

IN THE MATTER OF
UNIVERSAL INDUSTRIES, INC., ABRAHAM LEONARD
KOOLISH, MRS. IDA B. KOOLISH AND GEORGE WILLIAM
EHRlich, INDIVIDUALLY AND AS OFFICERS AND
DIRECTORS OF UNIVERSAL INDUSTRIES, INC.

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

Docket 3882. Complaint, Aug. 30, 1939—Decision, Apr. 24, 1941

Where a corporation and two individuals who were officers and directors thereof and controlled and directed its policies, acts and practices and who had been theretofore engaged in carrying on through the guise, successively, of two other corporate instrumentalities, such acts and practices as hereinbelow set forth; engaged in interstate sale and distribution to retailers and other purchasers of a sales stimulator plan and device, including trade cards, circulars, and other advertising material, and also tableware and other products used as premium merchandise in connection therewith;

In advertising in newspapers, periodicals, circulars, letters and bulletins to procure salesmen and distributors to solicit orders for said plan, under which cards given by merchant to his customers, when stamped with purchases aggregating \$5 or other specified sum, and payment of 49 cents additional, entitled customer to a 5-piece set of silverware—

- (a) Represented, directly or by implication, that the corporation in question was organized in 1909, had been engaged in the sale of sales stimulator plans for 29 years, had strong financial ratings in all commercial agencies, including Dun & Bradstreet, and that its assets amounted to \$200,000; facts being said representations were false: the corporation was organized in 1939 and had been engaged in the sale of said plan only since then, it did not have financial ratings in any commercial agencies, and its assets were substantially less than aforesaid sum;
- (b) Represented, as aforesaid, that, in the sale of such sales plan and merchandise, their salesmen and distributors earned \$20 a day, \$400 a month, or various other sums approximating thereto, in the ordinary course of their business under normal conditions; facts being they earned substantially less than such amounts;
- (c) Represented that they gave absolutely free to their salesmen and distributors a camera of the retail value of \$5; when in fact a camera was not given free, but salesmen were required to procure a sale of said plan and merchandise and to send in a picture of a retail merchant displaying advertising literature relative thereto in order to secure it, and its value was substantially less than the sum represented;
- (d) Represented that merchants purchasing said sales plan and participating therein received from their customers \$5 worth of business at a cost of 1 cent only in that sets of silverware, for which customer paid 49 cents, cost merchant 50 cents; facts being merchants were charged \$4.95 for plan in question, which included cards, literature and two display sets

1270

Complaint

of tableware, and no refund of said amount was made until merchants had bought eight dozen sets of said tableware, and from the refund, if and when made, there was deducted resale value of said two display sets; and

- (e) Represented that said premium merchandise which they designated as "Princess Pat" silverware, had an ordinary retail value of \$2 a set; when its ordinary retail value was in fact substantially less;

With effect of causing members of the purchasing public and prospective salesmen and distributors to believe mistakenly that said misrepresentations were true and thereby of inducing them to purchase said sales stimulator plan:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public and constituted unfair and deceptive acts and practices in commerce.

Before *Mr. Miles J. Furnas*, trial examiner.

Mr. J. W. Brookfield, Jr. for the Commission.

Nash & Donnelly, of Chicago, Ill., for respondents.

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 Universal Industries, Inc., a corporation, and Abraham Leonard Koolish, Mrs. Ida B. Koolish, and George William Ehrlich, individually and as officers and directors of Universal Industries, Inc., 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. Universal Industries, Inc., is a corporation organized and existing under and by virtue of the laws of the State of Illinois, with its principal place of business located at 6227 Broadway, in the city of Chicago, State of Illinois. Respondent, Abraham Leonard Koolish, Mrs. Ida B. Koolish, and George William Ehrlich, are officers and directors of the corporate respondent, Universal Industries, Inc., and formulate, control, and direct the policies, acts, and practices of said corporate respondent.

The respondents have all acted in concert and in cooperation and conjunction with each other in performing the acts and practices hereinafter alleged.

