

Complaint

IN THE MATTER OF

JACK SHORR ET AL. DOING BUSINESS AS UNITED
STATES LIQUIDATION COMPANY, ETC.

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

Docket C-286. Complaint, Dec. 19, 1962—Decision, Dec. 19, 1962

Consent order requiring Woodland Hills, Calif., distributors to cease representing falsely in newspaper advertising that their waterless cookware was distress merchandise from the stock of a business in liquidation, limited in quantity and with a "lifetime guarantee", and that it was offered at a purported large reduction from regular retail prices which were, in fact, excessive.

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 Jack Shorr and Mickey Shorr, individually and as copartners doing business as United States Liquidation Company and as Shorr Sales Company, 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 Jack Shorr and Mickey Shorr are individuals and are copartners doing business under various trade names, including United States Liquidation Company and as Shorr Sales Company. The said respondents do not maintain a permanent principal office or place of business. The residence of respondent Jack Shorr is located at 4228 Manson Avenue, Woodland Hills, Calif. The residence of respondent Mickey Shorr is located at 5010 Abbeyville Avenue, Woodland Hills, Calif.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of a variety of products, including waterless cookware, 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 products, when sold to be shipped from their place of business in the State of California, or from various other States, to public warehouses located in various other States of the United States, for storage and for ultimate sale to members of the public located in States other than those in which such shipments originated.

Respondents 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. In the course and conduct of their business, and for the purpose of inducing the purchase of their said products, respondents have made numerous statements in advertisements inserted in newspapers with respect to the availability and prices thereof and the savings available to purchasers.

Typical and illustrative of the aforesaid statements are the following:

In the Fort Wayne, Indiana "Journal-Gazette", issue of July 30, 1961:

FINAL NOTICE

WHEREAS: They are no longer engaged in the sale of 3 PLY, 18-8 STAINLESS STEEL Waterless Cookware . . . by means of HOME DEMONSTRATION, principals have placed with United States Liquidation Co. a number of 17 pieces sets for immediate disposal . . . carries the same valid lifetime guarantee as when sold on home demonstration for \$159.95 . . .

HOME DEMONSTRATION PRICE-----	\$159.95
DISPOSITION PRICE-----	\$38.50

. . . Quantities limited . . . DISPLAYED FOR IMMEDIATE SALE BY UNITED STATES LIQUIDATION CO.

PAR. 5. By and through the use of the above-quoted statements, and others of similar import not specifically set out herein, and through the use of the word "Liquidation" in respondents' trade name, respondents represented:

(a) That said products were distress merchandise, or were part of a line of discontinued products which was being liquidated and had to be immediately disposed of at special or reduced prices.

(b) That the quantities of such products available for sale were limited.

(c) That the higher stated prices set out in said advertisements were the prices at which the advertised merchandise had been usually and customarily sold by respondents, by respondents' purported principals, or by other retailers, at retail in the recent regular course of business, and that the difference between the higher and the lower prices represented savings to purchasers from said usual and customary retail prices.

PAR. 6. In truth and in fact:

(a) The said products were neither distress merchandise nor from the stock of a business being liquidated. Furthermore, there was no requirement for such products to be disposed of at special or reduced prices at any time.

(b) The quantities of said products available to respondents for sale were not limited. To the contrary, respondents could and did order and get delivery of sufficient quantities of said products, from the manufacturer thereof, as to enable them to utilize such methods of selling such products at numerous temporary locations throughout the country.

(c) The higher prices set forth in said advertisements were in excess of the prices at which the advertised merchandise had been usually and customarily sold by respondents, by their purported principals, or by other retailers. The difference between the higher and lower prices did not represent savings to purchasers from the usual and customary retail prices of respondents, their purported principals, or other retailers.

Therefore, the statements and representations, as set forth in paragraphs 4 and 5 hereof, were and are false, misleading and deceptive.

PAR. 7. In their advertisements of waterless cookware, the respondents have used such statements as "lifetime guarantee".

PAR. 8. In truth and in fact the respondents' advertised guarantees for waterless cookware fail to set forth the nature and extent of the guarantee, the manner in which the guarantor will perform and the identity of the guarantor. Therefore, statements referred to in paragraph 7 hereof are false, misleading and deceptive.

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 waterless cookware 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.

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 methods of competition in commerce and unfair and deceptive acts and practices 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 Jack Shorr and Mickey Shorr are individuals and are copartners doing business as United States Liquidation Company and as Shorr Sales Company. The address of Jack Shorr is 4228 Manson Avenue, Woodland Hills, Calif. The address of Mickey Shorr is 5010 Abbeyville Avenue, Woodland Hills, Calif.

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 Jack Shorr and Mickey Shorr, as individuals or as copartners doing business as United States Liquidation Company, Shorr Sales Company, or under any other trade 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 waterless cookware or any other products 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 the quantities of such products which are available for sale are limited.

(b) That any amount is respondents' usual or customary retail price for said merchandise when such amount is in excess of the price at which said merchandise has been usually and customarily sold by respondents in the recent regular course of business; or that any amount is the price at which such merchandise has been usually and customarily

sold in the regular course of business by respondents' purported principals or other retailers, unless such stated amount is the price at which such merchandise has been sold in regular course of business by such purported principals or by such other retailers.

(c) That any of respondents' products are guaranteed unless the nature and extent of the guarantee, the identity of the guarantor, and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

2. Misrepresenting in any manner the usual or customary retail prices of such merchandise or the savings to be afforded to purchasers thereof.

3. Using the word "Liquidation", or any other word or words of similar import or meaning, in or as a part of respondents' trade name, or representing in any other manner that such products are distress merchandise or are a part of a line of discontinued products which is being liquidated.

4. Representing, directly or by implication, that respondents' products are being disposed of or offered for sale at reduced or special prices, unless such products are in fact offered for sale at reduced or special prices.

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.