

Complaint.

FEDERAL TRADE COMMISSION

v.

VACUUM CLEANER SPECIALTY COMPANY, INC.

COMPLAINT IN THE MATTER OF THE ALLEGED VIOLATION OF SECTION 5
OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914.

Docket 530—May 16, 1921.

SYLLABUS.

Where a dealer in vacuum cleaners, handling most of the different makes on the market but with a special financial interest in one,

I.

- (a) Failed to disclose such interest in a "PRICE LIST AND RATING SHEET" which it circulated among customers and prospective customers, and which gave such make the highest rating, contained a statement that its Rating Committee, for the members of which it claimed long experience, "meets semimonthly, at which time all cleaners are tested scientifically for EFFICIENCY and comparisons are made on the points of SIMPLICITY AND CONSTRUCTION," and in other ways was calculated to create the impression that ratings given were the result of frequent, expert, and impartial examination, and could be relied on;
- (b) Tampered with and knowingly used for demonstration purposes improperly adjusted cleaners of a competitor;
- (c) Made false and injurious statements to prospective customers concerning the value, efficiency, and wearing qualities of such cleaners, and disparaged their makers;

II.

Discontinued the use of the price list or rating sheet but thereafter

- (d) Published and circulated among customers and prospective customers a price list of its various cleaners, designating by stars certain machines as machines which it was "especially interested in," but without disclosing whether such interest was financial or otherwise:

Held, That such acts, under the circumstances set forth, constituted unfair methods of competition.

COMPLAINT.

The Federal Trade Commission having reason to believe from a preliminary investigation made by it that the Vacuum Cleaner Specialty Co., Inc., Imperial Vacuum Cleaner Co., F. R. Muenzen, W. H. Kappeler, J. P. McGrath, A. J. Muenzen, J. M. Leddy, and J. G. Waschen, hereinafter referred to as respondents,¹ have been

¹ Complaint dismissed by order dated June 25, 1920, as to all respondents except the Vacuum Cleaner Specialty Co., Inc.

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during the year last past and now are using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of an act of Congress, approved September 26, 1914, entitled, "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and it appearing that a proceeding by it in respect thereof would be to the interest of the public, issues this complaint, stating its charges in that respect on information and belief as follows:

PARAGRAPH 1. That the respondent, Vacuum Cleaner Specialty Co., Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located in the city and State of New York, now and at all times hereinafter mentioned engaged in the business of selling vacuum cleaners throughout different States of the United States and the District of Columbia, in direct competition with other persons, firms, copartnerships, and corporations similarly engaged; and the respondents F. R. Muenzen, W. H. Kappeler, J. P. McGrath, and A. G. Muenzen are, respectively, president, vice president, treasurer, and secretary of said respondent corporation, having their residences and principal places of business in the city and State of New York.

PAR. 2. That in the conduct of its business, the respondent Vacuum Cleaner Specialty Co., Inc., from its principal place of business located in the city and State of New York, sells and transports vacuum cleaners of numerous manufacturers to customers located in various States of the United States; that after such vacuum cleaners are so sold they are continuously moved to, through, from, and among other States of the United States and the District of Columbia, and there is continuously and has been at all times hereinafter mentioned, a constant current of trade and commerce in said vacuum cleaners between and among various States of the United States and the District of Columbia, to and through the city and State of New York, and from there to and through other States of the United States and the District of Columbia.

PAR. 3. That the respondent, Imperial Vacuum Cleaner Co., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located in the city and State of New York, now and at all times hereinafter mentioned engaged in the business of selling a vacuum cleaner, for which it has adopted a trade name

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of "Imperial," by and through its duly constituted and appointed agent, the respondent Vacuum Cleaner Specialty Co., Inc.; and the respondents J. M. Leddy, F. R. Muenzen, and J. G. Waschen are, respectively, president, treasurer, and secretary of said corporation.

PAR. 4. That the respondent Vacuum Cleaner Specialty Co., Inc., by extensive advertising in publications circulated in commerce aforesaid, and by correspondence with numerous customers and prospective purchasers in various States of the United States holds itself out to the public as a vacuum cleaner specialist or expert and impartial adviser and as such impartial adviser solicits inquiries from such said prospective purchasers and the public concerning the methods of various types of cleaners and within the year last past invariably recommended the Imperial vacuum cleaner and frequently disparages competitive devices whereas in truth and in fact the respondent is not an impartial adviser but, on the contrary, has a special interest in the said Imperial cleaner by reason of the fact that the said Imperial cleaner is manufactured especially for the Vacuum Cleaner Specialty Co., Inc., and said company is the agent for the sale of the said Imperial cleaner, and the further fact that the amount of profit on the said Imperial cleaner is considerably greater than the profit made on the sale of the majority of other types of cleaners so advertised by the respondent.

