

Commission a report setting forth in detail the manner and form in which it has complied and is complying with Paragraphs III and VII of this order.

## IX.

*It is further ordered,* That PepsiCo shall notify the Commission at least thirty (30) days prior to any proposed change in its corporate structure, 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.

IN THE MATTER OF  
BATON ROUGE ATHLETIC CLUB AND HEALTH SPA, INC., ET  
AL.

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

*Docket C-2487. Complaint, Jan. 28, 1974—Decision, Jan. 28, 1974*

Consent order requiring two Baton Rouge, La., health spas to warn clearly that any body wrapping device or treatment offered by them may be dangerous to health, and that prospective users should seek a physician's advice before using any such wrap.

*Appearances*

For the Commission: *Thomas J. Daquila.*

For the respondents: *William H. Cooper, Baton Rouge, La.*

## 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 Baton Rouge Athletic Club and Health Spa, Inc. (formerly Baton Rouge Health Club Management, Inc.), and Baton Rouge Health Club Management, Inc., Number Two, corporations, and Guy M. Bellelo and Raymond K. Roy, individually and as officers of the said corporations, hereinafter referred to as respondents, have violated the provisions of the 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 Baton Rouge Athletic Club and Health Spa, Inc. (formerly Baton Rouge Health Club Management, Inc.) is a corporation organized and engaged in business under and by virtue of

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the laws of the State of Louisiana with its office and principal place of business located at 4109 Choctaw Road, in the city of Baton Rouge, State of Louisiana and respondent Baton Rouge Health Club Management, Inc., Number Two, is a corporation organized and engaged in the business under and by virtue of the laws of the State of Louisiana with its office and principal place of business located at 4820 Government Street, in the city of Baton Rouge, State of La.

Respondent Guy M. Bellelo is the president of Baton Rouge Athletic Club and Health Spa, Inc. (formerly Baton Rouge Health Club Management, Inc.) He formulates, directs and controls the policies, acts and practices of said corporation, including the acts and practices hereinafter set forth. His address is the same as that of the said corporation.

Respondent Raymond K. Roy is the president of Baton Rouge Health Club Management, Inc., Number Two. He formulates, directs and controls the policies, acts and practices of said corporation, including the acts and practices hereinafter set forth. His address is the same as that of the said corporation.

PAR. 2. Respondents are now, and for some time last past, have been engaged in the advertising, offering for sale and sale to the public of health spa memberships, and related services and products including a certain device and treatment called the "Shapely Wrap," which is designed to reduce body measurements. The respondents' "shapely wrap" device and treatment entails the application of a body wrap material soaked in a solution around an individual's body.

PAR. 3. In the course and conduct of their said business, respondents have disseminated, and caused the dissemination of, certain advertisements concerning their said "shapely wrap" device and treatment, by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, advertisements inserted in newspapers of interstate circulation, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said "shapely wrap" device and treatment; and have disseminated, and caused the dissemination of advertisements concerning said "shapely wrap" device and treatment by various means, including but not limited to the aforesaid media, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said "shapely wrap" device and treatment in commerce as "commerce" is defined in the Federal Trade Commission Act; and, at all times mentioned herein have maintained a substantial course of trade in commerce, as "commerce" is used in Sections 5 and 12 of the Federal Trade Commission Act.

PAR. 4. The respondents' "shapely wrap" device and treatment may

cause injury to individuals with diabetes, varicose veins, phlebitis, or other circulatory problems.

PAR. 5. The respondents do not obtain the services of medical doctors to examine their members or customers prior to the application of the "shapely wrap" device and treatment to such members or customers.

PAR. 6. The respondents' said advertisements have not contained any warnings as to the aforementioned possibilities of personal injury. Thus, the advertisements tend to lead to an assumption by the public that the "shapely wrap" device and treatment are safe.

PAR. 7. The respondents have not given any oral or other warnings of the aforementioned possibility of personal injury prior to the application of the "shapely wrap" device and treatment to individuals. Thus, the absence of such warnings tends to lead to an assumption by such individuals that the "shapely wrap" device and treatment are safe.

PAR. 8. The respondents' failure to disclose the material facts of the aforesaid possibilities of personal injury involved in the use of the "shapely wrap" device and treatment constituted and now constitutes false, misleading and deceptive advertisement and has had and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said advertisements are true and complete, and into the purchase of health spa memberships, and related services and products by reason of said erroneous and mistaken belief.

