
IN THE MATTER OF
RETAILERS MARKETING GUILD, INC., ET AL.

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

Docket C-704. Complaint, Feb. 5, 1964—Decision, Feb. 5, 1964

Consent order requiring three associated Chicago distributors of various articles of merchandise to cease such unfair practices as supplying credit furniture and jewelry stores with "traffic builders"—consisting of adver-

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tising brochures and proofs thereof, layouts and other advertising materials—to encourage customers to open and use credit accounts, falsely representing excessive amounts to be the usual retail prices and their “Sale” prices to be reductions therefrom, and making various other misrepresentations concerning the comparative merits of their products, “free” gifts, and guarantees.

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 Retailers Marketing Guild, Inc., Retailers Advertising Service, Inc., and Mayfair Purchasing, Incorporated, each a corporation, and Maurice D. Cramer, Alvin Levy, and George Ross, 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 Retailers Marketing Guild, Inc., Retailers Advertising Service, Inc., and Mayfair Purchasing, Incorporated, are corporations organized, existing and doing business under and by virtue of the laws of the State of Illinois, with their principal offices and places of business located at the Merchandise Mart, Merchandise Mart Plaza, in the city of Chicago, State of Illinois.

Respondents Maurice D. Cramer, Alvin Levy, and George Ross are officers and directors of each of the respondent corporations. They formulate, direct and control the policies, acts, and practices of the said 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 offering for sale, sale and distribution of various articles of merchandise, such as furniture, home furnishings, electrical and other household appliances, jewelry, watches, clocks, cookware, dinnerware, tableware, and luggage to retailers and dealers for resale to the public.

Respondents are also now, and for some time last past have been, engaged in the composing, or causing to be composed, of advertising brochures, proofs of the foregoing, layouts, other advertising materials, and the offering for sale, sale and distribution of said advertising materials to the said retailers and dealers for their use in promoting the sale of the aforesaid merchandise in their respective

trade areas. The said advertising materials offered for sale, sold and distributed by respondents are published and circulated by the said retail dealers, with the retail dealers' name and address imprinted thereon, and are primarily designed and utilized as "traffic builders" to encourage customers to visit credit furniture and jewelry stores and to open and use credit accounts.

PAR. 3. In the course and conduct of their business, the respondents now cause, and for some time last past have caused, their said merchandise and advertising materials, when sold, to be shipped from their place of business in the State of Illinois and from other sources of supply in various States of the United States to purchasers thereof located in various other States of the United States other than the State in which the shipment originated, and maintain, and at all times mentioned herein, have maintained, a substantial course of trade in said merchandise and advertising materials in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondents, in the course and conduct of their business, and for the purpose of inducing the sale of their merchandise, have engaged in the practice of supplying their customers, who are retail dealers with advertising material, proofs, layouts, and other printed matter, containing various statements and representations.

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

Save $\frac{1}{3}$
 Enjoy deluxe sleeping comfort!
 Englander * * *
 Air conditioned mattress * * *
 Regular \$59.95
 Now only \$39.95 * * *
 * * * * *
 Never before at this low price * * * \$19.95!
 Decorated Melmac service for 8 * * *
 Unbreakable heavy quality * * *
 Sale price \$19.95
 Regular \$29.95 * * *
 * * * * *
 $\frac{1}{3}$ Off during this sale
 These Imperial Watches * * *
 \$24.88 * * * Yes!
 * * * * *
 * * * Hi-poster Tester bed with Canopy top * * *
 Specially priced!
 \$69.00
 * * * * *