PAR. 5. That the respondent, Vacuum Cleaner Specialty Co., Inc., by extensive advertising in publications circulated in commerce aforesaid and by correspondence with numerous customers and prospective customers in various States of the United States holds itself out as a vacuum cleaner specialist or expert and impartial adviser, and as such, within the year last past, has demonstrated to prospective customers vacuum sweepers and cleaners produced by various manufacturers for the purpose of comparing the results obtained by such sweepers and cleaners with the result obtained by cleaners in the sale of which the respondent is especially interested; and for the purpose of making such demonstrations has tampered with and failed to properly adjust such competitive cleaners while properly adjusting the cleaners in which it is interested, thus giving prospective customers the impression that such competitive cleaners are less efficient than they are in fact, or that they are not adapted for the use for which they are intended to be put by such prospective purchasers, thus facilitating the sale of the cleaners in which respondent is especially interested.

Findings.

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REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

Pursuant to the provisions of an act of Congress, approved September 26, 1914, the Federal Trade Commission issued and served a complaint upon the respondent, Vacuum Cleaner Specialty Co., Inc., charging it with the use of unfair methods of competition in commerce in violation of the provisions of said act.

The respondent, having entered its appearance by its attorney, and filed its answer herein, hearings were had and evidence was thereupon introduced in support of the allegations of said complaint and on behalf of the respondent, Vacuum Cleaner Specialty Co., Inc., before an examiner of the Federal Trade Commission, theretofore duly appointed.

And thereupon this proceeding came on for final hearing, and the Commission, having heard argument of counsel and duly considered the record, and being now fully advised in the premises, makes this its findings as to the facts and conclusion:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondent, Vacuum Cleaner Specialty Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located in said city and State now and ever since the first day of August, 1918, engaged in the business of selling vacuum cleaners, sweepers and similar devices throughout different States of the United States and the District of Columbia in direct competition with other persons, firms, copartnerships, and corporations similarly engaged.

PAR. 2. That in the conduct of its business, respondent from its principal place of business, located in the city and State of New York, sells and transports the vacuum cleaners, sweepers and similar devices of various types to customers located throughout the States of the United States and after such vacuum cleaners are so sold they are continuously moved to, through, from and among other States of the United States and the District of Columbia, and there is continuously and has been at all times hereinafter mentioned a constant current of trade and commerce in said vacuum cleaners, sweepers and devices between and among various States of the United States and the District of Columbia, to and through the city and State of New York and therefrom to and through other States of the United States and the District of Columbia.

PAR. 3. That the respondent, Vacuum Cleaner Specialty Co., Inc., in the conduct of its business in commerce aforesaid, sells at

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retail 24 different makes of vacuum cleaners or sweepers out of a total of 29 such devices on the market made by various competing manufacturers, including the Imperial Electric Vacuum Cleaner, which has been owned by or especially manufactured for the respondent and its predecessor, Muenzen Specialty Co., for more than three years last past and on the sale of which the respondent makes a considerably greater profit than it does on the sale of the other types of cleaners advertised and sold by it.

PAR. 4. That the respondent has sold and offered to sell such cleaners and sweepers in commerce aforesaid by means of advertisements placed in publications circulated throughout the United States and by correspondence with customers and prospective customers located in various States of the United States, and in pursuance of and as a part of such selling plan or policy during the year from August 1, 1918, to August 1, 1919, circulated among such customers and prospective customers a rating sheet wherein it designated and named certain cleaners as Three Star Cleaners as an indication of their superiority over the other devices listed in such rating sheet or Three Star list, and respondent did not indicate or set out in any manner whatsoever therein its ownership of or especial interest in said Imperial Electric Vacuum Cleaner; that said rating sheet or Three Star list was in the words and figures following, to wit:

"Three Star" Cleaners:	Per cent perfect.
1st choice, Imperial.....	94
2d choice, Victor.....	89
3d choice, Royal.....	89
4th choice, Regina.....	87
5th choice, Eureka.....	86
6th choice, Apex.....	85

PRICE LIST AND RATING SHEET.