PAR. 2. Respondents are now, and during the year last past have been, engaged in the sale and distribution of a sales stimulator plan and device, including among other things, trade cards, circulars, and

Complaint

32 F. T. C.

other advertising material, and in the sale and distribution of tableware and other products which are used as premium merchandise in connection with the operation of said sales stimulator plan. In the course and conduct of their business respondents sell their said sales plan and merchandise to retail dealers and other purchasers and during the year last past have caused said sales plan and merchandise, when sold, to be transported from their place of business in the State of Illinois to purchasers thereof located in various other States of the United States and in the District of Columbia. At all times mentioned herein respondents have maintained a course of trade in said sales plan and merchandise in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. Said sales stimulator plan, which is sold and distributed by respondents as aforesaid, includes, among other things, a number of sales cards which are placed by respondents in the hands of retail dealers and in turn by such dealers in the hands of customers and prospective customers. Said cards have printed around their edge a series of figures such as "5," "10," "25," etc., and as merchandise is purchased by the holder of such card the retail dealer punches in said card the figure representing the purchase price of the merchandise. The figures on said card aggregate the amount of \$5 or other sums and when the dealer's customer has purchased merchandise in said amount such customer is entitled, upon paying an additional 49 cents to receive a 5-piece set of respondents' silverware.

PAR. 4. In the course and conduct of their aforesaid business, and for the purpose of procuring the services of salesmen and distributors to solicit purchase orders for said sales stimulator plan and merchandise, and in furtherance of the sale thereof, respondents have caused various statements and representations relative to the earnings of their salesmen and distributors and relative to said sales plan and merchandise to be inserted in advertisements in newspapers, periodicals, and other publications, having a circulation among and between various States of the United States and in the District of Columbia, and in circulars, letters, and bulletins distributed to members of the public situated in various States of the United States and in the District of Columbia. Among and typical of said statements and representations are the following:

Established 1909.

Working for us, you will represent a reliable, old line company with a record of 29 years successful operation.

For 29 years Universal Industries has built and increased retail merchants' business by means of sales stimulator plans.

29 years continual progress makes Universal Industries the leading organization in the sales stimulator field.

Universal Industries carries a strong financial rating in all commercial agencies. For verification, consult Dun & Bradstreet, or your local banker. All this has been possible only because Universal has liberally paid loyal manpower good earnings.

References Dun & Bradstreet, Chicago Chamber of Commerce, any bank or trust company anywhere. This company backed by \$200,000.00 in assets, and 29 years of business experience.

This proposition can be worth at least \$400.00 extra money to you in the next 30 days.

Would you be interested in a permanent, steady, dignified, profitable position with an old, well-rated and successful business? Does \$20 or more a day right now interest you?

Do you know that it is possible for the literature in your hands this very minute to enable you to put up to \$20 in your pocket before nightfall.

Here's what I have in mind: A short time ago, we announced the Silverware Sales Building Plan for Retail Merchants and it is going over like a house on fire. Sales are rolling in from all parts of the country. Every mail brings a deluge of orders. Salesmen are cleaning up.

There is money in furnishing Sales Building Campaigns to Merchants—Real money and you can get your share of it if you follow my advice. Mr. Iskoe made \$264 the first ten days, as this is written, of last month. Mr. Roberson made \$136 in four days time not long ago and Mr. Stickles earned money at the rate of \$85 a week the first seven days he worked, handling one of our trade-stimulator plans.

Each time the customer has spent \$5.00 with the merchant, she gets one of these sets for only 49¢. The sets cost the merchant in turn 50¢ each so he has obtained \$5.00 worth of business for a total cost to him of only 1¢. But that isn't all, the chances are once a customer has 1 set she will want 5 more, so she'll have a complete service for 6. And in that case she will have to purchase \$30.00 worth of goods or services and it will cost the merchant only 6¢.

Beautiful Princess Pat Silverware Set * * * \$2.00 value only 49¢.

In order to further induce members of the public to solicit purchase orders for said sales plan and merchandise, respondents cause circulars and other printed matter to be disseminated as aforesaid containing representations that respondents give to their salesmen and distributors a "\$5.00 Candid Camera absolutely FREE."

