

IN THE MATTER OF
MASTERLINE CORPORATION ET AL.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 6291. Complaint, Jan. 26, 1955—Decision, Sept. 1, 1955

Order requiring a corporate seller in Philadelphia (individual respondents having been dismissed) in advertising aluminum storm doors, aluminum storm windows, and aluminum awnings, to cease misrepresenting the terms and conditions of sale, guarantees, indorsements, protective features, prices, and combination offers.

Mr. Daniel J. Murphy and Mr. William L. Taggart for the Commission.

Fox, Rothschild, O'Brien & Frankel, of Philadelphia, Pa., for respondents.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on January 26, 1955, issued and subsequently served its complaint in this proceeding upon the respondents Masterline Corporation, a corporation, and Morris Marder, Henry Yusem, Myrna Yusem and Rita Marder, individually and as officers of said corporation, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said Act. In the "Notice" portion of said complaint there was set out a provisional order with the statement that such order shall issue unless the respondent shall file an answer within the time designated in the complaint and appear at the time and place fixed for the hearing.

Subsequent thereto, the respondent Masterline Corporation, a corporation, failed to file its answer in this proceeding or to appear before the hearing examiner on April 6, 1955, the date set for initial hearing in the complaint, and was declared in default. Upon motion of the attorney in support of the complaint the proceeding was continued to May 12, 1955, at which time said attorney presented an affidavit executed by the individual respondents Morris Marder and Henry Yusem, stating that they were officers of the respondent corporation at the time of the issuance of the complaint and that the respondents Myrna Yusem, wife of Henry Yusem, and Rita Marder, wife of Morris Marder, were nominal directors and nominal officers

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of said corporation and were not engaged in the operation of said corporation; that said corporation was declared bankrupt by order of the United States District Court, Eastern District of Pennsylvania, and the assets of said business were being disposed of by a receiver in bankruptcy appointed by said United States District Court; that said respondents are not now engaged in the storm window business and do not intend to resume said business; and that in any business in which they may henceforth engage they will not allow or permit themselves to be part of practices of the types as alleged in the complaint. On the basis of said affidavit, the attorney in support of the complaint moved that the individual respondents, Morris Marder, Henry Yusem, Myrna Yusem and Rita Marder, be dismissed, which motion having been sustained by the hearing examiner, and default having been entered against the corporate respondent, Masterline Corporation, and the hearing examiner, having duly considered the record herein, makes the following findings as to the facts, conclusions drawn therefrom and order:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Masterline Corporation is a corporation organized under the laws of the State of Pennsylvania with its office and principal place of business located at the time of the filing of the complaint at the southeast corner of Cedar and Cambria Streets, Philadelphia 34, Pennsylvania.

PAR. 2. For several years last past said respondent, Masterline Corporation, a corporation, has been engaged in the sale and distribution in interstate commerce of aluminum storm windows, aluminum storm doors and aluminum awnings. In the course of said business the respondent has made many statements and representations, concerning said products, by means of advertisements inserted in newspapers and by other means in commerce which represent directly or by implication—

1. When purchases are made on credit the first payment is not due for a specified period of time, usually several months and that purchasers may use the products free in the meantime.
2. Respondents' products are unconditionally guaranteed, that their installations are fully guaranteed to last a lifetime and that purchasers are guaranteed a lifetime of trouble-free service.
3. Respondents' aluminum windows are approved or endorsed by disinterested organizations of national repute.
4. Respondents' doors and windows have 100% burglar proof locks or latches.

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5. An aluminum door, with an ornamental grille is a gift or gratuity without charge except for a slight charge for installation and hardware.

6. Respondents' products are sold at the lowest prices in America.

7. A regular \$90 screen storm door may be purchased at a greatly reduced price when purchased in combination with other merchandise and that accessory items such as mail slot, door pump, lock, safety chain, ornamental grille and weather resistant door sweep are included in the reduced price and that only the cost of installation is extra.

8. A bona fide offer is being made to sell products pictured or described in advertisements at a greatly reduced price in combination with the purchase of other products.

PAR. 3. The foregoing representations were grossly exaggerated, false and misleading. In truth and in fact—

1. The purchasers on credit may not use the products free until the due date of the first payment as they are required to pay additional interest charges to cover the period preceding the payment of the initial installment.

2. Respondents' products are not unconditionally guaranteed; their installations are not fully guaranteed to last a lifetime and purchasers are not guaranteed a lifetime of trouble-free service.

3. Respondents' aluminum doors are not nationally approved.

4. Respondents' doors and windows are not equipped with 100% burglar proof locks or latches.

5. An aluminum door with ornamental grille is not a gift or gratuity without charge except for a slight charge for installation and hardware.

