

Complaint

IN THE MATTER OF

CELIA SARASIN, INDIVIDUALLY AND TRADING AS
UNIVERSAL ADVERTISERS SERVICE

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 3335. Complaint, Feb. 12, 1938—Decision, July 21, 1938

Where individual, engaged in sale and distribution of electric razors, pen and pencil sets, and other articles of merchandise in commerce, in soliciting, selling, and distributing said merchandise—

Furnished various devices and plans of merchandising, involving operation of games of chance, gift enterprises, or lottery schemes, through which such merchandise was distributed to ultimate consumers wholly by lot or chance, under sales plan pursuant to which, substantially, operators thereof, secured by her and compensated through receipt as premiums of articles of said merchandise, sell push card chances, number on which, secured by chance by person making selection, decides how much, if any, such person pays for chance, and whether or not such person receives article of merchandise also included, and chance selection of feminine name from large number displayed, corresponding with name concealed under card's large master seal, determines whether or not person receives article of merchandise announced as a prize for such selection;

With effect of thereby supplying to and placing in hands of others means of conducting lotteries in sale of her merchandise, in accordance with said plan, contrary to established public policy of the United States Government, and in violation of the criminal laws;

With result that many persons, attracted by said method and element of chance involved in sale of such articles, value of which exceeded cost of a chance, were induced to buy and sell such merchandise, in preference to that of competitors, many of whom are unwilling to adopt and use such a method, or any method involving a game of chance or sale of a chance to win by chance, or any method contrary to public policy, and refrain therefrom, and with effect of unfairly diverting custom and trade to her from her said competitors who do not use the same or an equivalent method:

Held, That such acts and practices were all to the prejudice of the public and competitors and constituted unfair methods of competition.

Mr. D. C. Daniel for the Commission.

COMPLAINT

Pursuant to the provisions 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," the Federal Trade Commission, having reason to believe that Celia

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Sarasin, individually, and trading as Universal Advertisers Service, hereinafter referred to as respondent, has been and is using unfair methods of competition in commerce, as "commerce" is defined in said act, and it appearing to said 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. The respondent Celia Sarasin is an individual doing business under the trade name and style of Universal Advertisers Service, with her principal office and place of business located at 1933 South Homan Avenue, Chicago, Ill. She is now, and for some time last past has been, engaged in the sale and distribution of electric razors, pen and pencil sets, and other articles of merchandise in commerce between and among the various States of the United States. She causes and has caused said merchandise when sold to be transported from her principal place of business in the State of Illinois to purchasers thereof in Illinois and in other States of the United States, at their respective points of location. There is now, and has been for some time last past, a course of trade and commerce by said respondent in such merchandise between and among the various States of the United States. In the course and conduct of said business respondent is in competition with other individuals and with partnerships and corporations engaged in the sale and distribution of similar or like articles of merchandise, in commerce between and among the various States of the United States.

PAR. 2. In the course and conduct of her business, as described in paragraph one hereof, the respondent, in soliciting the sale of and in selling and distributing the said merchandise, has furnished various devices and plans of merchandising which involve the operation of games of chance, gift enterprises, or lottery schemes, by which said merchandise is distributed to the ultimate consumers thereof wholly by lot or chance. The method or sales plan adopted and used by respondent was, and is, substantially as follows:

Respondent causes and has caused to be distributed to the purchasing public, through the United States mails in interstate commerce, certain advertising literature, including, among other things, push cards, order blanks, advertisements containing illustrations of her merchandise, and circulars explaining respondent's plan of selling said merchandise and of allotting it as premiums or prizes to the operators of the push cards. One of respondent's push cards bears 91 feminine names, with ruled columns on the reverse side thereof for writing in the name of the customer opposite the feminine name selected. Said push card has 81 small partially perforated discs marked "push," below each of which is printed one of the feminine

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names printed alphabetically on the reverse side of the card. Concealed within each disc is a number, which is disclosed when the disc is pushed or separated from the card. The push card also has a large master seal, and concealed under this seal is one of the feminine names appearing on the card. The push card bears printed legends or instructions as follows:

SELECT YOUR FAVORITE GIRLS NAME
and receive a
\$15.00 MARVEL ELECTRIC DRY SHAVER

NUMBERS 1 TO 10 FREE
11 TO 25 PAY WHAT YOU DRAW
ALL NUMBERS OVER 25 ONLY PAY 25¢
NO HIGHER

Number 33 and Last Sale Each Receive a
GENUINE TARCO PEN & PENCIL SET

Write Your Name Opposite
Name You Select on
Reverse Side

Do not remove seal until entire card is sold.