PAR. 5. Through the use of the aforesaid statements and representations and others of similar import or meaning not herein set out, the respondents have represented directly or by implication that the said corporate respondent, Universal Industries, Inc., was organized in the year 1909, and has been engaged in the sale of sales stimulator plans for 29 years, that said corporate respondent has strong financial ratings in all commercial agencies, including Dun & Bradstreet,

Complaint

32 F. T. C.

and that its assets amount to \$200,000, that respondents' salesmen and distributors earn, in the sale of respondents' said sales plan and merchandise, \$20 a day, \$400 a month or various other sums approximately equal thereto in the ordinary course of their business under normal conditions and circumstances. Respondents further represent, as aforesaid, that merchants purchasing and participating in said sales plan receive from their customers \$5 worth of business at a cost to the merchants of only 1 cent and that the aforesaid premium merchandise designated by respondents as "Princess Pat Silverware" has an ordinary retail value of \$2 a set. Respondents further represent that the aforesaid camera is given by respondents to their salesmen and distributors absolutely free and that said camera has an ordinary retail value of \$5.

PAR. 6. The aforesaid statements and representations by respondents are false and misleading. In truth and in fact the said corporate respondent, Universal Industries, Inc., was not organized in the year 1909 and has not been engaged in the sale of sales stimulator plans for 29 years. Said corporate respondent was organized in the year 1939 and has been engaged in the sale of said sales plans only since said date of its organization.

At the times the aforesaid advertisements were disseminated by respondents, the said corporate respondent did not have strong financial ratings or any financial ratings in any commercial agencies. The assets of said corporate respondent do not amount to \$200,000, but are substantially less than such amount. The salesmen and distributors of respondents do not earn in the sales of respondents' said sales plan and merchandise \$20 a day or \$400 a month or any other sums approximately equal thereto in the ordinary course of their business under normal conditions and circumstances. In fact said salesmen and distributors earn substantially less than such amounts. The merchants purchasing and participating in said sales plan do not receive from their customers, pursuant to such plan, \$5 worth of business at a cost to the merchants of only 1 cent. The merchants purchase said tableware from the respondents at 50 cents a set and resell same to their customers at 49 cents a set when the customers have purchased from the merchants \$5 worth of other merchandise. In addition to this loss of 1 cent on each set of premium merchandise, the merchants pay the respondents \$4.95 for the sales plan, which includes the cards, literature and two display sets of tableware. Respondents do not refund any of such \$4.95 to the merchants until the merchants have purchased from respondents 8 dozen sets of said tableware and respondents deduct from such refund, if and when

made, the resale value of the two display sets of tableware furnished to the merchants.

The aforesaid tableware designated "Princess Pat Silverware" does not have an ordinary retail value of \$2 a set but has an ordinary retail value of substantially less than such amount. Respondents do not give said camera "absolutely free" to their salesmen and distributors. Respondents require their salesmen and distributors to perform certain services in connection with obtaining said camera consisting of procuring a sale of said sales plan and merchandise and sending respondents a picture of a retail merchant displaying the advertising literature relative to such plan. In fact the said camera does not have an ordinary retail value of \$5 but has an ordinary retail value of substantially less than such amount.

PAR. 7. The use by the respondents of the aforesaid false and misleading statements and representations has the capacity and tendency to, and does, cause members of the purchasing public and prospective salesmen and distributors to have the erroneous and mistaken belief that the aforesaid false and misleading statements and representations are true, and causes members of the purchasing public to purchase respondents' said sales plan and merchandise and causes prospective agents and distributors to undertake the sale of, and to sell, said sales plan and merchandise because of said erroneous and mistaken belief.

