

Complaint

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IN THE MATTER OF

DONALD M. HOLMAN DOING BUSINESS AS HURLEY
PRESS IRONER OF CENTRAL AMERICACONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-810. Complaint, Aug. 14, 1964—Decision, Aug. 14, 1964*

Consent order requiring a Kansas City, Kans., distributor of a combination presser and ironer to cease misrepresenting that his customers are specially selected, that his offers to sell are limited, that purchasers will be paid substantial referral fees, that sales agreements are cancellable, and failing to disclose that his sales contracts may be negotiated to a finance company.

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 Donald M. Holman, an individual, trading and doing business as Hurley Press Ironer of Central America, hereinafter referred to as respondent, has 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 Donald M. Holman is an individual who for some time last past has been trading and doing business under the trade name of Hurley Press Ironer of Central America, with his office and principal place of business located at 7 North 7th Street, Kansas City, Kansas.

PAR. 2. For some time last past the respondent has been engaged in the advertising, offering for sale, sale and distribution to the public of a combination presser and ironer known as the "Hurley Press-Ironer".

PAR. 3. In the course and conduct of his business, as aforesaid, the respondent has caused his said press-ironers, when sold, to be shipped from his place of business in the State of Kansas to purchasers thereof located in the State of Missouri, and at all times mentioned herein has maintained a substantial course of trade in said product in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of his business, as aforesaid, and for the purpose of inducing the sale of his press-ironers, the respondent

has employed sales agents or representatives who visit the homes of prospective purchasers. At such times and places said sales agents or representatives have made various oral representations with respect to the nature of respondent's business. By and through the statements of said sales agents or representatives, the respondent has represented, directly or by implication, that:

1. The prospective purchaser has been especially selected to participate in a promotional plan or sale.

2. Participation in respondent's referral selling program is limited to those persons who agree to purchase the press-ironer at the salesman's first visit.

3. Purchasers may reasonably expect to recover the cost of the press-ironer through the receipt of referral selling fees.

4. A dissatisfied purchaser had the option of cancelling his sales agreement during a trial period.

PAR. 5. In truth and in fact:

1. The prospective purchaser has not been especially selected to participate in a promotional plan or sale.

2. Participation in respondent's referral selling program is not limited to those persons who agree to purchase the press-ironer at the salesman's first visit.

3. Purchasers may not reasonably expect to recover the cost of the press-ironer through the receipt of referral selling fees.

4. A dissatisfied purchaser did not have the option of cancelling his sales agreement during a trial period.

Therefore, the representations referred to in Paragraph Four were, and are, false, misleading and deceptive.

PAR. 6. In the course and conduct of his business, the respondent has failed to advise prospective purchasers that, in the event of a sale, it was his general policy to discount the purchaser's negotiable paper with a finance company or bank. In the absense of such a disclosure, prospective purchasers believe that no discounting is intended.

There is a preference among installment buyers for dealing with vendors who do not discount their customers' negotiable paper. In many cases, purchasers of respondent's product would not have entered into contracts of sale had they known that their paper was to be discounted.

In truth and in fact, it was respondent's general practice to discount his customers' negotiable paper. Respondent's failure to reveal his intention or course of business concerning the discounting of

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purchasers' negotiable paper was, and is, an unfair and deceptive act or practice.

PAR. 7. In the course and conduct of his business, and at all times mentioned herein, the respondent has been in substantial competition, in commerce, with corporations, firms and individuals in the sale of products of the same general kind and nature as that sold by the respondent.

PAR. 8. The use by the respondent of the aforesaid false, misleading and deceptive statements and representations 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 respondent's product by reason of said erroneous and mistaken belief.

PAR. 9. The aforesaid acts and practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public and of respondent's 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 respondent named in the caption hereof with violation of the Federal Trade Commission Act, and the respondent 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 respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondent 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 respondent 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. Respondent Donald M. Holman is an individual trading and doing business as Hurley Press Ironer of Central America, with his office and principal place of business located at 7 North 7th Street, Kansas City, Kansas.

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

ORDER

It is ordered, That respondent Donald M. Holman, an individual, trading as Hurley Press Ironer of Central America, or under any other name or names, and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of press-ironers, or any other product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that:

(a) Purchasers or prospective purchasers have been especially selected for any purpose.

(b) An offer is open for a specific or brief period only, unless respondent can establish that, in fact, the duration of the offer is in actual practice so limited.

(c) Any purchaser may reasonably expect to recover all or a substantial part of the total cost of any product through the receipt of referral selling fees; or that any person can earn a specified amount of money, credits, or merchandise through the receipt of referral selling fees or in any other manner, when such amount is in excess of that which the respondent can establish as being the earnings which such person may reasonably expect to achieve.

(d) That any sales agreement is cancellable at the option of the purchaser, unless the respondent can establish that the agreement expressly provides for such an option and that this provision is strictly adhered to by the respondent.

2. Failing to reveal to prospective purchasers that contracts or promissory notes will be discounted and that purchasers will make their payments to a finance company or similar institution.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

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IN THE MATTER OF

SCHIMMEL FUR COMPANY ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS

Docket C-811. Complaint, Aug. 14, 1964—Decision, Aug. 14, 1964

Consent order requiring manufacturing furriers in St. Louis, Mo., to cease misbranding, falsely advertising, and deceptively invoicing their fur products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act and by virtue of the authority vested in it by said Acts, the Federal Trade Commission having reason to believe that Schimmel Fur Company, a corporation, and Morris J. Schimmel, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling 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 Schimmel Fur Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri.

Respondent Morris Schimmel is an officer of the corporate respondent and formulates, directs and controls the acts, practices and policies of the said corporate respondent including those hereinafter set forth.

Respondents are manufacturers, wholesalers and retailers of fur products with their office and principal place of business located at 1103 Washington Avenue, city of St. Louis, State of Missouri.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondents have been and are now engaged in the introduction into commerce, and in the manufacture for introduction into commerce, and in the sale, advertising, and offering for sale in commerce, and in the transportation and distribution in commerce, of fur products: and have manufactured for sale, sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of furs which have been shipped and received in commerce, as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act.