

for sale are greater than they actually are.

It is further ordered, That respondent Gimbel Brothers, Inc., 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 set forth herein.

IN THE MATTER OF

MORSE SEWING MACHINE & SUPPLY CORP. ET AL.

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

Docket C-254. Complaint, Oct. 17, 1962—Decision, Oct. 17, 1962

Consent order requiring two individuals in New York City and the three associated corporations they directed—including (1) an importer of sewing machine heads and replacement parts from Japan which were assembled into complete sewing machine units with domestically purchased cabinets, motors, controls, and electrical units; (2) its affiliate holding the capital stock and supervising the activities of seven retail subsidiaries; and (3) a corporation handling advertising and printing for all the corporations—to cease using bait advertising to obtain leads to prospects; representing falsely that they were conducting contests, winners of which would receive prizes or gift certificates, actually worthless; and that certain of their machines were “Guaranteed for a Lifetime” or had a “5 year written guarantee” when the guarantee had undisclosed limitations.

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 Morse Sewing Machine & Supply Corp., Morse Electro Products Corp., Morse Distributing Corp., corporations, and Philip S. Morse and Edward I. Rabin, individually and as officers 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. Respondents Morse Sewing Machine & Supply Corp., Morse Electro Products Corp., and Morse Distributing Corp., are corporations organized, existing and doing business under and by virtue of the laws of the State of New York, with their principal office and place of business located at 122 West 26th Street, New York 1, N.Y.

The functions of these corporations are as follows: Morse Sewing Machine & Supply Corp. imports sewing machine heads and replacement parts principally from Japan. Cabinets, motors, controls and electrical units are purchased domestically. Complete sewing machine units are sold to the public through franchised dealers or distributors and through retail outlets of wholly owned subsidiaries of its affiliate Morse Electro Products Corp. Respondent Morse Electro Products Corp. is a holding company, holding 100% of the capital stock of seven subsidiaries. Said corporation coordinates and supervises the activities of the subsidiaries. Respondent Morse Distributing Corp. handles advertising and printing for all Morse corporations.

Respondents Philip S. Morse and Edward I. Rabin are individuals and are officers of the corporate respondents. They formulate, direct and control the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondents.

PAR. 2. Respondents, for a number of years last past, have been engaged in the advertising, sale and distribution of new and used sewing machines to the purchasing public.

PAR. 3. In the course and conduct of their business, respondents Morse Sewing Machine & Supply Corp., Philip S. Morse and Edward I. Rabin have said products shipped from their place of business in the State of New York across state lines to such subsidiaries as Universal Sales Company, Inc., Morse Sewing Centers of Ohio, Inc., to other subsidiaries of Morse Electro Products Corp., and to franchised dealers or distributors located in various other 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.

Respondents have further engaged in extensive commercial intercourse in commerce, consisting of the transmission and receipt of letters, checks, reports, contracts, accounting and inventory forms and other documents of commercial nature, and various forms of advertising matter sent to their retail stores which is used by the retail

Complaint

61 F.T.C.

stores in the conduct of their business, all in connection with the sale of respondents' products.

PAR. 4. In the course and conduct of their business and for the purpose of inducing the purchase of their products, respondents have made certain statements and representations with respect thereto in advertisements inserted in newspapers, magazines, direct mail advertising and through other advertising media, of which the following are typical:

Brand new Electric Portable Sewing Machine. It's equipped with a magic action attachment. Allowing you to: zig zag, button hole, darn and quilt. Special Price \$21.95 Only \$1.25 a week.

* * * * *

Win this brand new Morse Zig Zag. Over 200 other valuable prizes. Nothing to buy! It's easy! It's simple. Unscramble these famous cities and win . . . plus hundreds of dollars worth of prize certificates.

* * * * *

Special sale—Overstocked Singer Electric Portable. Reconditioned and electrified . . . 5 year written guarantee. Lowest price ever. \$18.88 only \$1.25 a week.

* * * * *

Guaranteed for a Lifetime.

* * * * *

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

(1) That they were making a bona fide offer to sell new portable electric sewing machines for \$21.95 or used reconditioned Singer electric portable sewing machines for \$18.88;

(2) That certain of their sewing machines were guaranteed in every respect for life or for a specified number of years.

(3) That they were conducting a bona fide contest, the winners of which were to receive a sewing machine and other valuable prizes.

PAR. 6. In truth and in fact:

(1) The offers to sell new portable electric sewing machines for \$21.95 or used reconditioned Singer electric portable sewing machines for \$18.88 were not genuine or bona fide offers but were made for the purpose of obtaining leads as to persons interested in purchasing sewing machines. After obtaining such leads, respondents or their salesmen called upon such persons at their homes or waited upon them at respondents' place of business. At such times and places, respondents and their salesmen would disparage the advertised machine and would instead attempt to sell and did sell different and

more expensive sewing machines. Sometimes this was done after selling pro forma the advertised machine and accepting a down payment and sometimes this was done before such a sale was made.

(2) Respondents' guarantee is not unconditional. It is limited in certain respects and these limitations are not disclosed in the advertisement or made known to the purchaser prior to the sale.

3. Respondents were not conducting a bona fide contest. Such contest was a scheme to obtain leads. Almost everyone entering the contest won a gift certificate entitling them to a discount on the purchase of a sewing machine. The certificates were valueless as the holders of such were charged the regular and usual price by the respondents for any sewing machine they may have purchased.

Therefore, the advertisements and representations referred to in paragraphs 4 and 5 were and are exaggerated, false, misleading and deceptive.

PAR. 7. In the conduct of their business, at all times mentioned herein, the respondents have been in substantial competition in commerce with corporations, firms and individuals engaged in the sale of sewing machines of the same general kind and nature as those 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 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 deceptive acts in commerce, in violation of Section 5 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 respondents of all the jurisdictional facts set forth in the complaint to issue herein, 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 such 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. Respondents Morse Sewing Machine & Supply Corp., Morse Electro Products Corp. and Morse Distributing Corp., are corporations organized, existing and doing business under and by virtue of the laws of the State of New York with their office and principal place of business located at 122 West 26th Street, in the city of New York, State of New York.

Respondents Philip S. Morse and Edward I. Rabin are officers of said corporations and their address is the same as that of said corporations.

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 Morse Sewing Machine & Supply Corp., Morse Electro Products Corp., Morse Distributing Corp., corporations, and their officers, and Philip S. Morse and Edward I. Rabin, individually and as officers 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 and distribution of sewing machines or other products 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 said merchandise is offered for sale when such offer is not a bona fide offer to sell the merchandise so offered.

2. That respondents are conducting a "contest" in which the winners will receive prizes or gift certificates unless respondents are in fact conducting a bona fide "contest" in which the winners will receive prizes or gift certificates of actual value.

3. That certificates or other articles awarded the winners of a contest conducted by respondents are of a certain value or worth

1078

Complaint

unless such certificates or other articles are in fact of the represented value or worth.

4. That any article of merchandise is guaranteed unless the nature and extent of the guarantee and the manner in which the guarantor will perform are clearly and conspicuously disclosed.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commis-