

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
VOLUMES IN VALUES, INC, ET AL.

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

Docket C-507. Complaint, June 17, 1963—Decision, June 17, 1963

Consent order requiring two Chicago corporations and their common officers, distributors of a variety of merchandise which they sold through their own retail jewelry stores in Illinois, Texas, and Oklahoma, and also sold to other dealers in "package promotions" designed as "traffic builders" to encourage customers to visit credit stores and open and use credit accounts, to cease making false statements in promotional material including newspaper advertisements, respecting the price, quality, guarantee, maker, savings and "free" nature of said merchandise, and to cease providing their dealers for their use, advertising matrices, layouts and other matter containing the same or similar false representations.

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 Volumes in Values, Inc., a corporation, and Marks Bros. Jewelers, Inc., a corporation, and Ira G. Marks and James G. Marks, individually and as officers of each 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 Volumes in Values, Inc., 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 at 29 East Madison Street in the city of Chicago, State of Illinois.

Respondent Marks Bros. Jewelers, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Delaware with its principal office and place of business at 29 East Madison Street in the city of Chicago, State of Illinois.

Respondents Ira G. Marks and James G. Marks are officers and directors of each 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 are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of various articles of merchandise such as wrenches, tools, sheets, towels, dinnerware, cookware and other articles of merchandise, to the public and to retailers and dealers for resale to the public.

Respondents own and operate retail jewelry stores in the States of Illinois, Texas, and Oklahoma through which they sell the aforesaid merchandise directly to the purchasing public.

The respondents also sell the aforesaid merchandise to other retailers and dealers in "package promotions". Said "package promotions" consist of the aforesaid merchandise and advertising matrices, layouts, and other materials for the use of the retailers and dealers in promoting the sale of said merchandise in their respective trade areas. The "package promotions" are primarily designed and utilized as "traffic builders" to encourage customers to visit credit jewelry and furniture stores and to open and use credit accounts.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said merchandise, when sold, to be shipped from their place of business in the State of Illinois and other sources of supply in several different states 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 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 sale of their aforesaid merchandise, respondents have made numerous statements and representations in promotional

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material including advertisements inserted in newspapers of general circulation, respecting the price, quality, guarantee, manufacturer, savings, and "free" nature of said merchandise.

Typical, but not all inclusive of said statements and representations, are the following:

REGULARLY \$59.95 SAVE MORE THAN ½ \$25.87 104 PIECES CHROME ALLOY STEEL SOCKET WRENCH AND TOOL SET
GUARANTEED FOR LIFE

54 PC. LUXURY PEPPERELL SHEETS AND DE LUXE QUALITY TOWEL ENSEMBLE * * * LOWEST PRICES EVER \$22.88

LIKE BUYING ONE SET * * * GETTING THE OTHER FREE! 42 PC. 22K. GOLD DECORATED DINNERWARE * * * plus 18 PC. WATERLESS ALUMINUM COOKWARE * * * LIFETIME GUARANTEED

PAR. 5. Through the use of the aforesaid statements and representations, and others of similar import and meaning not specifically set out herein, respondents have represented, directly or by implication, that:

a. Each of the said socket wrenches and tools are manufactured of chrome alloy steel.

b. The higher stated price set out in said advertisement of wrenches and tools in connection with the term "Regularly" was the price at which the advertised merchandise had been usually and customarily sold by respondents at retail, in the recent, regular course of business and that the difference between the higher and lower prices represented savings to purchasers from respondents' usual and customary retail price.

c. All items contained in the 54-piece Luxury Pepperell Sheets and De Luxe Quality Towel Ensemble were the products of Pepperell Manufacturing Company, Boston, Massachusetts.

d. The price set out in connection with the expression "LOWEST PRICE EVER" represented a reduction from the prices at which the merchandise referred to had been previously sold at retail by respondents.

e. The 18-Piece Waterless Cookware Set is given free as a gift or gratuity without cost to the purchaser of the 42-Piece Dinnerware Set.

f. Said wrenches and tools, dinnerware and cookware are unconditionally guaranteed for the lifetime of the purchaser or the original user.

PAR. 6. In truth and in fact:

a. Each of the said socket wrenches and tools are not manufactured of chrome alloy steel. Many of the wrenches and tools in said set are made of carbon steel.

b. The higher stated price set out in said advertisement of wrenches

and tools in connection with the term "Regularly" was in excess of the price at which the advertised merchandise had been usually and customarily sold by respondents at retail, in the recent, regular course of business and the difference between the higher and lower prices did not represent savings to purchasers from respondents' usual and customary retail price.

c. All items contained in the 54-Piece Luxury Pepperell Sheets and De Luxe Quality Ensemble, were not products of Pepperell Manufacturing Company, Boston, Massachusetts. Certain items contained in said ensemble were products of other manufacturers.

d. The price set out in connection with the expression "LOWEST PRICE EVER" did not represent a reduction from the prices at which the merchandise referred to had been previously sold at retail by respondents.

e. The 18-Piece Waterless Cookware Set is not given free as a gift or gratuity without cost to the purchaser of the 42-Piece Dinnerware Set. Said offer is actually a combination offer consisting of the dinnerware set and the waterless cookware set, and the price charged for said dinnerware set includes the price of the merchandise referred to as free.

f. Said wrenches and tools, dinnerware and cookware are not unconditionally guaranteed for the lifetime of the purchaser or original user. The "guarantees" referred to are subject to numerous conditions and limitations not disclosed in the advertisements.

