

Complaint

48 F. T. C.

## IN THE MATTER OF

ALBERT A. SCHWARTZ TRADING AS ELECTRICAL  
CENTER

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

*Docket 5934. Complaint, Oct. 30, 1951—Decision, Jan. 29, 1952*

Where an individual engaged in the District of Columbia in the competitive sale and distribution of television sets, radios and various household appliances; through newspaper advertisements—

Represented that if a television set, radio or appliance was purchased at the regular price, another of the same kind and value might be purchased for an additional dollar, through such typical advertisements as "\$1 SALE ALL NEW 1951 MODELS TELEVISION \$1—Refrigerators \$1—WASHERS \$1 \* \* \* ALL FOR JUST \$1 HERE'S ALL YOU DO: Buy Any Famous Make TV, Radio or Appliance . . . THEN CHOOSE Another FOR JUST \$1 MORE \* \* \* it's so EASY! Get TWO brand new appliances for the price of one, PLUS ONE DOLLAR! \* \* \*—That's how it works on all Famous Name appliances in the entire store \* \* \* ";

The facts being that the article which could be purchased for the additional dollar was based upon the price of the article purchased and was of much less value and price than such article; and an explanation near the bottom of the advertisement in such comparatively small type that it did not constitute an adequate notice of the actual offer, as to articles which might actually be purchased for one dollar, was contrary to the offer contained in the main portion thereof;

With capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the mistaken belief that such representations were true and thereby induce its purchase of said products; and with the result that trade in commerce was unfairly diverted to said individual from his competitors, to their substantial injury;

*Held*, That such acts and practices, under the circumstances set forth, constituted unfair and deceptive acts and practices in commerce, and unfair methods of competition therein.

Before *Mr. Everett F. Haycraft*, trial examiner.

*Mr. Jesse D. Kash* for the Commission.

*Mr. Sylvan Schwartz*, of Washington, D. C., 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

Trade Commission, having reason to believe that Albert A. Schwartz, an individual trading as Electrical Center, hereinafter referred to as respondent, has violated the provisions of the said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Albert A. Schwartz is an individual trading as Electrical Center with his office and principal place of business located at 414 10th Street NW., Washington, D. C.

PAR. 2. Respondent is now, and for more than one year last past has been, engaged in the sale and distribution, among other things, of television sets, radios and various household appliances in the District of Columbia, such sale and distribution being in commerce, as "commerce" is defined in the Federal Trade Commission Act. His volume of business in such commerce is and has been substantial.

PAR. 3. In the course and conduct of his aforesaid business and for the purpose of inducing the purchase of his products in commerce respondent, by means of advertisements inserted in newspapers, has made various representations concerning discounts and savings on his said merchandise, among and typical of which but not all inclusive are the following:

**\$1 SALE**

**ALL NEW 1951 MODELS**

**TELEVISION \$1—Refrigerators \$1**

**WASHERS \$1—IRONERS \$1**

**FREEZERS \$1—RANGES \$1**

**ALSO RADIOS—FANS**

**RADIO-COMBINATIONS &**

**APPLIANCES ALL FOR JUST \$1**

**HERE'S ALL YOU DO:**

**Buy Any Famous Make TV,**

**Radio or Appliance . . .**

**THEN CHOOSE Another FOR**

**JUST \$1 MORE**

Thousands of Washingtonians know just what we mean when we say 'Save a Fist-Full of Dollars . . . That's right, thousands have bought in this AMAZING SALE and come away with Money a-plenty in their pockets, YET THEY'VE BOUGHT MORE THAN EVER BEFORE WITH LESS . . . it's so EASY! Get TWO brand new appliances for the price of one, PLUS ONE DOLLAR! Purchase ANY appliance, large or small, then from the list tagged on your choice, take home a second choice and pay only ONE DOLLAR for it. That's how it works on all Famous Name appliances in the entire store. Hurry down tomorrow night, DON'T YOU MISS OUT!

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15% DOWN

TAKE 18 Months to Pay!

PAR. 4. By means of the statements contained in the aforesaid advertisement, respondent represented that if a television set, radio or appliance is purchased at the regular price, another television set, radio or appliance of the same kind and value may be purchased for an additional \$1.00.

PAR. 5. The aforesaid statements are false, misleading and deceptive. In truth and in fact, the purchase of a television set, radio or appliance at the regular price did not entitle the purchaser to purchase another television set, radio or appliance of the same kind and value for an additional \$1.00. On the contrary, the article of merchandise which could be purchased for the additional \$1.00 was based upon the price of the article purchased and was of much less value and price than the article purchased. While an explanation is made near the bottom of the advertisement as to the articles which may actually be purchased for \$1.00, such explanation is contrary to the offer contained in the main portion of the advertisement and in such comparatively small type that it does not constitute adequate notice of the actual offer of respondent.