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Special \$179
 6-pc. walnut dining room
 By famous Stanley * * *
 At this special group-saving low price!
 * * * * *
 Kroehler nylon and foam
 3-pc. sectional or deluxe 2-pc. suite * * *
 Your choice \$199
 Famous Kroehler now at special sale prices
 * * * * *
 * * * Decorator cabinet * * *
 Sale priced \$14.88 * * *
 * * * * *
 New all steel cabinets * * *
 Never before at this low price !!!
 * * * \$29.95 * * *
 * * * * *
 Sale! Beveled edge Venetian mirrors
 Unconditionally guaranteed for 10 years * * * 30" x 20" \$7.99 * * *
 * * * * *
 * * * Mirror automatic electric percolator
 * * * Only during this sale so low priced * * *
 \$8.88 * * * Fully guaranteed * * *
 * * * * *
 Complete 50-pc. dinnerware * * * \$19.88 * * *
 Made to sell for \$39.88!
 Save \$15.00! Free bonus!
 This exquisite coffee-tea pot included at no extra cost! * * *
 * * * * *
 * * * Tree and * * * pole lamps * * *
 Not \$30 * * * Not \$25 * * *
 But only \$19.95
 * * * * *
 Movie outfit * * *
 Never before at this low price * * *
 \$119.95 * * * Compare with ensemble selling at \$179.95 * * *
 2 years free film developing * * *
 7 added free bonus gifts * * *
 Including instruction books and guarantee * * *
 * * * * *
 (Illustration of tables, commode, and chest)
 Luxurious imported marble—
 Your choice * * * Any piece
 * * * \$39.88 * * * Compare at \$79.50
 * * * * *
 * * * Two for one
 Super bonus offer! * * *
 50-pc. stainless tableware * * *

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Melmac 47-pc. * * *

Dinner service * * *

All 97 pieces sale priced

\$29.88 * * *

Lifetime guarantee

* * * *

2 years free film developing * * *

7 added free bonus gifts * * *

Including instruction books and guarantee * * *

* * * *

\$8.88 * * * Fully guaranteed * * *

* * * *

All 97 pieces sale priced

\$29.88 * * *

Lifetime guarantee

* * * *

25 jewels * * *

What a buy! * * *

25 jewel genuine Swiss movement * * *

Imperial * * * with reservoil

* * * *

A * * * waterproof, dustproof, shockproof and * * * guarantee!

Imperial Watch and our store

Guarantee these watches against

Manufacturers's defects * * *

* * * *

* * * Bulova Surf King * * *

Your choice \$24.75 * * *

Waterproof*, unbreakable mainspring, shock resistant * * *

*When case, crystal and crown are intact.

* * * *

Water resistant watches

* * * *

PAR. 5. Through the use of the aforesaid practices, respondents have represented, and have placed in the hands of retailers the means and instrumentalities of representing, directly or by implication, that:

1. The higher stated amounts in connection with the representations "Save $\frac{1}{3}$ * * * Regular \$59.95, Now Only \$39.95 for Englander mattresses" and "Never Before at this Low Price * * * \$19.95 * * * Sale Price \$19.95 Regular \$29.95" for Melmac Service, were the prices at which the said articles had been usually and customarily sold at retail by said retailers in the recent regular course of their business and in connection with the representation " $\frac{1}{3}$ Off During This Sale * * * \$24.88" for Imperial watches, the usual and regular

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price of said watches of said retailers in the recent regular course of their business had been reduced by one-third, and that the differences between the higher and lower prices or said "1/3 off" represented savings to purchasers from the respective retailers' usual and customary prices at retail for said articles.

2. The price amounts set forth in said advertising material in connection with the representation "Specially priced \$69.00" for Tester Beds, "Special \$179 for Walnut Dining Room Suites", "Your Choice \$199 * * * Now at Special Sales Price" for Kroehler Sectionals, "Sale Priced * * * \$14.88" for Decorater Cabinets, "Never Before at This Low Price! * * * \$29.95" for Steel cabinets, "Sale * * * \$7.99" for Venetian Mirrors and "Only During this Sale So Low Priced * * * \$8.88" for percolators, constituted actual and significant reductions from respondents' retailers usual and customary selling prices at retail of the said merchandise in the recent regular course of their business and that said reductions represented savings to the purchasers of said merchandise.

3. The higher stated amounts set forth in said advertising material in connection with the representation "\$19.88 * * * Made to sell for \$39.88 * * * " for Dinnerware and "Not \$30 * * * Not \$25 * * * But Only \$19.95" for tree and pole lamps represented the general prevailing prices in the trade areas where the representations were made and the differences between the higher and lower prices represented savings to purchasers from said trade area prices.

4. The marble top tables, chest and commode advertised at \$39.88 are comparable in value to products of a like grade and quality in all material respects usually and regularly sold at a retail price of \$79.50 in the trade area or areas where the representation is made and that purchasers of said merchandise from respondents' retail dealers would realize a saving of the difference between the represented \$79.50 price and said retail dealers' price of \$39.88.

