

Complaint

IN THE MATTER OF
WATCHUNG POOL SUPPLIES, INC., ET AL.
CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-2473. Complaint, Oct. 30, 1973—Decision, Oct. 30, 1973.

Consent order requiring a North Plainfield, N.J., retailer and distributor of swimming pools, related accessories, and other products and merchandise, among other things to cease misrepresenting products or services as free or at a discount; misrepresenting prices as reduced or usual and customary; misrepresenting savings that purchasers may realize.

Appearances

For the Commission: *John A. Crowley and Kathryn E. McDonnell.*

For the respondents: *Hughes, McElroy, Connell, Foley & Geiser, Newark, N.J.*

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 Watchung Pool Supplies, Inc., a corporation, and Frank Jannuzzi and Frank C. Jannuzzi, 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 Watchung Pool Supplies, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey with its principal office and place of business located at Route 22 and Maple Avenue, North Plainfield, N.J.

Respondents Frank Jannuzzi and Frank C. Jannuzzi are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. Their 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 of swimming pools, swimming pool accessories and other

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merchandise and products.

PAR. 3. In the course and conduct of their business as aforesaid, respondents have caused, and now cause, the dissemination of certain advertisements concerning said swimming pools and other products 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, and by means of radio broadcasts transmitted by a radio station having sufficient power to carry such broadcasts across state lines, for the purpose of inducing and which had the tendency to induce, directly or indirectly, the purchase of respondents' swimming pools and other products.

In the further course and conduct of their business as aforesaid, respondents have caused, and now cause, their said products, when sold, to be shipped from their place of business in the State of New Jersey to purchasers thereof located in various other states. Respondents 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. By means of advertisements inserted in newspapers and disseminated, as aforesaid, respondents have made various statements and representations of which the following are typical and illustrative, but not all inclusive thereof:

Huge January Clearance

15-ft. POOL 99.99 Reg. 174.99

18' x 48'' POOL 179.99 Reg. 289.99

16' x 32' x 48'' Oval Pool 499.99 Reg. 749.99

Rummage Sale UP TO 50% Off One Week Only!

12' x 42'' POOL Reg. 139.99 Only 79.99

15' x 42'' POOL Reg. 174.99 Only 99.99

18' x 48'' POOL Reg. 309.99 Only 149.99

18' x 48'' POOL Reg. 259.99 Only 129.99

FEBRUARY SALE
SPECIALS 3 DAYS ONLY

	Reg.	Sale
12 ft. x 4 ft.	419.96	\$235
15 ft. x 4 ft.	470.95	260
18 ft. x 4 ft.	530.95	299
21 ft. x 4 ft.	570.95	340
24 ft. x 4 ft.	620.95	370
18 ft. x 12 ft. x 4 ft.	580.95	360
24 ft. x 16 ft. x 4 ft.	750.95	460
32 ft. x 16 ft. x 4 ft.	920.95	600

Sierra Hyde Park Sale \$1499 Reg. \$2995

4 DAY PRESIDENTIAL SALE

18' x 48" Sierra Special Reg. 386.96 Sale 289.99

12' x 18' x 48' Special Oval Reg. 476.96 Sale 299.99

4 MORE DAYS Presidential SALE JUST 4 MORE DAYS

PRE-SPRING SALE 4 DAY ONLY Your Choice

15' x 48" 376.96 Value Erected Free!

18' x 48" 391.96 Value Plus All Purpose Panel FREE!

21' x 48" POOL 379.99 Value ONLY \$289

ST. PATRICK'S DAY SALE!

Watchung's Spring-Fever Values! ! 3-DAY SALE!

Spring Saving Fling Beat Summer Prices BUY NOW & SAVE!

April Shower of Savings ONE WEEK ONLY Sierra Hyde Park

Reg. 3214.85 Sale \$1499

ANNUAL SWIMMING POOL 4-DAY SALE

Sierra Hyde Park Reg. 2499.00 Sale 1499

Savings to 30% on Chemical Packages

Savings to 50% on Filters

SAVE UP TO 50%

Wild Mid-Summer Sale

4 DAY SALE

Save to 50% on Pool Toys and Accessories with these Money Saving Coupons

FREE Winter Cover Kit

4th of July SAVINGS

4 DAYS ONLY Stock Clearance Sale

FABULOUS Warehouse Expansion SALE

After Inventory Sale 60% Off & MORE!

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

1. Respondents' customers will receive, in certain cases, free products and/or services by virtue of their purchasing respondents' advertised products.

2. Respondents' customers will, in certain cases, receive coupons entitling them to purchase some of respondents' products at discount prices.

3. Respondents' offer to sell swimming pools and other merchandise at "sale" prices is made for a limited time only.

4. The prices advertised as "Reg." are respondents' usual and customary retail prices for the advertised pools and other merchandise.

5. Respondents' customers will be afforded a saving of the

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difference between the price advertised by respondent as "Reg." and the price advertised as "sale."

PAR. 6. In truth and in fact:

1. Respondents' customers do not receive free products and/or services by virtue of their purchasing respondents' advertised products. To the contrary, the cost of the "free" service and/or product is included in the increased price of the advertised product.

