1964 be, and it hereby is, modified, as follows:

(1) By inserting a Roman numeral one (I) before the *It is ordered* preamble of the 1964 order;

(2) By substituting revised language in the *It is ordered* preamble of the 1964 order, as provided below;

(3) By substituting revised language in numbered paragraphs 1., 4., 5., 6., 7. and 9. of the newly designated Part I of the order, as provided below;

(4) By deleting paragraphs 3. and 8. thereof;

(5) By renumbering paragraphs 4., 5., 6., 7. and 9. thereof as paragraphs 3., 4., 5., 6. and 7., respectively; and

(6) By adding new Parts II, III, IV, V, VI and VII, as provided below.

It is further ordered, That Ronby Corporation, a corporation, Chester F. Casanave and Charles L. Casanave be, and they hereby are, joined as respondents in this matter.

It is further ordered, That this matter be styled as The Matter of Ronby Corporation, et al.

ORDER

I.

It is ordered, That respondents Ronby Corporation, a corporation, and Chester F. Casanave and Charles L. Casanave, individually, and as officers of said corporation, their successors and assigns, and their officers, agents, representatives, and employees, directly or through any area franchisor, franchisee, or licensee, or any corporate or other device, in connection with the solicitation, advertising or sale of any dance instruction or dance instruction service in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that a course of dancing instruction or a specified number of dancing lessons, or a dance instruction service or any other service or thing of value, will be furnished, unless the period or periods of bona fide dancing instruction or other service or thing of value is in fact furnished as represented;
2. Refusing to honor the terms and provisions of any offer or promise;
3. Requesting any student or prospective student to sign an uncompleted contract or agreement, or misrepresenting to any student or prospective student what is or will be due or payable;
4. Using in any single day "relay salesmanship," that is consecutive sales talks or efforts of more than one representative, with or without the employment of hidden listening devices, to induce the purchase of dancing instruction;
5. Representing in any manner that a dancing instructor job is obtainable at a studio where the purpose of such a representation is to induce an applicant to purchase a course of instruction, or misrepresenting what such an instructor will be paid;
6. Falsely assuring or representing to any student or prospective student that a given course of dancing instruction will enable him or her to achieve a given standard of dancing proficiency;

7. Using any technique or practice similar to those set out in paragraphs 3 through 6 hereof to mislead, coerce, or induce by other unfair or deceptive means the purchase of dance instruction or dance instruction service.

II.

It is further ordered, That respondents Ronby Corporation, a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any area franchisor, franchisee, or licensee, or any corporate or other device, in connection with the solicitation, advertising or sale of any dance instruction or dance instruction service in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Failing to disclose, clearly and conspicuously, in each dance instruction contract or dance instruction service contract, the following statement:

DEFINITIONS

For purposes of this contract the following definitions apply:

"Total contract price" shall mean the total cash price paid or to be paid by the student or prospective student for the dance instruction or dance instruction service which is the subject of the contract or written agreement.

"Notice of cancellation" shall be deemed to have been provided by a student or prospective student by mailing or delivering to the studio a written notification cancelling the contract or written agreement.

"Reasonable and fair service fee" shall mean no more than 10% of the total contract price for contracts of up to \$1,000. For contracts over \$1,000, "reasonable and fair service fee" shall mean no more than \$100 plus an amount equal to 5% of the contract price over \$1,000. "Reasonable and fair service fee" shall not exceed \$250 in total.

"Dance instruction service" shall mean any service or a thing of value, including a contest or a competition, other than dance instruction, sold, organized, sponsored or promoted by any dance studio, or by its employee or agent, including any person or organization associated or affiliated with the franchise operation, franchisee, employee or agent.

STUDENT CANCELLATION AND REFUND RIGHT

You, the student, have the right to cancel this contract at any time by a notice in writing mailed or delivered to the studio. If the studio refuses or fails to give you the refund, or the studio closes, you should mail a copy of the cancellation notice to the

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area franchisor whose full name and address are

and to Ronby Corporation, the national licensor of the trade name Fred Astaire Dance Studios, at 11945 Southwest 140th Terrace, Miami, Florida 33186. No special format or notarization is necessary.

THIS CONTRACT IS INVALID IF THE FULL NAME AND ADDRESS OF THE AREA FRANCHISOR ARE NOT PROVIDED.

If this agreement is cancelled within three business days, the studio will refund within not more than (30) days all payments made under the agreement.

After three business days, the studio will only charge you for the dance instruction and dance instruction service received under the agreement, or prearranged but not attended before the day you cancel, plus a reasonable and fair service fee, as defined above, and refund the balance in three (3) equal monthly installments, within not more than ninety (90) days.

provided, however, that a departure from this exact language to afford a greater right to a student than any right under this order, or to correctly provide the name and address of the national licensor or its equivalent, shall not be deemed a violation of this requirement of the order.

2.a. Entering into a contract or other written agreement for any dance instruction or dance instruction service unless the contract or other written agreement contains the definitions, terms and conditions recited in paragraph 1., above, in the exact language mandated by said paragraph and unless the contract or written agreement discloses clearly and conspicuously the rate charged per lesson for each type of dance instruction selected and the length of each lesson;

b. Failing to refund a student or prospective student who cancels any contract or written agreement within three business days from the date on which the contract or written agreement was executed all payments made by the student or prospective student. Such refunds shall be provided, and any evidence of indebtedness cancelled and returned, within 30 days after receiving notice of cancellation.

c. Receiving, demanding, or retaining more than a pro rata portion of the total contract price plus a reasonable and fair service fee where a student or prospective student cancels any contract or written agreement after three business days from the date on which the contract or written agreement was executed and within the term of the said contract or written agreement; and failing to refund the balance in three (3) equal monthly installments, within not more than

ninety (90) days after receiving notice of cancellation, or failing to cancel that portion of the student's or prospective student's indebtedness that exceeds the amount due;

The pro rata portion shall be calculated in the following manner:

(1) For the time period preceding notice of cancellation, total the number of hours or lessons of dance instruction that were received, or prearranged but not attended, by the student pursuant to the contract written agreement,

(2) Divide this number by the total number of hours or lessons of dance instruction which are the subject of the contract or written agreement,

(3) Apply the resulting percentage against the total contract price.