Sales of respondent's products by means of said push cards are made in accordance with the above-described legends or instructions. Said prizes or premiums are allotted to the customers or purchasers in accordance with the above legends. The articles of merchandise vary in value, but each of said articles of merchandise is of a greater value than the cost of a single push from said push card. The various articles of merchandise are thus distributed to the purchasing public wholly by lot or chance, and the amount which the customer pays for a chance, or whether the same is without charge, are determined wholly by lot or chance. Respondent furnishes her representatives with additional printed instructions or suggestions for using said push cards. One of said printed instructions bears the following legend, to wit:

SUGGESTIONS FOR USING SALES CARD

The push card contains 81 girls' names—beneath each is a concealed number. These numbers range from one upwards. The numbers from 1 to 10 ARE FREE. All numbers under 25 pay amount of number (eleven pays 11¢—19 pays 19¢, etc.) Any number over 25 only pays 25¢. NO HIGHER.

Your friends select any name they choose and push out the corresponding hole. You write down your friend's name opposite the names they select in the space provided on the back of this card. When all have been pushed out, you will find that you have collected \$16.95. Then remove the large seal at the top. Under it is the fortunate name. The person who selected that name

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is entitled to a Marvel Electric Dry Shaver. NOW YOU CAN DESTROY THE CARD—THERE IS NO NEED TO RETURN IT TO US.

Fill out the order blank (see other side). Send the order blank to us together with a Money Order or Bank Draft for \$16.95. Payment of this amount entitles you to two Marvel Electric Dry Shavers, one for you and one for the fortunate person who selected the name under the seal. The two Marvel Shavers and other gifts will be shipped to you prepaid. Thus, you will receive your Marvel Electric Dry Shaver AT NO COST TO YOU, and the fortunate person will receive his or her Dry Shaver AT HARDLY ANY COST. Isn't this an easy way to obtain valuable gifts?

PAR. 3. The persons to whom respondent furnishes the said push cards use the same in purchasing, selling, and distributing respondent's merchandise in accordance with the aforesaid sales plan. Respondent thus supplies to and places in the hands of others the means of conducting lotteries in the sale of her merchandise in accordance with the sales plan hereinabove set forth. The use by respondent of said method in the sale of her merchandise and the sale of such merchandise by and through the use thereof and by the aid of said method, is a practice of the sort which the common law and criminal statutes have long deemed contrary to public policy and is contrary to an established public policy of the Government of the United States.

PAR. 4. The sale of merchandise to the purchasing public in the manner above alleged involves a game of chance or the sale of a chance to procure an article or articles of merchandise at a price much less than the normal retail price thereof. Many persons, firms, and corporations who sell or distribute merchandise in competition with the respondent, as above alleged, are unwilling to adopt and use said method, or any method involving a game of chance or the sale of a chance to win something by chance, or any other method that is contrary to public policy, and such competitors refrain therefrom. Many persons are attracted by respondent's said method and by the element of chance involved in the sale thereof in the manner above described, and are thereby induced to buy and sell respondent's merchandise in preference to merchandise offered for sale and sold by said competitors of respondent who do not use the same or an equivalent method. The use of said method by respondent, because of said game of chance, has the tendency and capacity to, and does, divert trade and custom to respondent from her said competitors who do not use the same or an equivalent method.

PAR. 5. The aforesaid acts and practices of respondent are all to the injury and prejudice of the public and of respondent's competitors and constitute unfair methods of competition in commerce within the intent and meaning 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."

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on February 12, 1938, issued and thereafter served its complaint in this proceeding upon the respondent, Celia Sarasin, individually and trading as Universal Advertisers Service, charging her with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer, the Commission, by order entered herein, granted respondent's request for permission to withdraw said answer and substitute therefor a substitute answer admitting all the material allegations of the complaint to be true and waiving the taking of further evidence and all other intervening procedure, which substitute answer was duly filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission, on the said complaint and the substitute answer, and the Commission, having duly considered the matter and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent Celia Sarasin is an individual doing business under the trade name and style of Universal Advertisers Service, with her principal office and place of business located at 1933 South Homan Avenue, Chicago, Ill. She is now, and for some time last past has been, engaged in the sale and distribution of electric razors, pen and pencil sets, and other articles of merchandise in commerce between and among the various States of the United States. She causes and has caused said merchandise when sold to be transported from her principal place of business in the State of Illinois to purchasers thereof in Illinois and in other States of the United States, at their respective points of location. There is now, and has been for some time last past, a course of trade by said respondent in such merchandise in commerce between and among the various States of the United States. In the course and conduct of said business respondent is in competition with other individuals and with partnerships and corporations engaged in the sale and distribution of similar or like articles of merchandise, in commerce between and among the various States of the United States.

