

the initial decision of the hearing examiner shall, on the 16th day of February, 1961, become the decision of the Commission; and, accordingly:

It is ordered. That respondent John J. Tierney, an individual trading as Artisan Galleries, shall, within sixty (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 the order to cease and desist.

IN THE MATTER OF

ABC JALOUSIE CO. OF WASH., INC., ET AL.

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

Docket 7819. Complaint, Mar. 11, 1960—Decision, Feb. 17, 1961

Consent order requiring three affiliated concerns—two in Washington, D.C., and one in Baltimore—and their common officers, to cease using bait advertisements and fictitious pricing and savings claims to sell their jalousies, storm windows and doors, and carpeting; and to cease representing falsely that the pile of carpeting they offered for sale was composed of nylon.

COMPLAINT

Pursuant to the provision 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 ABC Jalousie Co. of Wash., Inc., Coronet Carpet Co., Inc., and Air Tite Aluminum Products Corporation, corporations, and William Spirt, John Spirt, and Loretta Zawicki, individually and as officers of said corporations, and Harry Weiss, individually, 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 ABC Jalousie Co. of Wash., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the District of Columbia, with its principal office and place of business located in the State of Maryland adjacent to the District of Columbia but receiving mail at 1917 - 47th Avenue, Northeast, in the city of Washington, D. C.

Respondent Coronet Carpet Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its principal office and place of business located in the State of Maryland adjacent to the District of Columbia but receiving mail at 1917 - 47th Avenue, Northeast, in the City of Washington, D. C.

Respondent Air Tite Aluminum Products Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its principal office and place of business located at 2109 Frederick Avenue in the City of Baltimore, State of Maryland.

Respondents William Spirt, John Spirt, and Loretta Zawicki are officers of each of said corporate respondents. They formulate, direct, and control the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. Their addresses are as follows: William Spirt, 4119 Boarman Avenue, Baltimore, Maryland, John Spirt, 2000 Erie Street, Hyattsville, Maryland, and Loretta Zawicki, 114 Cherrydale Road, Baltimore 28, Maryland.

Respondent Harry Weiss was, until October, 1958, an officer of respondent Coronet Carpet Co., Inc. While an officer he formulated, directed, and controlled the acts and practices of said corporate respondent, including the acts and practices hereinafter set forth. Hereinafter when the present tense is used, in so far as respondent Harry Weiss is concerned, it is meant to relate to the period when said respondent was such an officer. His address is 1519 New York Avenue, Northeast, Washington, D. C.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of various items of merchandise suitable for use in or as a part of persons' homes, including jalousies, storm windows and doors, and carpeting, to the public, as hereinafter set forth.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of Maryland to purchasers thereof located in the District

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of Columbia and in various States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondent ABC Jalousie Co. of Wash., Inc., for the purpose of inducing the purchase of its products, has engaged in the practice of inserting in its advertising, in connection with its jalousies, statements serving as representations that a purchaser acting promptly will save a certain percentage of the prices usually charged by respondents, typical of which, but not all inclusive, are the following statements:

Act now. Save 40%

* * *

40% off. Act now . . .

limited time opportunity.

Subsequently, said respondent's representatives, when calling upon persons who have responded to such advertisements, first quote prices which are represented to be those which respondent regularly charges. The advertised saving is then deducted from such prices to arrive at the final quoted prices.

PAR. 5. Through the use of the words "save", "off" and similar words, said respondent represented that the amounts subsequently quoted by its representatives are the prices at which said respondent usually and customarily sold the advertised merchandise in its recent regular course of business and, through the use of said amounts and the lesser amounts, that the difference between said amounts and lesser amounts represent savings from the prices at which the said merchandise had been sold by respondent in the recent regular course of its business.

PAR. 6. The aforesaid statements and representations were and are false, misleading and deceptive. In truth and in fact, the amounts first quoted to prospective purchasers are in excess of the prices at which said respondent's products had been sold by respondent in the recent regular course of its business and the differences between said amounts and the lesser amounts did not represent savings from the prices at which said products had been sold by said respondent in the recent regular course of its business.