All vacuum cleaners are good—some are better than others. Which is the best?

Customers invariably ask us WHICH IS THE BEST VACUUM CLEANER? In order to answer that question briefly we append hereto a list of the six best vacuum cleaners according to the judgment of our rating committee. The names are given in the order of their merit.

Our committee meets semimonthly, at which time all cleaners are tested scientifically for EFFICIENCY and comparisons are made on the points of SIMPLICITY AND CONSTRUCTION. Statistics as to DURABILITY are furnished by the superintendent of our repair department. Other points of lesser importance are also taken into consideration. Price is not considered at all.

Percentages are allotted to each cleaner for good points and penalties deducted for disadvantages. The net percentage is shown below opposite the name of each cleaner. The six cleaners with the highest percentage are what we call "Three Star" Cleaners.

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	Price.	Attach-ments.	Price com-plete with attach-ments.	
America.....	\$40.00	\$3.75	\$49.75	Wise-McClung Mfg. Co., New Philadelphia.
***Apex.....	45.00	10.00	55.00	Apex Elec. Mfg. Co., Cleveland, Ohio.
Baby Invincible.....	45.00	7.50	52.50	Invincible Vac. Cl. Mfg. Co., Dover, Ohio.
Bee Model "D".....	37.50	8.50	46.00	Birtman Elec. Co., Chicago, Ill.
Cadillac.....	37.50	8.50	46.00	Clements Mfg. Co., Chicago, Ill.
Cadillac Big Ben.....	50.00	8.50	58.50	Do.
Cadillac Little Ben.....	39.50	8.50	48.00	Do.
Cadillac Reliable.....	29.50	8.50	38.00	Do.
Duntley, S.....	42.00	7.50	49.50	Duntley Co., New York, N. Y.
Eclipse.....	37.50	9.00	46.50	Eclipse Mach. Co., Sidney, Ohio.
***Eureka (east of Rockies).....	37.50	8.50	44.00	Eureka Vac. Cl. Co., Detroit, Mich.
Frantz-Premier.....	39.75	10.00	49.75	Frantz-Premier Co., Cleveland, Ohio.
Hoover (Baby).....	47.50	8.50	56.00	Hoover Suction Sweeper Co., New Berlin, Ohio.
Hoover (special).....	57.50	11.50	69.00	Do.
Hot Point "L".....	33.00	10.00	43.00	Edison Elec. Appl. Co., Inc., Chicago, Ill.
Hot Point "M".....	38.00	10.00	48.00	Do.
***Imperial.....	45.00	10.00	55.00	Imperial Vac. Cl. Co., N. Y.
Liberty Model "C".....	40.00	8.00	48.00	Innovation Elec. Co., N. Y.
Maytag.....	35.00	8.00	43.00	Maytag Co., Newton, Ohio.
Ohio-4.....	45.00	10.00	55.00	United Elec. Co., Canton, Ohio.
Pittsburg.....	30.00	7.50	37.50	Pittsburgh Elec. Spec. Co., New York, N. Y.
Regina "MC".....	45.00	10.00	55.00	Regina Co., New York, N. Y.
***Regina Model "K".....	45.00	10.00	55.00	Do.
***Royal.....	45.00	10.00	55.00	P. A. Geier Co., Cleveland, Ohio.
Sweeper-Vac M. D.....	49.50	8.50	58.00	Pneuvac Co., Worcester, Mass.
Thor No. 5.....	30.00	8.00	38.00	Hurley Mach. Co., Chicago, Ill.
Thor No. 12.....	35.00	8.00	43.00	Do.
Torrington.....	44.75	9.75	54.50	National Sweeper Co., Torrington, Conn.
***Victor.....	37.50	10.00	47.50	Our own private brand.
Western Elec. No. 11.....	45.00	7.50	52.50	Western Elec. Co., New York.
Western Elec. No. 12.....	49.50	8.50	58.00	Do.

Because of our belief in their superiority we issue a special form of guarantee (see other side) on any cleaner sold while it is in the "Three Star" class.

There are nine members on our rating committee whose combined vacuum-cleaner experience totals 61 years. This in effect means that if our decisions are correct you would gain as much knowledge by reading over this rating sheet as you would by shopping 61 years for a vacuum cleaner.

For obvious reasons we would not care to give the percentages of the cleaners not on the "Three Star" list, but we would gladly give any other information in connection therewith.

