

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

Docket C-844. Complaint, Oct. 5, 1964—Decision, Oct. 5, 1964

Consent order requiring an Indianapolis, Ind., manufacturer of tarpaulins, tents, sleeping bags and other camping equipment, to cease misrepresenting the price and size of its merchandise in catalogs and on preticketed labels.

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 Hoosier Tarpaulin & Canvas Goods Company, Inc., a corporation, and Victor M. Goldberg and Robert T. Goldberg, individually, and as officers of said corporation, 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 Hoosier Tarpaulin & Canvas Goods Company, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Indiana, with its principal office and place of business located at 1302-10 West Washington Street, Indianapolis 6, Indiana.

Respondents Victor M. Goldberg and Robert T. Goldberg are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their business addresses are the same as that of the corporate respondent. The residence address of Victor M. Goldberg is 5201 Washington Boulevard, Indianapolis, Indiana, and the residence address of Robert T. Goldberg is 501 Fairway, Indianapolis, Indiana.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the manufacture, advertising, offering for sale, sale and distribution of tarpaulins, tents, and other canvas products, and in advertising, offering for sale, and sale of sleeping bags and other camping equipment to wholesalers and to retailers for resale 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 Indiana to purchasers thereof 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.

PAR. 4. Respondents, for the purpose of inducing the purchase of their products, have engaged in the practice of using fictitious prices in connection therewith, and misrepresenting the size of said products by various methods and means. Typical but not all inclusive of which are the following:

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A. By distributing, or causing to be distributed, to retailers and others, catalogs describing, among other things, respondents' tents and containing a stated retail price of each by listing "Price Each" after or under which appears a stated amount in dollars.

In the manner aforesaid, respondents thereby represent, directly or indirectly, that the amounts shown have been established in good faith as an honest estimate of actual retail prices which do not appreciably exceed the highest prices at which substantial sales of their said tents are made at retail in their trade territory.

In truth and in fact, respondents know that the retail prices set forth in said catalogs, and otherwise, are appreciably in excess of the highest price at which substantial sales have been made at retail in their trade area. Therefore, these retail prices are not disseminated in good faith as an honest estimate of the actual retail selling prices of said tents.

B. By attaching, or causing to be attached, tickets, tags, or labels to their sleeping bags upon which a certain amount is printed, and by distributing, or causing to be distributed, to retailers and others, catalogs describing, among other things, respondents' sleeping bags and containing a stated retail price for each. Typical of the statement on the price ticket is the following:

LIST PRICE
\$28.00

Among and typical of the statements contained in respondents' 1962 catalog is the following:

\$28.00 ea.

In the manner aforesaid, respondents thereby represent, directly or indirectly, that the amounts listed on the preticketed labels or other listing have been established in good faith as an honest estimate of actual retail prices which do not appreciably exceed the highest prices at which substantial sales of their said sleeping bags are made in their trade territory.

In truth and in fact, respondents know that the retail prices set forth on the preticketed labels or other listing are appreciably in excess of the highest price at which substantial sales are made at retail in their trade area. Therefore, these retail prices are not disseminated in good faith as an honest estimate of the actual retail selling price of said sleeping bags.

C. By attaching, or causing to be attached, labels to cartons and outer wrappings containing their tarpaulins and tents, stating "cut size," of the tarpaulins, and "base size" of the tents. Further, respondents list the "base size," only in their catalogs describing their said

tents and the dimensions listed therein are almost invariably larger than the actual size of the tents described. The terms "cut size," and "base size," when used in the manner alleged above, are confusing and tend to indicate that such descriptions are the actual sizes of the finished products. In the manner aforesaid, respondents represent that the dimensions of the tarpaulins and tents following the words "cut size," and "base size" are the actual sizes of the tarpaulins and tents.

In truth and in fact, the actual sizes of the finished products are smaller than the sizes set out on the label and in the catalog following the words "cut size," and usually the actual sizes of the finished products are smaller than the sizes set out on the labels and in the catalog following the words "base size."

Therefore, the statements and representations and acts and practices set forth above are false, misleading and deceptive.

PAR. 5. By the aforesaid acts and practices, respondents place in the hands of the uninformed or unscrupulous retailers means and instrumentalities by and through which they may mislead the public as to the usual and regular retail price and size of said products.

PAR. 6. In the course and conduct of their said business, and at all times mentioned herein, respondents have been engaged in substantial competition, in commerce, with corporations, firms, and individuals in the sale of products of the same general kind and nature as those sold by respondents.

PAR. 7. 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. 8. The aforesaid acts and practices of respondents 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(a)(1) 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. Hoosier Tarpaulin & Canvas Goods Company, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Indiana, with its office and principal place of business located at 1302-10 West Washington Street, Indianapolis 6, Indiana.

Victor M. Goldberg and Robert T. Goldberg are officers of said corporation and their address is the same as that of said corporation.

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, Hoosier Tarpaulin & Canvas Goods Company, Inc., a corporation, and its officers and Victor M. Goldberg and Robert T. Goldberg, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale, or distribution of tarpaulins, tents, canvas products, sleeping bags, other camping equipment or other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Advertising, disseminating or distributing any list, preticketed or suggested retail price that is not established in good faith as an honest estimate of the actual retail price or that appreciably exceeds the highest price at which substantial sales are made in respondents' trade area.

2. Furnishing any distributor, dealer or retailer with any means whereby to deceive the purchasing public in the manner forbidden by the above provisions of this order.

3. Furnishing to others any means or instrumentality by or through which the public may be misled as to the size of respondents' merchandise.

4. Putting any plan in operation through the use of which retailers or others may misrepresent the size of respondents' merchandise.

5. Advertising, labeling, representing in a catalog, or otherwise representing the "cut size," or dimensions of material used in their construction, unless such representation is accompanied by a description of the finished or actual size in immediate conjunction therewith with the latter description being given at least equal prominence.

6. Misrepresenting the size of such products on labels or in any other manner.

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

THE HISTORY BOOK CLUB, INC., ET AL.