(4) For contracts combining a course of dance instruction with dance instruction services, separate prices for the dance instruction and the dance instruction service portions must be designated and the pro rata portion of the total contract price shall be the sum of the separate pro rata obligations for the dance instruction portion and the dance instruction service portion;

Provided, however, that this modified order does not create any private right of action against Ronby Corporation, Chester F. Casanave or Charles L. Casanave, by any student under any student contract.

d. Misrepresenting in any manner to any student or prospective student any of the provisions of this consent order.

3. Failing to subject any promissory note, instrument or evidence of indebtedness, given by a student pursuant to any contract for dance instruction or dance instruction services, to the students' cancellation and refund rights provided in paragraph 2. above, in such a manner that such student rights are legally binding on any third person who may acquire any right under any such note, instrument or evidence of indebtedness.

4. Attempting to obtain or obtaining from a student a waiver of the student's cancellation or refund right.

5. Failing to discontinue dealing with or terminate the use or engagement of any area franchisor who (1) continues, after notice, to engage in a course of conduct of acts or practices prohibited by this modified order, or (2) fails to discontinue dealing with or terminate the use or engagement of any franchisee or licensee who continues, after notice, to engage in a course of conduct of acts or practices prohibited by this modified order;

Provided, however, that Ronby Corporation and area franchisors may effect such termination in accordance with applicable law.

6. Failing to implement, within one hundred twenty (120) days from the date of service of this order, a program of surveillance adequate to reveal whether the business operation of each licensee or area franchisor conforms to the requirements of the modified order, and failing to maintain records of such surveillance program which shall be made available for inspection and copying to the Commission, upon reasonable notice and at reasonable times.

7.a. Failing to deliver a copy of this modified order to each present and future area franchisor and franchisee, with directions that each such person promulgate and enforce the terms of the modified order in the operations of each studio, including the sales efforts of any independent contractor engaged by the studio for the selling of dance instruction or dance instruction service;

b. Failing to obtain from each person described in subsection 7.a. above, a signed statement setting forth his or her intention to conform his or her business practices to the requirements of this modified order;

c. Failing to notify the Commission of the name and address of any person from whom respondent is unable to obtain such a signed statement; and

d. Failing to keep each such agreement for a period of five (5) years after the termination of any such relationship; and failing to transmit to the Commission or its designated staff complete and legible copies of the same within fourteen (14) business days of receiving a request for copies thereof;

III.

It is further ordered, That respondents Ronby Corporation, Chester F. Casanave and Charles L. Casanave, shall report the discontinuance of their present business or their affiliation with any other business offering any dance instruction or service, such notice to include a description of respondent's new business or employment; and should either Chester F. Casanave or Charles L. Casanave create or become affiliated in any way with any corporation, partnership or other venture or business offering any dance instruction or service, such a corporation, partnership, venture or business shall be bound by the provisions of this modified order.

IV.

It is further ordered, That respondent Ronby Corporation shall notify the Commission at least thirty (30) days prior to any proposed or contemplated reorganization, dissolution, assignment or sale, resulting in the emergence of a successor corporation, the creating or dissolution of a subsidiary or any other change in the corporate structure of such corporate respondent that may affect compliance obligations arising out of this order.

V.

It is further ordered, That respondents Chester F. Casanave and Charles L. Casanave each shall be relieved from any further obligation under Parts I and III of this order upon completely ceasing his involvement with any dance instruction, or dance instruction service, including licensing or franchising of the same, until such time as he resumes such activity in the future.

VI.

It is further ordered, That respondents Ronby Corporation, Chester F. Casanave and Charles L. Casanave, within one hundred twenty (120) days after the date of service upon each of them of this order, shall file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

VII.

It is further ordered, That respondent Ronby Corporation shall file or cause to be filed one (1) year after the date of service of this order a further detailed report on measures undertaken to protect the prepaid moneys of students.

Commissioner Strenio dissenting.

Complaint

111 F.T.C.

IN THE MATTER OF

ALAMO RENT-A-CAR, INC.

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

Docket C-3251. Complaint, Apr. 28, 1989—Decision, Apr. 28, 1989

This consent order requires, among other things, the Fort Lauderdale, Fla. rental company to disclose charges, terms and conditions that are mandatory or are not reasonably avoidable, to every consumer who inquires about the prices.

Appearances

For the Commission: *Maria C. Gambale and Ronald L. Waldman.*

For the respondent: *Robert A. Blair, Anderson, Hibey, Nauheim & Blair*, Washington, D.C. *William J. Baer, Arnold & Porter*, Washington, D.C. and *Howard L. Conklin, Tripp, Scott, Conklin & Smith*, Ft. Lauderdale, Fla.

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 Alamo Rent-A-Car, Inc., a corporation, hereinafter sometimes 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 in that respect as follows:

Paragraph 1. Respondent Alamo Rent-A-Car, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Florida, with its headquarters located at 110 South East Sixth Street, Fort Lauderdale, Florida.

Par. 2. Respondent, at all times mentioned herein, has maintained a substantial course of business, including the acts and practices as hereinafter set forth, which are in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

Par. 3. Respondent advertises, offers for rental, and rents to consumers throughout the United States. rental vehicles that are