PAR. 9. 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 who sell health spa memberships, and related services and products of the same general kind and nature as those sold by respondents.

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, and unfair and deceptive acts and practices in commerce, in violation of Sections 5 and 12 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 New Orleans Office proposed to present to the Commission for its consideration and which, if issued by

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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 thirty (30) days, now in further conformity with the procedure prescribed in Section 2.34 (b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Baton Rouge Athletic Club and Health Spa, Inc. (formerly Baton Rouge Health Club Management, Inc.) is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and only place of business located at 4109 Choctaw Road, Baton Rouge, La., and respondent Baton Rouge Health Club Management, Inc., Number Two is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and only place of business located at 4820 Government Street, Baton Rouge, La.

Respondent Guy M. Bellelo is the president of Baton Rouge Athletic Club and Health Spa, Inc. (formerly Baton Rouge Health Club Management, Inc.) He formulates, directs and controls the acts and practices of said corporation, including the acts and practices hereinafter set forth. His address is the same as that of said corporation.

Respondent Raymond K. Roy is the president of Baton Rouge Health Club Management, Inc., Number Two. He formulates, directs and controls the acts and practices of said corporation, including the acts and practices hereinafter set forth. 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 Baton Rouge Athletic Club and Health Spa, Inc. (formerly Baton Rouge Health Club Management, Inc.) and Baton Rouge Health Club Management, Inc., Number Two, corporations, and Guy M. Bellelo and Raymond K. Roy, individually and as officers of said corporations, their successors and assigns, and respondents' officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device in connection with the advertising, offering for sale, sale or distribution of health spa memberships, related services or products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Advertising, offering for sale, or selling, any body wrapping device, procedure, method, treatment or service unless each advertisement and sales presentation clearly and conspicuously includes the following warning:

**WARNING**—Body wrapping may be dangerous to your health. You should seek the advice of your physician before using any such wrap. If dizziness, swelling, skin irritation or other symptom occurs, use should be discontinued immediately.

Said "Warning" shall be oral in cases of oral presentations and in writing in cases of written presentations.

In advertisements in newspapers or other periodicals, said "Warning" shall be printed in at least eleven point type.

2. Failing to conspicuously disclose the "Warning" stated above in Subsection 1 to each prospective user of any body wrapping device, procedure, method, treatment or service, reasonably prior to such persons entering into an agreement for the purchase and/or use of such device, procedure, method, treatment or service by:

- (a) Delivering to each such person a card 5 inches by 8 inches on which is printed said "Warning" and nothing else with the captioned word "WARNING" printed in 18 point bold face type and the other language of said "Warning" in 11 point type.

- (b) Posting in a prominent place at all locations where offers of sale, sales or uses of said body wrapping device, procedure, method, treatment or service take place, a sign on which is printed said "Warning" and nothing else, with the captioned word "WARNING" printed in letters 2 inches high and with the other language in letters one inch high.

3. Failing to obtain from each prospective user of any body wrapping device, procedure, method, treatment or service a signed

and dated statement receipting for the "Warning" card delivered pursuant to Subsection 2(a) above.

4. Failing to maintain for a period of two (2) years said signed and dated receipts and other adequate records from which respondents' compliance with the requirements of this order can be ascertained, and to permit the inspection and copying thereof by Commission representatives.

5. Failing to deliver a copy of this order to cease and desist to all persons now engaged, or who become engaged, in the advertising or sale of respondents' health spa memberships, services or products, and failing to secure from each said person a signed statement acknowledging receipt of said order.

*It is further ordered,* That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents, such as dissolution, assignment or sale, resultant 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 each 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 respondents 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 the order to cease and desist contained herein.

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IN THE MATTER OF

SHERWOOD SWAN AND COMPANY TRADING AS SWAN'S, ETC.,  
ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATIONS  
OF THE TRUTH IN LENDING AND THE FEDERAL TRADE COMMIS-  
SION ACTS

*Docket C-2488. Complaint, Jan. 28, 1974—Decision, Jan. 28, 1974*

Consent order requiring an Oakland, Calif., company, doing business as a department store, and as a finance company, among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