PAR. 8. The aforesaid acts and practices of respondents, as herein alleged, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on August 30, A. D., 1939, issued and subsequently served its complaint in this proceeding upon the respondents, Universal Industries, Inc., a corporation, and Abraham Leonard Koolish, Mrs. Ida B. Koolish, and George William Ehrlich, individually and as officers and directors of Universal Industries, Inc., charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondents' answer thereto, testimony and other evidence in support of the allegations of said complaint were introduced by L. P. Allen, attorney for the Commission, and in opposition to the allegations of the complaint by Arthur H. Schwab, attorney for the respondents, before Miles J. Furnas, an

Findings

32 F. T. C.

examiner of the Commission theretofore duly designated by it, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on said complaint, answer thereto, testimony and other evidence, report of the trial examiner upon the evidence, briefs in support of the complaint and in opposition thereto, 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 Commission finds that Universal Industries, Inc., is a corporation organized and existing under and by virtue of the laws of the State of Illinois, with its principal place of business located at 2222 Diversey Parkway, in the city of Chicago, State of Illinois. Respondents Abraham Leonard Koolish and George William Ehrlich are officers and directors of the corporate respondent, Universal Industries, Inc., and formulate, control, and direct the policies, acts, and practices of said corporate respondent. Mrs. Ida B. Koolish is an officer and director of the corporate respondent, but there is no evidence that she has taken any active interest in said business.

PAR. 2. Respondents Universal Industries, Inc., Abraham Leonard Koolish and George William Ehrlich are now, and during the year last past have been, engaged in the sale and distribution of a sales stimulator plan and device, including among other things, trade cards, circulars, and other advertising material, and in the sale and distribution of tableware and other products which are used as premium merchandise in connection with the operation of said sales stimulator plan. In the course and conduct of their business, said respondents sell their said sales plan and merchandise to retail dealers and other purchasers and during the year last past have caused said sales plan and merchandise, when sold, to be transported from their place of business in the State of Illinois to purchasers thereof located in various other States of the United States and in the District of Columbia. At all times mentioned herein said respondents have maintained a course of trade in said sales plan and merchandise in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. Said sales stimulator plan, which is sold and distributed by respondents as aforesaid, includes, among other things, a number of sales cards which are placed by respondents in the hands of retail

dealers and in turn by such dealers in the hands of customers and prospective customers. Said cards have printed around their edge a series of figures such as "5," "10," "25," etc., and as merchandise is purchased by the holder of such card the retail dealer punches in said card the figure representing the purchase price of the merchandise. The figures on said card aggregate the amount of \$5 or other sums and when the dealer's customer has purchased merchandise in said amount such customer is entitled, upon paying an additional 49 cents, to receive a 5-piece set of respondents' silverware.

PAR. 4. In the course and conduct of their aforesaid business, and for the purpose of procuring the services of salesmen and distributors to solicit purchase orders for said sales stimulator plan and merchandise, and in furtherance of the sale thereof, said respondents have caused various statements and representations relative to the earnings of their salesmen and distributors and relative to said sales plan and merchandise to be inserted in advertisements in newspapers, periodicals, and other publications having a circulation among and between various States of the United States and in the District of Columbia, and in circulars, letters, and bulletins distributed to members of the public situated in various States of the United States and in the District of Columbia. Among and typical of said statements and representations are the following:

Established 1909.

Working for us, you will represent a reliable, old line company with a record of 29 years successful operation.

For 29 years Universal Industries has built and increased retail merchants' business by means of sales stimulator plans.

29 years continual progress makes Universal Industries the leading organization in the sales stimulator field.

Universal Industries carries a strong financial rating in all commercial agencies. For verification, consult Dun & Bradstreet, or your local banker. All this has been possible only because Universal has liberally paid loyal manpower good earnings.

References Dun & Bradstreet, Chicago Chamber of Commerce, any bank or trust company anywhere. This company backed by \$200,000.00 in assets, and 29 years of business experience.

This proposition can be worth at least \$400.00 extra money to you in the next 30 days.

Would you be interested in a permanent, steady, dignified, profitable position with an old, well-rated and successful business? Does \$20 or more a day right now interest you?

Do you know that it is possible for the literature in your hands this very minute to enable you to put up to \$20 in your pocket before nightfall.

Here's what I have in mind: A short time ago, we announced the Silverware Sales Building Plan for Retail Merchants and it is going over like a house

Findings

32 F. T. C.

on fire. Sales are rolling in from all parts of the country. Every mail brings a deluge of orders. Salesmen are cleaning up.