The movie outfit advertised at a price of \$119.95 is comparable in value to ensembles of like grade and quality in all material respects usually and regularly sold at a retail price of \$179.95 in the trade area where the representation is made and that purchasers of said merchandise from respondents' retail dealers would realize a saving of the difference between the represented \$179.95 price and said dealer's price of \$119.95.

5. In connection with the sale of the movie outfit, that seven (7) added bonus gifts will be given "free", that is, as a gift or gratuity without cost to the purchaser.

6. The 47 piece set of Melmac dishes and the 50 piece set of stainless steel tableware are being offered for sale for the usual price of one of the sets of said merchandise.

7. Certain merchandise is "fully guaranteed", that is, without limitation, condition or qualification for an unlimited period of time. Other merchandise is offered for sale with a "lifetime guarantee" "unconditionally guaranteed for 10 years", that is, the merchandise so described was guaranteed for a lifetime or a definite period of time without any limitation, condition or qualification, other than that indicated in the advertisement.

8. Certain watches are waterproof, water resistant, shockproof, or shock resistant in every respect, without qualification or limitation.

9. Imperial watches advertised at \$24.88 are equipped with a device called "Reservoir" and contain 25 jewels, each of which jewel is functional and protects against wear and friction by providing a mechanical contact with a moving part at a point of wear.

PAR. 6. In truth and in fact:

1. The higher amounts set out in connection with the word "Regular", were in excess of the prices at which the respondents' retail dealers customarily and usually sold the articles of advertised merchandise in the recent regular course of business and the differences between the said higher amounts and the lesser prices at which the articles were offered for sale do not represent savings over the prices at which said retailers had usually and customarily sold said articles of merchandise.

2. The price amounts at which said merchandise is being offered for sale in connection with the words "Special", "Now at Special Sales Price", "Never Before at This Low Price", "Sale", "Only During this Sale So Low Priced" are not sale or special prices, *i.e.*, they are not reductions from or lower than the prices at which said merchandise was sold at retail by the respondents' retail dealers in the recent regular course of their business and do not constitute savings to the purchasers of said merchandise.

3. The higher stated amounts set out in juxtaposition with the lower prices in connection with the words "Made To Sell For * * *" "Not \$30, Not \$25, But Only \$19.95" are not the generally prevailing prices at which the merchandise is sold at retail in the trade area or areas where the representations are made but were in excess of the prices at which the merchandise was generally sold in said trade area or areas and the difference between the higher and lower prices do not represent savings to the purchasers thereof from the generally prevailing price in the trade area where the representation is made.

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4. The marble top tables, chest and commode advertised at \$39.88 do not have a value comparable to other products of like grade and quality in all material respects retailing at \$79.50, and are not generally available for purchase at the higher comparable price in the same trade area or areas where the representation is made.

The movie outfit advertised at \$119.95 does not have a value comparable to ensembles of like grade and quality in all material respects retailing at \$179.95 and are not generally available for purchase at the higher comparable price in the same trade area or areas where the representation is made.

5. Purchasers of the movie outfit advertised at \$119.95 do not receive seven (7) bonus gifts free or without cost because the price charged for the merchandise purchased includes the price of the said bonus gifts.

6. Two sets of merchandise are not being offered for the usual price of one set of merchandise.

7. The guarantees for the said advertised merchandise are not "fully guaranteed," "lifetime guarantee" nor "unconditional" for any definite period of time, but are subject to limitations and conditions not disclosed in the advertisements.

8. Some of the advertised watches are not waterproof, water resistant, shockproof, and shock resistant in every respect as represented, without qualification or limitation, and qualifying language regarding preservation of the waterproof quality is not set forth clearly and conspicuously in immediate conjunction with the term "waterproof."

9. The Imperial watches do not have 25 jewels that are functional and protect against wear and friction by providing a mechanical contact with a moving part at a point of wear.

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

PAR. 7. The respondents by and through the use of the aforesaid acts and practices place in the hands of retailers the means and instrumentalities whereby said retailers may mislead and deceive the public in the manner herein alleged.