PAR. 6. In the course and conduct of his said business, respondent has been and is in substantial competition in commerce with corporations and other firms and individuals likewise engaged in the sale and distribution of the aforesaid merchandise.

PAR. 7. The use by the respondent of the foregoing false and misleading representations had the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the mistaken and erroneous belief that such representations were true and to induce a substantial portion of the purchasing public, because of such mistaken and erroneous belief, to purchase respondent's said products. As a result thereof, trade in commerce has been and is unfairly diverted to respondent from his competitors in consequence of which substantial injury has been and is being done by respondent to his competitors in commerce.

PAR. 8. The acts and practices of the respondent, as herein alleged, were all to the prejudice and injury of the public and of respondent's competitors and constituted unfair and deceptive acts and practices in commerce and unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

CONSENT SETTLEMENT<sup>1</sup>

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on October 30, 1951, issued and subsequently served its complaint on the respondent named in the caption hereof, charging him with unfair and deceptive acts and practices in commerce and unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

The respondent, desiring that this proceeding be disposed of by the consent settlement procedure provided in Rule V of the Commission's Rules of Practice, solely for the purpose of this proceeding; any review thereof, and the enforcement of the order consented to, and conditioned upon the Commission's acceptance of the consent settlement hereinafter set forth, and in lieu of answer to said complaint, respondent hereby:

1. Admits all the jurisdictional allegations set forth in the complaint.

2. Consents that the Commission may enter the matters hereinafter set forth as its findings as to the facts, conclusion, and order to cease and desist. It is understood that the respondent, in consenting to the Commission's entry of said findings as to the facts, conclusions, and order to cease and desist, specifically refrains from admitting or denying that he has engaged in any of the acts or practices stated therein to be in violation of law.

3. Agrees that this consent settlement may be set aside in whole or in part under the conditions and in the manner provided in paragraph (f) of Rule V of the Commission's Rules of Practice.

The admitted jurisdictional facts, the statement of the acts and practices which the Commission had reason to believe were unlawful, the conclusion based thereon, and the order to cease and desist, all of which the respondent consents may be entered herein in final disposition of this proceeding, are as follows:

## FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Albert A. Schwartz is an individual trading as Electrical Center with his office and principal place of business located at 414 10th Street, N. W., Washington, D. C.

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<sup>1</sup> The Commission's "Notice" announcing and promulgating the consent settlement as published herewith, follows:

The consent settlement tendered by the parties in this proceeding, a copy of which is served herewith, was accepted by the Commission on January 29, 1952, and ordered entered of record as the Commission's findings as to the facts, conclusion, and order in disposition of this proceeding.

The time for filing report of compliance pursuant to the aforesaid order runs from the date of service hereof.

## Findings

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PAR. 2. Respondent is now, and for more than one year last past has been, engaged in the sale and distribution, among other things, of television sets, radios and various household appliances in the District of Columbia, such sale and distribution being in commerce, as "commerce" is defined in the Federal Trade Commission Act. His volume of business in such commerce is and has been substantial.

PAR. 3. In the course and conduct of his aforesaid business and for the purpose of inducing the purchase of his products in commerce respondent, by means of advertisements inserted in newspapers, has made various representations concerning discounts and savings on his said merchandise, among and typical of which, but not all inclusive, are the following:

- \$1 SALE
- ALL NEW 1951 MODELS
- TELEVISION \$1—Refrigerators \$1
- WASHERS \$1—IRONERS \$1
- FREEZERS \$1—RANGES \$1
- ALSO RADIOS—FANS
- RADIO-COMBINATIONS &
- APPLIANCES ALL FOR JUST \$1
- HERE'S ALL YOU DO:
- Buy Any Famous Make TV,
- Radio or Appliance . . .
- THEN CHOOSE Another FOR
- JUST \$1 MORE

Thousands of Washingtonians know just what we mean when we say 'Save a Fist-Full of Dollars . . . That's right, thousands have bought in this AMAZING SALE and come away with Money a-plenty in their pockets, YET THEY'VE BOUGHT MORE THAN EVER BEFORE WITH LESS . . . it's so EASY! Get TWO brand new appliances for the price of one, PLUS ONE DOLLAR! Purchase ANY appliance, large or small, then from the list tagged on your choice, take home a second choice and pay only ONE DOLLAR for it. That's how it works on all Famous Name appliances in the entire store. Hurry down tomorrow night, DON'T YOU MISS OUT!