PAR. 7. Respondent Coronet Carpet Co., Inc., and Air Tite Aluminum Products Corporation, for the purpose of inducing the purchase of their merchandise, engage in the practice of initially offering, by means of advertisements inserted in newspapers, certain merchandise described and depicted as having various characteristics relating to, among other things, grade, quality, size, and usability

and offered at apparently low prices. However, when prospects who have responded to such advertisements are called upon, the representatives of said respondents discourage the purchase of said initially offered merchandise by various methods including, but not confined to, refusing to show, demonstrate, or sell said merchandise, disparaging by acts or words said merchandise, failing to have said merchandise available in sizes suitable for average use, or showing or demonstrating merchandise not having the advertised characteristics or which is defective, unsuitable, unusable, or impractical for the purpose represented or implied in said initial offer. In truth and in fact said respondents' representatives have no intention or desire to sell the initially offered merchandise or to sell any merchandise at the advertised prices. As a result of the foregoing practices, respondents seldom if ever sell the initially offered merchandise or any merchandise at the advertised prices but instead succeed in selling prospects higher-priced merchandise. Respondents thus use the aforesaid initial offers as baits to lure prospects into buying higher-priced merchandise.

PAR. 8. Respondent Coronet Carpet Co., Inc., by its representatives, for the purpose of inducing the purchase of its carpeting, represent to prospects called upon that the pile or wearing surface of the carpeting offered for sale is composed entirely or in substantial part of nylon. In truth and in fact, such pile or wearing surface contains no nylon.

PAR. 9. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of merchandise of the same general kind and nature as that sold by respondents.

PAR. 10. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were, and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief. As a consequence thereof, substantial trade in commerce has been, and is being, unfairly diverted to respondents from their competitors and substantial injury has thereby been, and is being, done to competition in commerce.

PAR. 11. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute,

unfair and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.

Mr. Brockman Horne for the Commission.

Silbert & Gomborov, by *Mr. Harry Silbert*, of Baltimore, Md., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on March 11, 1960, charging all Respondents except Harry Weiss with violation of the Federal Trade Commission Act in advertising their merchandise, including jalousies, storm windows and doors, and carpeting, by the use of false, misleading and deceptive statements and representations as to savings possible to purchasers of their jalousies, and the fiber content of their carpeting, and by offering certain merchandise as baits to lure prospects into buying higher-priced merchandise. The complaint charges Respondent Harry Weiss with the same violations of said Act as Respondent Coronet Carpet Co., Inc., of which he was an officer until October, 1958.

Thereafter, on October 25, 1960, Respondent Harry Weiss, his counsel and counsel supporting the complaint herein entered into an Agreement Containing Consent Order To Cease And Desist, which was approved by the Director, Acting Associate Director, and Assistant Director of the Commission's Bureau of Litigation, and, on November 14, 1960, submitted to the Hearing Examiner for consideration.

This agreement identifies Respondent Harry Weiss as an individual whose residence address is 3911 Seven Mile Lane, Baltimore, Maryland. His former address was 1519 New York Avenue, N. E., Washington, D. C.

On November 8, 1960, all the other Respondents herein, their counsel, and counsel supporting the complaint entered into a similar Agreement Containing Consent Order To Cease And Desist, which was approved by the Director, Acting Associate Director and Assistant Director of the Commission's Bureau of Litigation, and, on November 14, 1960, submitted to the Hearing Examiner for consideration.

This agreement identifies Respondent ABC Jalousie Co. of Wash., Inc. as a District of Columbia corporation, with its principal office and place of business located in Maryland adjacent to the District of Columbia, but receiving mail at 1917-47th Avenue, N.E., Washington, D.C.; Respondent Coronet Carpet Co., Inc., as a Maryland corporation, with its principal office and place of business located

in Maryland adjacent to the District of Columbia, but receiving mail at 1917 - 47th Avenue, N.E., Washington, D.C.; Respondent Air Tite Aluminum Products Corporation as a Maryland corporation, with its principal office and place of business located at 2109 Frederick Avenue, Baltimore, Maryland; Respondents William Spirt and John Spirt as officers of each of said corporate respondents, who formulate, direct and control the acts and practices of the corporate respondents, their residence addresses being, respectively, 4119 Boarman Avenue, Baltimore, Maryland, and 2000 Erie Street, Hyattsville, Maryland; and Respondent Loretta Zawicki as an officer of each of said corporate respondents, her residence address being 114 Cherrydale Road, Baltimore 28, Maryland.

An affidavit is attached to this agreement, on the basis of which all parties signatory to this agreement agree that the complaint herein should be dismissed as to Respondent Loretta Zawicki in her individual capacity, since, as attested by the affidavit, she had no part in the policy-making of said corporations but merely performed the normal duties of stenographer and secretary.