There is money in furnishing Sales Building Campaigns to Merchants—Real money and you can get your share of it if you follow my advice. Mr. Iskoe made \$264 the first ten days, as this is written, of last month. Mr. Roberson made \$136 in four days time not long ago and Mr. Stickles earned money at the rate of \$85 a week the first seven days he worked, handling one of our trade-stimulator plans.

Each time the customer has spent \$5.00 with the merchant, she gets one of these sets for only 49¢. The sets cost the merchant in turn 50¢ each so he has obtained \$5.00 worth of business for a total cost to him of only 1¢. But that isn't all, the chances are once a customer has 1 set she will want 5 more, so she'll have a complete service for 6. And in that case she will have to purchase \$30.00 worth of goods or services and it will cost the merchant only 6¢.

Beautiful Princess Pat Silverware Set * * * \$2.00 value only 49¢.

In order to further induce members of the public to solicit purchase orders for said sales plan and merchandise, said respondents cause circulars and other printed matter to be disseminated as aforesaid containing representations that respondents give to their salesmen and distributors a "\$5 Candid Camera absolutely FREE."

PAR. 5. Through the use of the aforesaid statements and representations and others of similar import or meaning not herein set out, the said respondents have represented directly or by implication that the said corporate respondent, Universal Industries, Inc., was organized in the year 1909, and has been engaged in the sale of sales stimulator plans for 29 years, that said corporate respondent has strong financial ratings in all commercial agencies, including Dun & Bradstreet, and that its assets amount to \$200,000, that respondents' salesmen and distributors earn, in the sale of respondents' said sales plan and merchandise, \$20 a day, \$400 a month or various other sums approximately equal thereto in the ordinary course of their business under normal conditions and circumstances. Said respondents further represent, as aforesaid, that merchants purchasing and participating in said sales plan receive from their customers \$5 worth of business at a cost to the merchants of only 1 cent and that the aforesaid premium merchandise designated by respondents as "Princess Pat Silverware" has an ordinary retail value of \$2 a set. Said respondents further represent that the aforesaid camera is given by respondents to their salesmen and distributors absolutely free and that said camera has an ordinary retail value of \$5.

PAR. 6. The Commission further finds that the aforesaid statements and representations by the said respondents are false and misleading. In truth and in fact the said corporate respondent, Uni-

versal Industries, Inc., was not organized in the year 1909 and has not been engaged in the sale of sales stimulator plans for 29 years. Said corporate respondent was organized in the year 1939 and has been engaged in the sale of said sales plans only since said date of its organization.

At the times the aforesaid advertisements were disseminated by said respondents, the said corporate respondent did not have strong financial ratings or any financial ratings in any commercial agencies. The assets of said corporate respondent do not amount to \$200,000 but are substantially less than such amount. The salesmen and distributors of said respondents do not earn in the sale of respondents' said sales plan and merchandise \$20 a day or \$400 a month or any other sums approximately equal thereto in the ordinary course of their business under normal conditions and circumstances. In fact, said salesmen and distributors earn substantially less than such amounts. The merchants purchasing and participating in said sales plan do not receive from their customers, pursuant to such plan, \$5 worth of business at a cost to the merchants of only 1 cent. The merchants purchase said tableware from the respondents at 50 cents a set and resell same to their customers at 49 cents a set when the customers have purchased from the merchants \$5 worth of other merchandise. The merchants pay the respondents \$4.95 for the sales plan, which includes the cards, literature, and two display sets of tableware. Respondents do not refund any of such \$4.95 to the merchants until the merchants have purchased from respondents eight dozen sets of said tableware and respondents deduct from such refund, if and when made, the resale value of the two display sets of tableware furnished to the merchants.

The aforesaid tableware designated "Princess Pat Silverware" does not have an ordinary retail value of \$2 a set but has an ordinary retail value of substantially less than such amount. Said respondents do not give said camera "absolutely free" to their salesmen and distributors. Respondents require their salesmen and distributors to perform certain services in connection with obtaining said camera consisting of procuring a sale of said sales plan and merchandise and sending respondents a picture of a retail merchant displaying the advertising literature relative to such plan. In fact, the said camera does not have an ordinary retail value of \$5 but has an ordinary retail value of substantially less than such amount.