15% DOWN

TAKE 18 Months to Pay! ●

PAR. 4. By means of the statements contained in the aforesaid advertisement, respondent represented that if a television set, radio or appliance is purchased at the regular price, another television set, radio or appliance of the same kind and value may be purchased for an additional \$1.00.

PAR. 5. The aforesaid statements are false, misleading and deceptive. In truth and in fact, the purchase of a television set, radio or appliance at the regular price did not entitle the purchaser to purchase another television set, radio or appliance of the same kind and

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value for an additional \$1.00. On the contrary, the article of merchandise which could be purchased for the additional \$1.00 was based upon the price of the article purchased and was of much less value and price than the article purchased. While an explanation is made near the bottom of the advertisement as to the articles which may actually be purchased for \$1.00, such explanation is contrary to the offer contained in the main portion of the advertisement and in such comparatively small type that it does not constitute adequate notice of the actual offer of respondent.

PAR. 6. In the course and conduct of his said business, respondent has been and is in substantial competition in commerce with corporations and other firms and individuals likewise engaged in the sale and distribution of the aforesaid merchandise.

PAR. 7. The use by the respondent of the foregoing false and misleading representations had the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the mistaken and erroneous belief that such representations were true and to induce a substantial portion of the purchasing public, because of such mistaken and erroneous belief, to purchase respondent's said products. As a result thereof, trade in commerce has been and is unfairly diverted to respondent from his competitors in consequence of which substantial injury has been and is being done by respondent to his competitors in commerce.

## CONCLUSION

The aforesaid acts and practices of respondent, as herein alleged, are in violation of Section 5 of the Federal Trade Commission Act and constitute unfair and deceptive acts and practices in commerce and unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

## ORDER TO CEASE AND DESIST

*It is ordered,* That the respondent Albert A. Schwartz, an individual trading as Electrical Center or trading under any other name or style, his representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing in any manner that by purchasing an article or articles of merchandise the purchaser may purchase an additional article or articles for \$1.00 or for any other sum or sums unless the additional article or articles and the respondent's usual and regular

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selling prices thereof are clearly set out in immediate connection with the order merchandise offered.

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

/s/ ALBERT A. SCHWARTZ.

Albert A. Schwartz, an individual trading as Electrical Center.

The foregoing consent settlement is hereby accepted by the Federal Trade Commission and ordered entered of record on this the 29th day of January 1952.

D. C. DANIEL, *Secretary*.

## Order

IN THE MATTER OF  
GOLD-TONE STUDIOS, INC. ET AL.

## MODIFIED CEASE AND DESIST ORDER

*Docket 4779. Order, Jan. 30, 1952*

Modified order, in accordance with decree below referred to, in proceeding in question in which original order issued on September 2, 1948, 45 F. T. C. 206 at 217, and in which the Court of Appeals for the Second Circuit on July 5, 1950, in *Gold-Tone Studios, Inc. et al. v. Federal Trade Commission*, 183 F. (2d) 237, rendered its opinion and decision, and on August 7, 1950, entered its final decree modifying paragraph 4 of the desist order by adding to the end the proviso as below set forth, and affirming, as thus modified, the order to cease and desist—

Requiring respondent, in connection with the offer, etc., in commerce, of pictures or photographs, to cease and desist from the use of the words "oil painted portrait", "oil colored portrait", "Gold-Tone", etc., and from other misrepresentations as to prices, special and limited offers and values, as in said order in detail below set out.

Before *Mr. J. Earl Cox*, trial examiner.

*Mr. S. F. Rose* and *Mr. Joseph Callaway* for the Commission.

*MacFarlane, Harris & Goldman*, of Rochester, N. Y., for respondents.

## MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answers of respondents, testimony and other evidence introduced before a trial examiner, and briefs and oral argument in support of and in opposition to the complaint; and the Commission having made its findings as to the facts and conclusion that the respondents have violated the provisions of the Federal Trade Commission Act and issued its order to cease and desist on September 2, 1948; and

Respondents Gold-Tone Studios, Inc., a corporation also trading as Camera Art Company; Irving A. Stern, individually and as president and a director of Gold-Tone Studios, Inc., and a copartner in the firm trading as Camera Art Company; Paul A. McGuire, individually and as vice president and director of Gold-Tone Studios, Inc., and a copartner in the firm trading as Camera Art Company; Berthold Eidlin, individually and as secretary-treasurer of Gold-Tone Studios, Inc., and a copartner in the firm trading as Camera Art Company; and Marion Stern, Doris McGuire, Emanuel Eidlin, and Ephraim Eidlin, individuals and members of the firm trading as Camera Art Company,