In both agreements, Respondents admit all the jurisdictional facts alleged in the complaint, and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

Respondents waive any further procedure before the Hearing Examiner and the Commission: the making of findings of fact and conclusions of law; and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreements. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreements; that the order to cease and desist, as contained in the agreements, when it shall have become a part of the decision of the Commission, shall have the same force and effect as if entered after a full hearing, and may be altered, modified or set aside in the manner provided for other orders; that the complaint herein may be used in construing the terms of said order; and that the agreements are for settlement purposes only and do not constitute an admission by Respondents that they have violated the law as alleged in the complaint.

After consideration of the allegations of the complaint and the provisions of the agreements and the proposed order, the Hearing Examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreements, the Hearing Examiner accepts the

Agreements Containing Consent Order To Cease And Desist; finds that the Commission has jurisdiction over the Respondents and over their acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That Respondent Harry Weiss, individually, and Respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of carpeting, or any other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from offering for sale any merchandise when such offer is not a bona fide offer to sell the merchandise so offered.

It is further ordered. That Respondent Harry Weiss, individually, and Respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of carpeting or any other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting in any manner the character or amount of the constituent fibers contained in merchandise.

It is further ordered. That Respondents ABC Jalousie Co. of Wash., Inc., a corporation, and its officers, and William Spirt and John Spirt, individually and as officers of said corporation, and Loretta Zawicki, as an officer of said corporation, and Respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale or distribution of jalousies, or any 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:

- (a) That any amount is Respondents' usual and customary price of merchandise when it is in excess of the price at which said merchandise has been sold by Respondents in the recent regular course of business;

- (b) That any saving is offered in the purchase of merchandise from Respondents' price unless the price at which it is offered constitutes a reduction from the price at which said merchandise has been sold by Respondents in the recent regular course of business;

2. Using the words "save" and "off" in connection with prices that do not represent a reduction from the prices at which the merchandise offered has been sold by Respondents in the recent regular course of business;

3. Misrepresenting in any manner the amount of savings available to purchasers of Respondents' merchandise, or the amount by which

the price of said merchandise is reduced from the price at which it is usually and customarily sold by Respondents in the recent regular course of business.

It is further ordered, That Respondents Coronet Carpet Co., Inc., a corporation, and its officers, Air Tite Aluminum Products Corporation, a corporation, and its officers, and William Spirt and John Spirt, individually and as officers of said corporations, and Loretta Zawicki, as an officer of said corporations, and Respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of storm windows, storm doors or carpeting, or any other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from offering for sale any merchandise when such offer is not a bona fide offer to sell the merchandise so offered.

It is further ordered. That Respondents Coronet Carpet Co., Inc., a corporation, and its officers, and William Spirt and John Spirt, individually and as officers of said corporation, and Loretta Zawicki, as an officer of said corporation, 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 carpeting or any other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting in any manner the character or amount of the constituent fibers contained in merchandise.

It is further ordered. That the complaint be dismissed as to Loretta Zawicki in her capacity as an individual.

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 17th day of February, 1961, become the decision of the Commission; and, accordingly:

It is ordered, That respondents ABC Jalousie Co. of Wash., Inc., a corporation; Coronet Carpet Co., Inc., a corporation; Air Tite Aluminum Products Corporation, a corporation; William Spirt and John Spirt, individually and as officers of said corporations; Loretta Zawicki, as an officer of the above corporations; and Harry Weiss, individually, 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.

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IN THE MATTER OF

HI-GLO ELECTRONICS CORPORATION ET AL.

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

Docket 7960. Complaint, June 17, 1960—Decision, Mar. 1, 1961

Consent order requiring a manufacturer and its corporate sales agent in Goodrich, Mich., to cease representing falsely on labels and otherwise that their rebuilt television picture tubes which contained used parts were new in their entirety, and to clearly disclose that such tubes were rebuilt.

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 Hi-Glo Electronics Corporation, a corporation, and Sylvan Electronics Corporation, a corporation, and Leonard M. Rozner, individually and as an officer of said corporations, 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 Hi-Glo Electronics Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan, with its principal office and place of business located at 8267 South State, Goodrich, Michigan.

Respondent Sylvan Electronics Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan, with its principal office and place of business located at 8267 South State, Goodrich, Michigan. Said corporation is the exclusive sales agent for Hi-Glo Electronics Corporation and both corporations cooperate and act together in carrying out the acts and practices hereinafter set forth.

Respondent Leonard M. Rozner is an officer and major stockholder of both corporate respondents. He formulates, controls and directs the policies, acts and practices of the corporate respondents. His address is the same as that of the corporate respondents.

PAR. 2. Respondents are now, and for some time last past have been engaged in the manufacture, offering for sale, sale and distribu-