PAR. 8. 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. 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' merchandise by reason of such erroneous and mistaken belief.

PAR. 10. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice of the public and 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. Retailers Marketing Guild, Inc., Retailers Advertising Service, Inc., and Mayfair Purchasing, Incorporated, are corporations organized, existing and doing business under and by virtue of the laws of the State of Illinois, with their offices and principal places of business at the Merchandise Mart, Merchandise Mart Plaza, Chicago, Illinois. Illinois.

Maurice D. Cramer is the president and a director of each of the said corporations; Alvin Levy is the secretary and a director of each of the said corporations; and George Ross is a vice president and a

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director of each of the 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 Retailers Marketing Guild, Inc., Retailers Advertising Service, Inc., Mayfair Purchasing, Incorporated, each a corporation, and their offices, and Maurice D. Cramer, Alvin Levy, and George Ross, individually and as officers of said corporate respondents, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the promotion or offering for sale, sale or distribution of any merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or indirectly, that:

(1) Any amount described as "Regular" or words of similar import is the usual and customary price of merchandise when it is in excess of the price at which said merchandise was sold at retail by respondents' dealers in the recent regular course of their business.

(2) Any amount described as "made to sell For", "Not \$----- Not \$----- But Only \$-----, * * *" or words of similar import, is the usual and customary retail price of merchandise when it is in excess of the generally prevailing price or prices at which the merchandise is sold at retail in the trade area or areas where the representation is made.

(3) Any savings are afforded in the purchase of respondents' merchandise from respondents' retail dealers amounting to the difference between the stated retail selling price and any other price used for comparison with that selling price, unless the comparative price used represents the price at which such merchandise has been usually and regularly sold at retail by respondents' retail dealers in the recent, regular course of their business or the price at which the merchandise is usually and customarily sold at retail in the trade area or areas where the representation is made.

(4) Any product of respondents is of a value comparable to any other product retailing at a higher price unless

respondents' product is at least of like grade and quality in all material respects as the product with which it is compared and such other product is generally available for purchase at retail at the comparable price in the same trade area or areas where the representation is made.

(5) Any saving is afforded in the purchase of respondents' product as compared to the purchase of another product unless respondents' product is at least of like grade and quality in all material respects as the product with which it is compared and such other product is usually and customarily sold at retail at the comparable price in the same trade area or areas in which the representation is made.

(6) Any price is a sale or special price unless such price is a reduction from or lower than the price at which said merchandise was sold at retail by the respondents' retail dealers in the recent regular course of their business.

(7) Two sets of any merchandise are being offered for the usual price of one set unless the selling price for the two sets is the usual and customary retail price of respondents' retail dealers for the single set in the recent, regular course of their business.

(8) Merchandise is given free or without charge in connection with the purchase of other merchandise when the price charged for the merchandise purchased includes the price of the so-called free merchandise.

(9) Any merchandise offered for sale 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.

(10) Any watches are waterproof, water resistant, shockproof or shock resistant unless said watches are waterproof, water resistant, shockproof or shock resistant in every respect without qualification or limitation.

(11) Any watches are waterproof, water resistant, shockproof or shock resistant under certain conditions or with certain qualifications or limitations unless such aforesaid conditions, qualifications, or limitations are clearly and conspicuously set forth in immediate conjunction with the terms "waterproof", "water resistant", "shockproof" or "shock resistant".

(12) Any watches contain a designated number of jewels, unless said watches actually contain the stated number of

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jewels, each and every one of which serves a purpose of protecting against wear from friction by providing a mechanical contact with a moving part at a point of wear.

B. Misrepresenting in any manner, directly or indirectly, the quantity, quality, or usual price of any merchandise.

C. Misrepresenting in any manner, directly or indirectly, the savings available to purchasers of respondents' merchandise or the amount by which the price of such merchandise has been reduced from the price at which it is usually and customarily sold at retail by respondents' retail dealers in the recent regular course of their business or from the generally prevailing price areas in the same trade area or areas in which the representation is made.

D. Furnishing or otherwise placing in the hands of distributors or dealers in said products the means and instrumentalities by and through which they may mislead or deceive the public in the manner or as to the things hereinabove prohibited.

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.