To stimulate cash payments on all other than "Three Star" cleaners we allow 7 per cent cash discount. On "Three Star" cleaners the cash discount is 3 per cent.

VACUUM CLEANER SPECIALTY Co., INC.,

131 West 42d St., New York.

N. B.—Of course, after all, these ratings are simply our opinions and you must disregard them entirely if they do not agree with your personal opinion. No. 130.

The "3 Star" guarantee is furnished by us with all "3 Star" vacuum cleaners. Compare it with the guarantee below or any other vacuum cleaner guarantee. After reading it over you must realize that we have a lot of confidence in any make of cleaner on which we issue such a liberal guarantee. Notice that there are no exceptions or provisos in this guarantee.

It would be rather expensive for us to issue this guarantee on a vacuum cleaner that is liable to get out of order.

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THREE STAR GUARANTEE.

* * *

We hereby guarantee ——— vacuum cleaner purchased by ——— ——— for a period of one year from date. Said guarantee to include FREE repair of ANY damage to said cleaner resulting from ANY cause whatsoever. Moreover in the event of such repairs being needed we will call for and deliver cleaner or will pay expressage on it BOTH ways for out of town customers.

VACUUM CLEANER SPECIALTY Co., INC.

Per ———, *Secretary*.

Date ———.

The below guarantee is the ordinary guarantee which we furnish with vacuum cleaners that are not mentioned in the "3 Star List." It is substantially the same as manufacturers give, and it is quite different from the one above.

GUARANTEE.

We hereby guarantee ——— vacuum cleaner purchased by ——— ——— to be free from mechanical and electrical defects, and will repair or replace free of charge any part giving out within one year from date, provided directions for oiling and care of cleaner have been carried out. (Misuse, accident, and natural wear and tear excepted.)

All cleaners to be repaired must be sent to us express charges paid. We will not be responsible for the above cleaner if it has been tampered with.

VACUUM CLEANER SPECIALTY Co., INC.

Per ———, *Secretary*.

Date ———.

PAR. 5. That in August, 1919, the respondent discontinued the use of the aforementioned and above-described rating sheet or Three Star list, and thereafter published and circulated among its customers and prospective customers in commerce aforesaid a price list of various machines or devices handled by it wherein certain cleaners were designated by stars as ones in which the respondent was "especially interested in," but which did not disclose to the purchasing public the nature or character or extent of such "especial interest" or whether such interest was financial or caused by the relatively higher efficiency or merit of such designated machines; that such price list was in the words and figures following, to wit:

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Price list.

Name of cleaner.	Price of cleaner without attachment.	Cash discount.	Time payments \$3.50 down and 8 monthly payments each.	Attachments additional.
America.....	\$50.00	\$2.50	\$5.81	\$10.00
Apex.....	57.75	5.25	6.78	11.50
Smaller set of attachments for Apex.....				10.00
Cadillac.....	45.00	2.25	5.19	10.00
Cadillac Big Ben.....	60.00	3.00	7.07	10.00
Cadillac Little Ben.....	47.40	2.37	5.50	10.00
Cadillac Reliable.....	39.50	1.97	4.50	10.00
*Eureka.....	45.00	2.25	5.19	8.50
Hot Point V-2.....	45.00	2.25	5.19	10.00
*Imperial.....	50.00	1.50	5.81	11.00
Smaller set of attachments for Imperial.....				6.75
Ohio-4.....	55.00	5.00	6.44	10.00
Premier "14".....	45.00	2.50	5.10	10.00
Premier "19".....	63.00	3.00	7.44	10.00
Regina Model "K".....	50.00	2.50	5.81	12.00
Royal.....	55.00	2.75	6.44	12.50
Smaller set of attachments for Royal.....				10.00
*Sweeper-Vac. M. D.....	63.00	5.50	7.44	10.50
Thor No. 12.....	42.50	2.12	5.00	9.50
Torrington.....	60.00	5.00	7.06	9.75
*Victor.....	47.50	2.13	5.50	10.00
Western Elec. No. 12.....	63.00	5.50	7.44	10.50

VACUUM CLEANER SPECIALTY CO., INC.

Main offices and sales rooms, 131 West 42d Street, New York, N. Y.

Phone 6280 Bryant.

Phone 6281 Bryant.