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PAR. 2. In the course and conduct of her business, as described in paragraph 1 hereof, the respondent, in soliciting the sale of and in selling and distributing the said merchandise, has furnished various devices and plans of merchandising which involve the operation of games of chance, gift enterprises, or lottery schemes, by which said merchandise is distributed to the ultimate consumers thereof wholly by lot or chance. The method or sales plan adopted and used by respondent was, and is, substantially as follows:

Respondent causes and has caused to be distributed to the purchasing public, through the United States mails certain advertising literature, including, among other things, push cards, order blanks, advertisements containing illustrations of her merchandise, and circulars explaining respondent's plan of selling said merchandise and of allotting it as premiums or prizes to the operators of the push cards. One of respondent's push cards bears 81 feminine names, with ruled columns on the reverse side thereof for writing in the name of the customer opposite the feminine name selected. Said push card has 81 small partially perforated discs marked "push" below each of which is printed one of the feminine names printed alphabetically on the reverse side of the card. Concealed within each disc is a number, which is disclosed when the disc is pushed or separated from the card. The push card also has a large master seal, and concealed under this seal is one of the feminine names appearing on the card. The push card bears printed legends or instructions as follows:

SELECT YOUR FAVORITE GIRLS NAME
and receive a
\$15.00 MARVEL ELECTRIC DRY SHAVER

NUMBERS 1 TO 10 FREE
11 TO 25 PAY WHAT YOU DRAW
ALL NUMBERS OVER 25 ONLY PAY 25c
NO HIGHER

Number 33 and Last Sale Each Receive a
GENUINE TARCO PEN & PENCIL SET

Write Your Name Opposite Name You Select on Reverse Side
Do not remove seal until entire card is sold.

Respondent furnishes and has furnished her representatives with additional printed instructions or suggestions for using said push cards. One of said printed instructions bears the following legend, to wit:

SUGGESTIONS FOR USING SALES CARD

The push card contains 81 girls' names—beneath each is a concealed number. These numbers range from one upwards. The numbers from 1 to 10 ARE

FREE. All numbers under 25 pay amount of number (eleven pays 11¢—19 pays 19¢, etc.) Any number over 25 only pays 25¢. **NO HIGHER.**

Your friends select any name they choose and push out the corresponding hole. You write down your friend's name opposite the names they select in the space provided on the back of this card. When all have been pushed out, you will find that you have collected \$16.95. Then remove the large seal at the top. Under it is the fortunate name. The person who selected that name is entitled to a Marvel Electric Dry Shaver. **NOW YOU CAN DESTROY THE CARD—THERE IS NO NEED TO RETURN IT TO US.**

Fill out the order blank (see other side.) Send the order blank to us together with a Money Order or Bank Draft for \$16.95. Payment of this amount entitles you to two Marvel Electric Dry Shavers, one for you and one for the fortunate person who selected the name under the seal. The two Marvel Shavers and other gifts will be shipped to you prepaid. Thus, you will receive your Marvel Electric Dry Shave **AT NO COST TO YOU**, and the fortunate person will receive his or her Dry Shaver **AT HARDLY ANY COST.** Isn't this an easy way to obtain valuable gifts?

Sales of respondent's products by means of said push cards are made in accordance with the above-described legends or instructions. Said prizes or premiums are allotted to the customers or purchasers in accordance with the above legends. The articles of merchandise vary in value, but each of said articles of merchandise is of a greater value than the cost of a single push from said push card. The various articles of merchandise are thus distributed to the purchasing public wholly by lot or chance, and the amount which the customer pays for a chance, or whether the same is without charge, are determined wholly by lot or chance.

PAR. 3. The persons to whom respondent furnishes the said push cards use the same in purchasing, selling, and distributing respondent's merchandise in accordance with the aforesaid sales plan. Respondent thus supplies to and places in the hands of others the means of conducting lotteries in the sale of her merchandise in accordance with the sales plan hereinabove described. The use by respondent of said method in the sale of her merchandise, and the sale of such merchandise by and through the use thereof and by the aid of said method, is a practice of the sort which is contrary to an established public policy of the Government of the United States and in violation of the criminal laws.