2. Respondents' customers are made to pay for the cost of the "discounted" coupon products via an increased price of the advertised product.

3. Respondents' offer to sell swimming pools and other merchandise at "sale" prices is not made only for a limited period of time. Said products are advertised consistently at "sale" prices.

4. The prices advertised as "Reg." represent arbitrary figures bearing no relation to the prices at which swimming pools and other merchandise has been usually and customarily sold at retail by respondents in the recent regular course of business.

5. Respondents' customers are not afforded a saving of the difference between respondents' "Reg." price and "sale" price. To the contrary, said customers receive either no saving at all or a much smaller saving than expected.

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 in substantial competition, in commerce, with corporations, firms and individuals in the sale of swimming pools, swimming pool accessories and other merchandise and products of the same general kind and nature as those sold by respondents.

PAR. 8. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices 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 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 York Regional Office proposed to present to the Commission for its consideration and which, if issued by 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 purpose 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 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 Watchung Pool Supplies, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at Route 22 and Maple Ave., North Plainfield, N.J.

Respondents Frank Jannuzzi and Frank C. Jannuzzi are officers of the corporate respondent. They formulate, direct and control the policies, acts and practices of said corporation, and their principal office and place of business is located at the above stated address.

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.

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ORDER

It is ordered, That respondents Watchung Pool Supplies, Inc., a corporation, its successors and assigns, and its officers and Frank Jannuzzi and Frank C. Jannuzzi, individually and as officers of said corporation and respondents' agents, representatives and employees directly or indirectly, in connection with advertising, offering for sale, sale or distribution of swimming pools, swimming pool accessories or any other products or merchandise, in 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 customer is to receive merchandise or services for "free" or at a discount upon the purchase of other advertised products where the respondents, in making such an offer, increase the regular price of the product required to be bought, or decrease the quantity or quality of that product, or otherwise attach strings to the offer.

2. Representing, directly or by implication, through the use of terms such as "OUR LOWEST PRICE EVER," "4 days only," "special sale price," "savings" or in any other manner, that any price is reduced from respondents' former price if respondents' business records fail to establish and show that such price constitutes a significant reduction from the price at which such merchandise has been sold in substantial quantities or offered for sale in good faith for a reasonably substantial period of time, by respondents in the recent, regular course of their business.

3. Using the words "value" or "made to sell for" or any other words or terms of similar import in connection with prices of merchandise unless such prices are those at which the merchandise has been sold by respondents in the recent regular course of business, or unless such prices are those at which the merchandise has usually and customarily been sold at retail in the trade area where the representations are made.

4. Representing directly or by implication that any amount is respondents' usual and customary retail price for merchandise unless such amount is the price at which the merchandise has been usually and customarily sold at retail by respondents in the recent regular course of business.

5. Representing directly or by implication that any saving is afforded in the purchase of merchandise from the respondents' retail price unless the price at which the merchandise is offered constitutes a reduction from the price at which said merchandise is usually and customarily sold at retail by the respondents in the recent regular course of business.

6. Misrepresenting in any manner, the amount of savings available to purchasers of respondents' merchandise, or the amount by which the price of merchandise has been reduced either from the price at which it has been usually and customarily sold by respondents in the recent regular course of business, or from the price at which it has been usually and customarily sold at retail in the trade area where the representation is made.

It is further ordered, That respondent corporation shall forthwith deliver a copy of this order to each of its operating divisions.

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 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. 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 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 this order.

IN THE MATTER OF
CERTIFIED BUILDING PRODUCTS, INC., ET AL.

ORDER, OPINION, ETC., IN REGARD TO ALLEGED
VIOLATIONS OF THE FEDERAL TRADE COMMISSION
AND TRUTH IN LENDING ACTS

Docket 8875. Complaint, Feb. 14, 1972—Order and Opinion, Oct. 5, 1973.

Order requiring two Denver, Col., sellers, distributors and installers of residential siding materials, among other things to cease representing that offers of products are limited, prices are special or reduced, customers can receive percentage savings; misrepresenting the durability, performance or quality of its products; misrepresenting its guarantees; failing to make material disclosures to customers regarding the sale of instruments of indebtedness to third parties; and failing to disclose to consumers, in connection with the extension of consumer credit, information as required by Regulation Z of the Truth in Lending Act. Respondents are required to maintain adequate records to substantiate any representations or statements as to savings in price claims, claims regarding comparative values, etc. Further, the order closes the matter as to one of the individual respondents, Mr. Jack Bitman.

Appearances

For the Commission: *E. Eugene Harrison* and *Thomas H. Emerson*.

For the respondents: *Holland and Hart*, Denver Col. and *Gelt and Grossman*, Denver, Col.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and of the Truth in Lending Act and the implementing regulations promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Certified Building Products, Inc., a corporation, and Certified Improvements Company, a corporation, and Michael P. Thiret and Jack Bitman, individually and as officers of said corporations, and Claude Thiret, individually and as general manager of said corporations, hereinafter referred to as respondents, have violated the provisions of said Acts, and of the implementing regulations promulgated under the Truth in Lending 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 in that respect as follows:

PARAGRAPH 1. Respondents Certified Building Products, Inc.,