PAR. 7. The use by the said respondents of the aforesaid false and misleading statements and representations has the capacity and tendency to, and does, cause members of the purchasing public and

Findings

32 F. T. C.

prospective salesmen and distributors to have the erroneous and mistaken belief that the aforesaid false and misleading statements and representations are true, and causes members of the purchasing public to purchase respondents' said sales plan and merchandise and causes prospective agents and distributors to undertake the sale of, and to sell, said sales plan and merchandise because of said erroneous and mistaken belief.

PAR. 8. The Commission further finds that the individual respondents Abraham Leonard Koolish and George William Ehrlich have been identified with various other corporations as officers, directors, and stockholders, which corporations were engaged in the sale and distribution of sales stimulator plans and devices similar to that hereinabove described, and which corporations also used the trade name Universal Industries in the course and conduct of their business.

The K. & S. Sales Company was a corporation organized in 1915, with principal office and place of business originally at 4325 Ravenswood Avenue, but which was later removed to 6227 Broadway. This corporation was dissolved about January 23, 1939. During the time that this corporation was in existence, it was engaged in the sale and distribution of various types of sales stimulator plans and devices, such as push cards and silverware sales stimulator plans similar to that involved in the present case. During the time that this corporation was in existence, respondent Abraham Leonard Koolish, L. L. Lichtenstein, and respondent George William Ehrlich were all directors and president, vice president, and secretary, respectively, of said corporation, and owned 125 shares each of the capital stock of said corporation, which comprised the entire capital stock issued. In the course and conduct of its business said corporation used the trade name Universal Industries.

On or about January 21, 1939, the Regal Industries, Inc., a corporation, was organized for the purpose of liquidating the K. & S. Sales Company. This corporation had its principal place of business at 6227 Broadway, and respondent Abraham Leonard Koolish, respondent George William Ehrlich, and L. L. Lichtenstein were the owners of the entire capital stock issued, amounting to 10 shares, which was divided equally. Abraham Leonard Koolish, George William Ehrlich, and L. L. Lichtenstein were directors and president, secretary and treasurer, and vice president, respectively, of said corporation. Shortly after the organization of said corporation, L. L. Lichtenstein discontinued his connection, and his stock was purchased by respondents Abraham Leonard Koolish and George William

1270

Order

Ehrlich, with the result that each held 5 shares of the capital stock of said corporation. At the same time, Mrs. Ida B. Koolish became vice president and director of said corporation. This corporation operated a silverware sales stimulator plan for a short time and used the trade name Universal Industries.

On or about March 18, 1939, the respondent corporation, Universal Industries, Inc., was organized, with its principal place of business located at 6227 Broadway. The respondents Abraham Leonard Koolish and George William Ehrlich are the owners of the entire capital stock of said corporation, amounting to 50 shares each. Said respondents Abraham Leonard Koolish and George William Ehrlich, and Mrs. Ida B. Koolish are directors and president, secretary and treasurer, and vice president, respectively, of said corporation. Said corporate respondent later removed its place of business to 2222 Diversey Parkway.

The Commission further finds that the K. & S. Sales Company, Regal Industries, Inc., and Universal Industries, Inc., were closely held corporations, owned, dominated, and managed by the individual respondents Abraham Leonard Koolish and George William Ehrlich, and that the present corporate respondent Universal Industries, Inc., is merely a continuation of the business operated by the said individual respondents. The Commission further finds that in the management of the corporate respondent and the previous corporations, the said individual respondents Abraham Leonard Koolish and George William Ehrlich acted with practically the same freedom as though no corporation had existed, and that, so far as corporate action was concerned, these individual respondents were the actors.