PAR. 4. The sale or distribution of merchandise to the purchasing public in the manner above described involves a game of chance or the sale of a chance to procure an article or articles of merchandise without cost or at a price much less than the normal retail price thereof. Many persons, firms, and corporations who sell or distribute merchandise in competition with the respondent, as above stated, are unwilling to adopt and use said method, or any method involving a game of

chance or the sale of a chance to win something by chance, or any other method that is contrary to public policy, and such competitors refrain therefrom. Many persons are attracted by respondent's said method and by the element of chance involved in the sale of such merchandise in the manner above described, and are thereby induced to buy and sell respondent's merchandise in preference to merchandise offered for sale and sold by said competitors of respondent who do not use the same or an equivalent method. The use of said method by respondent, because of said game of chance, has the tendency and capacity to, and does, unfairly divert trade and custom to respondent from her said competitors who do not use the same or an equivalent method.

CONCLUSION

The aforesaid acts and practices of respondent are all to the prejudice of the public and of respondent's competitors and constitute unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the substitute answer of respondent admitting all of the material allegations of the complaint to be true and waiving the taking of further evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Celia Sarasin, individually and trading as Universal Advertisers Service, or trading under any other name, her agents, representatives, and employees, in connection with the offering for sale, sale and distribution of electric razors, pen and pencil sets, or any other articles of merchandise, in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

1. Supplying to or placing in the hands of others push or pull cards, punchboards, or other lottery devices, for the purpose of enabling such persons to dispose of or sell such or similar products by use thereof;
2. Mailing, shipping, or transporting to her agents, or to distributors or to members of the public, push or pull cards, punchboards, or other lottery devices so prepared or printed as to enable said persons to sell or distribute such or similar products by the use thereof;

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3. Selling or otherwise disposing of such or similar products by the use of push or pull cards, punchboards, or any other lottery devices.

It is further ordered, That within 60 days from the date of the service of this order upon said respondent, she shall file with the Commission a report in writing setting forth in detail the manner and form in which she has complied with this order.

IN THE MATTER OF
WILLYS-OVERLAND MOTORS, INC.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 3368. Complaint, Mar. 31, 1938—Decision, July 21, 1938

Where a corporation engaged in the manufacture of passenger automobiles under its trade name, and in sale thereof to distributors at its place of business, for shipment therefrom to their ultimate destination by its dealers and distributors and resale by latter for their own account to ultimate purchasers, in substantial competition with others similarly engaged—

Represented, in an extensive advertising campaign in newspapers and periodicals, in which it described and illustrated its automobile, that fully equipped vehicles might be purchased, ready for operation, at its said place of business for the figure featured, or at other or distant points for said figure, plus cost of actual transportation thereto from said point, through newspaper advertisements in which the conspicuous heading, "50,000 Cars Ordered From a Picture," was accompanied by a view of what appeared to be a four-door sedan, equipped with bumpers, bumper guards, etc., and the words, "The New Willys, \$395," and in much smaller and less conspicuous type, "List f. o. b. factory, Toledo—for the Standard Coupe—other models at higher prices";

Facts being said price was not the factory list price for the car depicted, but for one of its less expensive vehicles of a different type or model, which itself could not be bought at retail for such price at said point, or at its ultimate destination, plus actual transportation charges, without additional charges being made for said items such as bumpers, bumper guards, windshield wipers, etc., and other accessories necessary for the actual or legal operation of the automobile, and constituting a part of what the public understands to be a complete car, ready for operation, with addition, frequently and generally, of other additional charges to retail purchasers for items such as taxes, advertising, handling, and conditioning;

With effect of misleading and deceiving substantial portion of purchasing and consuming public into mistaken and erroneous belief that upon payment of said designated f. o. b. price, plus transportation charges to point of actual delivery, full title to and possession of said car as depicted, equipped with usual and standard accessories and ready for operation, might be had, and with tendency and capacity to mislead and deceive substantial portion of purchasing public into erroneous belief that all said representations were true, and with result that substantial number of consuming public, as direct consequence of mistaken and erroneous beliefs induced by such acts and practices, bought considerable volume of its said cars, and trade was thereby diverted unfairly to it from others likewise engaged in the manufacture, distribution, and sale of passenger motor vehicles, truthfully advertised and represented by them and sold at the retail delivered price by them represented, published, or designated:

Held. That such acts and practices were all to the prejudice and injury of the public and competitors and constituted unfair methods of competition.