140 West 34th Street, Bet. Broadway and 7th Ave. Phone 6283-6284 Bryant

107 West 42d Street. This store open evenings.

FIVE CONVENIENT STORES.

Hudson Terminal Building, 30 Church Street, Booth 20, Phone 3851, Cortlandt

412 Fulton Street, Brooklyn, N. Y. Phone 1930 Main.

All express charges paid to any point. * We are especially interested in these cleaners.

You are not obliged to purchase attachments with any make of cleaner; in fact, only about one-half of our customers buy attachments with the cleaner

538-10-8.

E. & O. E.

No. 157.

These prices are subject to change without notice.

(Over)

[THIS IS A FACSIMILE OF OUR GUARANTEE BOND.]

GUARANTEE BOND.

(Or insurance policy.)

We hereby guarantee — vacuum cleaner No. —, purchased by —, for a period of one year from date. Said guarantee to include free repair of any damage to said cleaner resulting from any cause whatsoever.

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Moreover, in the event of such repairs being needed we will call for and deliver the cleaner or will pay expressage on it both ways for out-of-town customers.

VACUUM CLEANER SPECIALTY CO., INC.,
New York and Brooklyn.

Per _____, Secretary.

Date, _____

See other side for price list and terms.

PAR. 6. That the respondent in selling and offering to sell vacuum cleaners and sweepers in commerce as aforesaid has demonstrated the machines of different competing manufacturers to such customers for the purpose of comparing the results obtained by such cleaners and sweepers with the results obtained by the Imperial Electric Vacuum Cleaner in the sale of which the respondent was interested, and in so demonstrating the Hoover Suction Sweeper made by the Hoover Suction Sweeper Co. of North Canton, Ohio, has caused the sweeper to be operated improperly by—

(a) Revolving the brush in the wrong direction, the effect of which was to cause the sweeper to throw dirt out on the carpet.

(b) Permitting the handle hole cover to be partially off, which caused a passage of air to enter the machine at that point instead of through the nozzle, thereby reducing the suction of the machine.

(c) Arranging the lips of the nozzle so that they pressed down so closely to the floor that they did not allow a space for the air to pick the carpet up so that as the brush revolved it could create a vibration which would shake the dirt from the floor covering, and while so demonstrating has stated and held out to the purchasing public that the Hoover machine was not worth five cents; was made by a couple of harness makers; that if the Hoover machine was bought and lasted six months one would be lucky; that it was the worst machine on the market and its motor one of the most inferior on the market; that no one who manufactured cleaners cared for it and that it was absolutely no good and was never heard of outside of New Jersey, when in truth and in fact such Hoover machine compares favorably in efficiency, reliability, and effectiveness with other machines and is well known to manufacturers and the vacuum-cleaner public.

CONCLUSIONS.

That the practices of the said respondent, under the conditions and circumstances described in the foregoing findings, are unfair methods of competition in interstate commerce and constitute a violation of the act of Congress approved September 26, 1914, entitled

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"An act to create a Federal Trade Commission, to define its powers and duties and for other purposes."

ORDER TO CEASE AND DESIST.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent, the testimony and evidence, and the argument of counsel, and the Commission having made its findings as to the facts with its conclusion that the respondent has violated the provisions of the act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its power and duties, and for other purposes."

It is now ordered that the respondent, Vacuum Cleaner Specialty Co., Inc., its officers, agents, servants, and employees do cease and desist from directly or indirectly:

(1) Publishing or circulating among purchasers or prospective purchasers of vacuum cleaners or sweepers, or like devices, rating sheets, three-star lists, price lists, or any other similar advertising matter calculated or tending to induce the public to believe that the Vacuum Cleaner Specialty Co., Inc., does not own or have any special financial interest in any vacuum cleaner or sweeper, or like device, offered by it for sale to the public, when in fact it has some such interest in or ownership of such cleaners, sweepers, and like devices.

(2) Improperly demonstrating to purchasers and prospective purchasers sample vacuum cleaners or sweepers, or similar devices, which have been willfully tampered with or which have been intentionally improperly adjusted, or making such demonstrations in any manner whatsoever which do not fairly represent such cleaners, sweepers, or like devices to the purchasing public.

(3) Making false and misleading statements to customers or prospective customers concerning the efficiency, durability, reliability, quality, or effectiveness of competitive vacuum cleaners or sweeping devices.

It is further ordered that the respondent within 30 days after the date of service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with the order to cease and desist hereinbefore set forth.

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