Therefore, the statements and representations referred to in Paragraphs 4 and 5 hereof were and are false, misleading and deceptive.

PAR. 7. Respondents, in the course and conduct of their business of selling the aforesaid merchandise in "package promotions" to other retailers and dealers for resale to the purchasing public, have engaged in the practice of providing the said retailers and dealers for their use, advertising matrices, layouts and other materials containing statements and representations identical or substantially similar to those set forth in Paragraphs 4 and 5 hereof.

By and through this practice, respondents place in the hands of the said retailers and dealers the means and instrumentalities by and through which the retailers and dealers mislead the purchasing public as to the said retailers' and dealers' usual and customary retail selling price of merchandise, the savings afforded to purchasers of certain merchandise and in the manner and respects set forth in subsections a, c, e, and f of Paragraph 6 hereof.

PAR. 8. In the course and conduct of their business, and at all times mentioned herein, respondents have been in substantial competition

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in commerce with corporations, firms and individuals likewise engaged in the sale of like and similar merchandise.

PAR. 9. 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. 10. 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 Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; 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 aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondents that the law has been violated as alleged in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having reason to believe that the respondents have violated the Federal Trade Commission Act, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings and enters the following order:

1. Respondent Volumes in Values, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois with its office and principal place of business at 29 East Madison Street, Chicago, Illinois.

Respondent Marks Bros. Jewelers, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the

State of Delaware with its office and principal place of business at 29 East Madison Street, Chicago, Illinois.

Respondents Ira G. Marks and James G. Marks are officers of said corporations and their address is the same as that of the corporate respondents.

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 Volumes in Values, Inc., a corporation, and its officers, Marks Bros. Jewelers, Inc., a corporation, and its officers, and Ira G. Marks, and James G. Marks, 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 or distribution of wrenches, tools, sheets, towels, dinnerware, cookware or any other articles of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

a. Representing, directly or by implication, that tools or wrenches manufactured of other types of metals, are manufactured from chrome alloy steel; or misrepresenting in any manner the kind or type of metal from which any product is manufactured.

b. Using the word "Regularly" or any other word or words of similar import or meaning to refer to any amount which is in excess of the price at which such merchandise has been usually and regularly sold by the respondents at retail in the recent regular course of their business; or otherwise misrepresenting respondents' usual and customary retail selling price of merchandise.

c. Representing, directly or by implication, that any of said sheets and towels were made by the Pepperell Manufacturing Company, Boston, Massachusetts, when said products were made by some other manufacturer; or misrepresenting in any manner, the brand name, manufacturer or producer of any products.

d. Using the expression "LOWEST PRICE EVER" or any other words or terms of similar import or meaning unless the price of the merchandise referred to constitutes a reduction from the prices at which said merchandise has been previously sold at retail by respondents or by other retail dealers in the trade area or areas where the representation is made.

e. Representing, directly or by implication, that merchandise is given free or without charge in connection with the purchase of other merchandise when the so-called free merchandise is re-

ceived only after payment therefor is included in the price charged for the other merchandise.

f. Representing, directly or by implication, that any merchandise is 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.

g. Representing in any manner that, by purchasing any of their merchandise, customers are afforded savings amounting to the difference between respondents' stated selling price and any other price used for comparison unless the comparative price used represents the price at which the merchandise is usually and customarily sold at retail in the trade area involved, or is the price at which said merchandise is usually and regularly sold by respondents at retail in the recent, regular course of business, in the trade area or areas where the representation is made.

h. Furnishing or otherwise placing in the hands of retailers and dealers the means and instrumentalities by and through which they may mislead the public in the manner or as to the things hereinabove prohibited in paragraphs a, c, e, and f.

i. Furnishing or otherwise placing in the hands of other retailers and dealers the means and instrumentalities by and through which said retailers and dealers may mislead the purchasing public as to said retailers' and dealers' usual and customary selling price of merchandise or the savings afforded to purchasers of said retailers' and dealers' merchandise.

It is further ordered, That each of 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

R. GUERCIO & SON, INC., ET AL. DOING BUSINESS
AS ROY'S BROKERAGE COMPANY