

IN THE MATTER OF

HAROLD SCHIFF AND MAX SCHIFF DOING BUSINESS AS
SUN VACUUM CLEANER COMPANYCONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 6342. Complaint, May 5, 1955—Decision, Aug. 19, 1955*

Consent order requiring operators of retail stores in Washington, D. C., and Baltimore, Md., to cease representing falsely in "bait" advertising in newspapers and by telephone calls that they were making bona fide offers to sell new and reconditioned vacuum cleaners at specified low prices, when actually the offers were made only to obtain leads to prospects; and to cease representing falsely that new vacuum cleaners offered for sale were of a well-known make and were unconditionally guaranteed.

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

Mr. Michael J. Vitale for the Commission.

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 Harold Schiff and Max Schiff, copartners trading and doing business as the Sun Vacuum Cleaner Company, hereinafter referred to as the respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondents Harold Schiff and Max Schiff are copartners trading and doing business under the name of Sun Vacuum Cleaner Company. They operate retail stores located at 713 G Street N. W., Washington, D. C., and 1037 Light Street, Baltimore, Maryland. Their post office address is 1037 Light Street, Baltimore, Maryland. Said respondents cooperate and act together in performing the acts and practices hereinafter set forth.

PAR. 2. Respondents are now, and for more than one year last past have been, engaged in the sale and distribution of vacuum cleaners among other things. In the course and conduct of their said business

respondents have caused and now cause their vacuum cleaners when sold to be transported from their places of business at the aforesaid addresses to purchasers located in the District of Columbia and in various States of the United States. They maintain, and at all times mentioned herein have maintained a course of trade in said product in commerce in the District of Columbia and between the District of Columbia and various States, and between various States of the United States. Their volume of trade in said commerce has been and is substantial.

PAR. 3. At all times mentioned herein respondents have been, and are now, in direct and substantial competition with corporations, firms and other individuals engaged in the sale and distribution of vacuum cleaners in commerce.

PAR. 4. In the course and conduct of their business, as aforesaid, and for the purpose of inducing the purchase of their vacuum cleaners, the respondents have made various statements in newspapers of general circulation. Among and typical of such statements are the following:

SUN
VACUUM CLEANER CO.

713 G. St., N. W.

DI 7-4400

Large Size
Model 12

ELECTROLUX
Reconditioned & Guaranteed by Sun Vacuum

Picture of Electrolux

Complete With
All Attachments

This is the famous large size model 12 Electrolux, not to be confused with smaller models. They have been completely reconditioned by Sun Vacuum and are fully guaranteed.

For Free Home
Demonstration
Call DI 7-4400

BUY NOW
AND SAVE!

New Low Price
\$12.95
Easy terms
\$1 Delivers

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SUN
VACUUM CLEANER CO.

713 G St., N.W.

DI 7-1058

Lowest Price Ever:

Brand New! (Not Reconditioned)

Famous Cannister Type

VACUUM CLEANER

Complete With All Attachments

Your Fingers Never Touch the Dirt!

It's brand New! It's a well-known make! It'll do a beautiful job of cleaning rugs, drapes, furniture, etc., because you get ALL the attachments at this one Amazing Price! It is fully Guaranteed by The Famous Maker and by Sun Vacuum Cleaner Co.

1 Year Free Service

Picture of
Vacuum Cleaner

New Low Price
\$16.95 Easy Terms
\$1 Delivers

For Free Home
Demonstration
Call DI 7-1058

After 8 P. M.
Call DI 7-4400

Respondents, through agents or representatives, have also solicited the sale of their vacuum cleaners by telephone in which the statements in the aforesaid advertisements were made in substance.

PAR. 5. By and through the use of the said statements, and others of similar import but not specifically set out herein, respondents represented directly or by implication:

1. That they were making bona fide offers to sell new and reconditioned vacuum cleaners at the low prices specified in the advertising.
2. That the new vacuum cleaner offered for sale was of a well-known make.
3. Through the use of the words "guaranteed" and "fully guaranteed" that their vacuum cleaners were fully and unconditionally guaranteed.

PAR. 6. The aforesaid statements and representations were false, deceptive and misleading. In truth and in fact:

1. The said cleaners would not do a satisfactory job of cleaning, and the said offers were not genuine or bona fide offers in that respondents did not intend to sell the cleaners advertised and offered for sale but were made for the purpose of obtaining leads and information as to persons interested in the purchase of vacuum cleaners. After obtaining such leads through response to said advertisements and telephone solicitations, respondents or their salesmen,

called upon the persons so responding at their homes or waited upon them at respondents' place of business, and demonstrated such cleaners, well knowing that their performance would be unsatisfactory; made little or no effort to sell the advertised cleaners but in many instances attempted to, and frequently did, sell different and more expensive vacuum cleaners to such persons.