6. Respondents' products are not sold at the lowest prices in America.

7. The greatly reduced price for a regular \$90 screen storm door, purchased in combination with other merchandise, does not include the cost of accessories such as mail slot, door pump, lock, safety chain, ornamental grille and weather resistant door sweep.

8. Offers were not bona fide offers to sell products pictured or described at greatly reduced prices in combination with the purchase of other products. On the contrary, respondents' said offers were made for the purpose of developing leads as to prospective purchasers of respondents' products at greatly increased prices.

PAR. 4. The said respondent, in the course and conduct of its business, was in substantial competition in commerce with other corpora-

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tions and with individuals, partnerships and others engaged in the sale of aluminum storm windows, aluminum storm doors and aluminum awnings.

PAR. 5. The use by the respondent of the foregoing false, misleading and deceptive representations and statements had the tendency and capacity to mislead and deceive the purchasing public into the erroneous and mistaken belief that such statements and representations were and are true, and into the purchase of substantial quantities of respondent's products because of such erroneous and mistaken belief. As a result thereof, trade has been unfairly diverted to the respondent from its competitors in commerce and substantial injury has been done to competition in commerce.

CONCLUSION

The aforesaid acts and practices of respondent, as herein found, are all to the prejudice and injury of the public and constitute unfair methods of competition and unfair and deceptive acts and practices, in commerce, within the intent and meaning of the Federal Trade Commission Act.

ORDER

It is ordered, That respondent Masterline Corporation, a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device in connection with the sale or distribution of aluminum storm doors, aluminum storm windows, or aluminum awnings in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

1. That credit customers have free use of items for the period preceding the due date of the initial payment, when in fact they are charged with interest during such period.
2. That any of said products are fully guaranteed, or are unconditionally guaranteed, or are sold with a lifetime guarantee, or that installations are guaranteed for a lifetime of service or that the guarantee assures users of a lifetime of trouble-free performance.
3. That any of said products are guaranteed unless the nature and extent of the guarantee and the manner in which the guarantor will perform are clearly and conspicuously disclosed.
4. That their Alumatic windows are nationally approved.
5. That the locks or latches with which their storm doors and windows are equipped are burglar proof.

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6. That any of said products are free or may be purchased at reduced prices, without clearly and conspicuously disclosing in immediate conjunction with any such offer all of the terms and conditions thereof, including the need to purchase additional merchandise, if such is the case.

7. That any of said products are offered at America's lowest price.

8. By pictorial illustrations or otherwise, that the advertised price of any of said products includes any equipment or accessories for which an additional charge is made.

9. That products are offered for sale when such offer is not a bona fide offer to sell the products, so, and as, offered.

It is further ordered, That the complaint be, and the same is hereby, dismissed as to the individual respondents Morris Marder, Henry Yusem, Myrna Yusem and Rita Marder.

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 did, on the 1st day of September, 1955, become the decision of the Commission; and, accordingly:

It is ordered, That respondent Masterline Corporation, a corporation, shall within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Complaint

IN THE MATTER OF

GADGET-OF-THE-MONTH CLUB, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT*Docket 6256. Complaint, Oct. 29, 1954—Decision, Sept. 8, 1955*

Consent order requiring sellers in Los Angeles, Calif., to cease misrepresenting the number to be received within a stated period and the total retail price of "gadgets" sent to members of its Gadget-of-the-Month Club.

Before *Mr. Abner E. Lipscomb*, hearing examiner.

Mr. Michael J. Vitale and *Mr. Edward F. Downs* 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 Gadget-of-the-Month Club, Inc., a corporation, and Don L. Davis, and Mary Lou Moffitt Davis, individually and as officers of said corporation, hereinafter referred to as 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. Respondent, Gadget-of-the-Month Club, Inc., is a corporation organized and existing under and by virtue of the laws of the State of California, with its office and principal place of business located at 6600 Lexington Avenue, Los Angeles, California. Respondent, Don L. Davis and Mary Lou Moffitt Davis, are President and Secretary-Treasurer, respectively, of corporate respondent. These individuals formulate, direct, and control the policies, acts, and practices of said corporation. The address of the individual respondents is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for several years last past have been, engaged in the business of offering for sale, and selling to members of the purchasing public miscellaneous articles of merchandise referred to as "gadgets." In the course and conduct of their business, respondents cause and have caused their said "gadgets" when sold, to be transported from their place of business in the State of California to purchasers thereof located in various other States in the United States, and maintain and at all times mentioned herein have