

ROBERTS ELECTRIC COMPANY ET AL.

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

Docket C-3. Complaint, Oct. 17, 1961—Decision, Oct. 17, 1961

Consent order requiring Chicago distributors of electric generators, gas and electric motors, air compressors, etc., to cease representing falsely in newspaper advertisements and catalogs that the "Wisconsin 4-Cycle Gas Driven Engine Generating Plant" and all its parts were Government surplus property; that it cost the U.S. Government \$548 and purchasers saved the difference between that and their price of \$249; that excessive amounts were the usual selling prices for a "Reduction Unit", a "3 HP AC Motor", and

a "Briggs & Stratton 4-Cycle Air Cooled Gasoline Engine", and that their lower prices afforded savings to purchasers; and that said products were fully guaranteed.

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 Roberts Electric Company, a corporation, and Robert Boos, individually and as an officer of said corporation, 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. Respondent Roberts Electric Company is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Illinois with its principal office and place of business located at 849 West Grand Avenue, in the city of Chicago, State of Illinois.

Respondent Robert Boos is an individual and an officer of said corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale, and distribution of electric generators, gas and electric motors, air compressors, and other articles of merchandise to manufacturers and wholesalers, to retailers for resale to the public, and to the public.

PAR. 3. In the course and conduct of their business respondents now cause, and for some time last past, have caused their said articles of merchandise, when sold, to be shipped 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, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said articles of merchandise, in commerce, as "commerce" as defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, and for the purpose of inducing the sale of their said articles of merchandise, respondents have made numerous statements and representations respecting the source, the cost to the government, the price, and the guarantee of the said articles of merchandise. Said statements and representations have been made in newspaper advertisements and in catalogues distributed to their customers.

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Typical and illustrative of the foregoing, but not all inclusive thereof, are the following:

Brand New Surplus	Govt. Cost \$548.00	Wisconsin 4-Cycle Gas Driven Engine Generating Plant
Full one year guarantee	Save hundreds of \$\$\$	Only \$249.00 fob
* * *		
Reduction Unit	Fully Guaranteed	Reg. \$69.50 Only \$11.75 pre-paid
* * *		
3 HP AC Motor	Brand New Navy Surplus	Save! Regular \$300.00 Value \$135.00 fob
* * *		
Speed Reducer	Clutch Combination	Transmission
Brand New!	Air Force Surplus	Govt. Cost. \$262.00 Only \$49.50 fob Fully Guaranteed
* * *		
AIR COMPRESSOR		
Brand New		Navy Surplus Only \$34.95 fob
* * *		
Briggs & Stratton 2 $\frac{3}{4}$	Horsepower 4-Cycle	Air Cooled Gasoline Engine Fully Guaranteed
War Surplus	Regular Price \$68.00	Only \$42.50 fob
* * *		
WISCONSIN GAS ENGINES		
Brand New Surplus		
* * *		

GUARANTEE:—MATERIALS & EQUIPMENT PURCHASED CARRY OUR FULL MONEY-BACK GUARANTEE. SHOULD ANY ITEM PROVE UNSATISFACTORY RETURN IT TO OUR PLANT WITHIN 30 DAYS, IN UNDAMAGED CONDITION FOR REFUND, EXCHANGE OR CREDIT TOWARDS OTHER PURCHASE AS YOU PREFER.

PAR. 5. Through the use of the aforesaid statements and representations, and others similar thereto but not specifically herein set forth, respondents have represented, directly or indirectly, that:

1. All of the parts and components of said Wisconsin 4-Cycle Gas Driven Engine Generating Plant are government surplus property; and said Wisconsin Gas Engines are surplus government property.
2. Said Wisconsin 4-Cycle Gas Driven Engine Generating Plant cost the United States Government \$548.00, and that purchasers thereof saved the difference between \$548.00 and respondents' selling price.
3. \$69.50 is the respondents' customary and usual selling price for said Reduction Unit; \$300.00 is respondents' customary and usual selling price for said 3 HP AC Motor; \$68.00 is respondents' customary and usual selling price for said Briggs & Stratton 4-Cycle Air Cooled Gasoline Engine; and such alleged regular selling prices for each of said products have been reduced to \$11.75, \$135.00, and \$42.50, re-

spectively with the consequent savings afforded to the purchasers thereof.

4. Aforesaid products are fully guaranteed without any restrictions or qualifications or further cost to the purchasers thereof.

PAR. 6. The foregoing representations are false, misleading, and deceptive. In truth and in fact:

1. All of the parts and components of said Wisconsin 4-Cycle Gas Driven Engine Generating Plant are not government surplus property, but are derived in part from private sources; and said Wisconsin Gas Engines are not government surplus property.

2. Said Wisconsin 4-Cycle Gas Driven Engine Generating Plant did not cost the United States Government \$548.00 and purchasers thereof did not save the difference between \$548.00 and respondents' selling price.

3. \$69.50 is not the respondents' customary and usual selling price of the said Reduction Unit; \$300 is not respondents' customary and usual selling price for the said 3 H.P. AC Motor; \$68.00 is not the respondents' customary and usual selling price for the said Briggs & Stratton 4-Cycle Air Cooled Gasoline Engine; and such alleged regular selling prices for each of said products have not been reduced to \$11.75, \$135.00 and \$42.50, with consequent savings to the purchasers thereof.

4. Said products are not fully guaranteed without restrictions, qualifications, or further cost to the purchasers thereof. Said guarantees are subject to the requirement that the purchaser return said products to respondents' place of business in Chicago, Illinois, and pay all shipping charges incident thereto.

PAR. 7. In the course and 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 electric generators, gas and electric motors, air compressors, and other articles of merchandise of the same general kind and nature as that sold by respondents.

PAR. 8. 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.

PAR. 9. The aforesaid acts and practices of the 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 methods of competition in commerce, and unfair and

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deceptive acts and practices in commerce, in violation of Section 5(a) (1) of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as set forth in the complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Roberts Electric Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 849 West Grand Avenue, in the City of Chicago, State of Illinois.

Respondent Robert Boos is President of the corporate respondent and his address is the same as that of the corporate respondent.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents, Roberts Electric Company, a corporation, and its officers, and Robert Boos, individually, and 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 respondents' electric generators, gas and electric motors, air compressors or any other articles of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or indirectly, that:

(a) Said products, or any parts or components thereof, are surplus government property or were secured from any other governmental or private source, unless such is the fact.

(b) The United States Government, or any other governmental agency or former owner, paid or is paying for said products any amount greater than is the fact.

(c) Any amount is respondents' customary and usual price for said merchandise when such amount is in excess of the price at which said merchandise is customarily and usually sold by respondents in the recent, regular course of business.

(d) Any saving from respondents' selling price is afforded to the purchasers of respondents' merchandise, unless the price at which it is offered constitutes a reduction from the price at which said merchandise has been customarily and usually sold by respondents in the recent, regular course of business.

(e) Any product is guaranteed unless the terms and conditions of the said guarantee and the manner in which the guarantor will perform thereunder are clearly and conspicuously set forth.

2. Using the words "regular", or "reg.", or any other words or terms of similar import or meaning, to describe or refer to respondents' prices for said merchandise unless such prices constitute the prices at which the advertised merchandise 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 amounts by which the prices of said merchandise are reduced from the prices at which said merchandise is customarily and usually sold in the recent regular course of business.

It is further ordered, That the respondents herein 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 this order.

IN THE MATTER OF

EUGENE J. FRIEDMAN ET AL. TRADING AS GIBA-
FRIEDMAN