2. The vacuum cleaner represented as being of a well-known make in the aforesaid advertisements was not of a well-known make.

3. The guarantee given for the vacuum cleaners, if any, was limited and conditional.

PAR. 7. The use by the respondents of the aforesaid false, deceptive, and misleading statements, representations, and practices had the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements and representations were true, and, because of such statements, representations, and practices, to purchase substantial quantities of respondents' vacuum cleaners, particularly their more expensive vacuum cleaners. As a result thereof, substantial trade in commerce had been unfairly diverted to respondents from their competitors and substantial injury has been done to competition in commerce.

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

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges that Harold Schiff and Max Schiff, copartners doing business as Sun Vacuum Cleaner Company, with a retail store and principal place of business at 1037 Light Street, Baltimore, Maryland, and another retail store at 713 G Street NW., Washington, D. C., have been and are now engaged in the sale and distribution in commerce of vacuum cleaners and other merchandise, and that they have violated the Federal Trade Commission Act by making false, deceptive and misleading statements and representations regarding their vacuum cleaners, for the purpose of inducing the purchase thereof by the public. After the issuance of the complaint and prior to the date for filing answer, the respondents entered into a Stipulation For Consent Order with counsel supporting the complaint, which was thereafter approved by the Director, Bureau of Litigation of the Commission and transmitted to the hearing examiner for consideration.

Order

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The stipulation provides, among other things, that respondents admit all the jurisdictional allegations set forth in the complaint and that the record herein may be taken as if findings of jurisdictional facts had been made in accordance with such allegations; that the stipulation, together with the complaint, shall constitute the entire record herein; that the complaint may be used in construing the order agreed upon, which may be altered, modified or set aside in the manner provided by statute for orders of the Commission; that the signing of the stipulation is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint; and that the order provided for in the stipulation and hereinafter included in this decision shall have the same force and effect as if made after a full hearing, presentation of evidence and findings and conclusions thereon.

All parties waive the filing of answer, hearings before a hearing examiner or the Commission, the making of findings of fact or conclusions of law by the hearing examiner or the Commission, the filing of exceptions and oral argument before the Commission, and all further and other procedure before the hearing examiner and the Commission to which respondents may be entitled under the Federal Trade Commission Act or the rules of the Commission, including any and all right, power or privilege to challenge or contest the validity of the order entered in accordance with the stipulation.

The order agreed upon conforms to the order contained in the notice accompanying the complaint, and disposes of all the issues raised in the complaint. The Stipulation For Consent Order is therefore accepted, this proceeding is found to be in the public interest, and the following order is issued:

It is ordered, That respondents Harold Schiff and Max Schiff, co-partners, trading and doing business as Sun Vacuum Cleaner Company, or trading and doing business under any other name or names, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of vacuum cleaners or other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that certain merchandise is offered for sale when such offer is not a bona fide offer to sell the merchandise so offered:
2. Representing, directly or by implication, that any merchandise being offered for sale is of a well-known make when such is not the case;

3. Representing, directly or indirectly, that any merchandise is guaranteed to an extent greater than is the fact; or using in advertising or sales literature the word "Guarantee," unless the nature and extent of the guarantee and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 19th day of August, 1955, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Harold Schiff and Max Schiff, co-partners trading and doing business as Sun Vacuum Cleaner Company, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Complaint

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IN THE MATTER OF

LEO NELSON, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT AND OF THE FUR PRODUCTS LABELING
ACT

Docket 6341. Complaint, May 4, 1955—Decision, Aug. 25, 1955

Consent order requiring a furrier in Hackensack, N. J., to cease violating the Fur Products Labeling Act by advertising in newspapers which misrepresented prices, values, and source of its fur products, failed to disclose the names of animals producing the fur in certain products or the fact that it was artificially colored, and otherwise failed to conform to requirements of the Act.

Before *Mr. Frank Hier*, hearing examiner.

Mr. John T. Walker for the Commission.

Brenman & Susser, of Paterson, N. J., for respondents.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Leo Nelson, Inc., a corporation, and Leo Nelson, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts, and the Rules and Regulations promulgated under the Fur Products Labeling 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, Leo Nelson, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey. Respondent Leo Nelson, an individual, is president of respondent, Leo Nelson, Inc., and in said capacity formulates and controls the policies and practices of said corporate respondent. The said corporate respondent and said individual respondent have their office and principal place of business located at 260 Main Street, Hackensack, New Jersey.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondents have been, and are now, engaged in the introduction into commerce, and in the sale, advertising, and offering for sale in commerce, and in the transportation and distribution in commerce, of fur products, and have sold, advertised, offered for sale, transported and distributed fur products which have