CONCLUSION

The aforesaid acts and practices of the corporate respondent Universal Industries, Inc., and the individual respondents Abraham Leonard Koolish and George William Ehrlich as herein found, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices 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, the answer of the respondents, testimony and other evidence taken before Miles J. Furnas, an examiner of the Commission theretofore duly designated

by it, in support of the allegations of said complaint and in opposition thereto, and report of the trial examiner thereon, and briefs filed herein, and the Commission having made its findings as to the facts and its conclusion that said respondents Universal Industries, Inc., a corporation, and Abraham Leonard Koolish and George William Ehrlich, individually and as officers and directors of Universal Industries, Inc., have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent Universal Industries, Inc., a corporation, its officers, representatives, agents, and employees, the respondent Abraham Leonard Koolish, an individual, and respondent George William Ehrlich, an individual, and their respective representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of sales stimulator plans or devices, including trade cards, circulars, and other advertising material, and tableware and other products used as premium merchandise in connection with the operation of any sales stimulator plan, do forthwith cease and desist from:

1. Misrepresenting, in any manner, the financial condition and assets of respondents' business or the length of time in which said respondents have been engaged in business.

2. Representing as customary or regular prices or values for any of respondents' products, prices or values which are, in fact, fictitious or greatly in excess of the prices at which such products are customarily offered for sale and sold in the normal course of business.

3. Representing any specified sum of money as possible earnings or profits of agents, salesmen, representatives, or distributors for any stated period of time which is not a true representation of the net earnings or profits which have been made for such stated period of time by a substantial number of respondents' active agents, salesmen, representatives, or distributors in the ordinary course of business under normal conditions and circumstances.

4. Representing any specified sum of money as earnings or profits of any specified agent, salesman, representative, or distributor for any stated period of time which has not, in fact, been consistently earned, net, by such agent, salesman, representative, or distributor in the ordinary course of business and under normal conditions and circumstances.

5. Using the term "free" or any other term of similar import or meaning to describe or refer to articles offered as compensation for

1270

Order

distributing respondents' merchandise, unless all of the terms and conditions of such offer are clearly and unequivocally stated in equal conspicuousness and in immediate connection or conjunction with the word "free" or other terms of similar import or meaning and there is no deception as to the price, quality, character, or any other feature of such article as to the services to be performed in connection with obtaining such articles.

6. Misrepresenting the cost of any sales plan or sales stimulator to any dealer or merchant by failing to reveal that additional sums of money must be paid by such dealer or merchant in the operation of such sales plan or the use of such sales stimulator.

It is further ordered, That the respondents shall, within 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.

It is further ordered, That the complaint be dismissed as to the respondent Mrs. Ida B. Koolish.

Complaint

32 F. T. C.

IN THE MATTER OF
HAMILTON ROSS FACTORIES, INC.

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

Docket 4040. Complaint, Feb. 26, 1940—Decision, Apr. 24, 1941

Where a corporation engaged in the interstate sale and distribution to department stores and other retailers of chinaware, glassware, plated silverware, cutlery, and other merchandise, purchased by it from manufacturers or dealers in other States—

(a) Falsely represented, through use of advertising mats and Dufay color plates which it supplied to its customers for insertion in newspapers published in various cities, and which were thus inserted, that its silverware was "heavily plated," thus implying that it was of a superior quality and grade;

Facts being its said product corresponded approximately to Grade A-1 of household silverware, the lowest grade to which quality marks are regularly applied; and

(b) Represented and implied, through inclusion of word "factories" in its corporate and trade name employed on its letterheads, invoices, and other printed matter, that it owned, controlled, or operated a factory or factories where its products were made, and, through use of phrase "Our Factory" in corresponding with customers, that it was the manufacturer of products sold and distributed by it;

When, in fact, it did not own, operate or control any such factory, mill or plant and was not, at time of complaint or for several years prior thereto, manufacturer of its or other products, such as members of purchasing public prefer to deal with directly, as securing them, in their belief, more uniform line of goods, superior quality, lower prices, and other advantages;

With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous and mistaken belief that said representations were true, and of causing it to purchase said products because of such erroneous and mistaken belief:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public, and constituted unfair and deceptive acts and practices in commerce.

Before *Mr. Miles J. Furnas* and *Mr. John J. Keenan*, trial examiners.

Mr. R. P. Bellinger for the Commission.

Pennish & Rashbaum, of Chicago, Ill., for respondent.

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