

Docket 8595. Complaint, Sept. 13, 1963—Decision, Oct. 8, 1964

Order requiring two affiliated sellers of new and used television sets and other appliances located in Bladensburg, Md., and Philadelphia, Pa., to cease mis-

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representing the selling terms, service and guarantees of the products they sell.

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 World Wide Television Corporation, Saveway-Meter-Matic Television Corporation, Saveway Meter Corporation, Lu-Gil Corporation trading under the names Lancaster Sales Company and Lancaster Sales, and Gilbert Tucker, individually and as an officer 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 World Wide Television Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its principal office and place of business located at 2375 Rhode Island Avenue, N.E., Washington 18, D.C.

Respondents Saveway-Meter-Matic Television Corporation and Saveway Meter Corporation are corporations organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania with their principal office and place of business located at 2107 Garrison Boulevard, Baltimore 16, Maryland.

Respondent Lu-Gil Corporation, trading under the names of Lancaster Sales Company and Lancaster Sales, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania with its principal office and place of business located at 2163 Ridge Avenue, Philadelphia 21, Pennsylvania.

Respondent Gilbert Tucker is an individual and is an officer of each of the corporate respondents. He formulates, directs and controls the acts and practices of each of said corporate respondents, including the acts and practices hereinafter set forth. His address is the same as that of respondent Lu-Gil Corporation.

PAR. 2. Respondents are now, and for a number of years last past have been, engaged in the advertising, offering for sale, sale and distribution of new and used television sets, appliances and other products to the purchasing public.

PAR. 3. In the course and conduct of their business, respondents cause said products to be shipped from their respective locations in the States of Pennsylvania and Maryland and the District of Columbia to

various purchasers thereof located in various other States of the United States and 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. The majority of the shares of stock of each of the said corporate respondents is owned by the said Tucker who, as aforesaid, formulates, directs and controls the affairs of each of the corporate respondents. Respondent Tucker causes the said products to be shipped from the said place of business of respondent Lu-Gil Corporation located in the State of Pennsylvania to respondents Saveway-Meter-Matic Corporation and Saveway Meter Corporation located in the State of Maryland and to respondent World Wide Television Corporation located in the District of Columbia. The four corporate respondents are, therefore, but devices employed by the said Tucker to effectuate the acts and practices hereinafter alleged.

PAR. 5. In the course and conduct of their business and for the purpose of inducing the purchase of their products, respondents have made numerous statements and representations respecting the terms of sale, financing, service and guarantees for said products in advertisements inserted in newspapers and other advertising media, and by means of radio broadcasts transmitted by radio stations located in various States of the United States, and in the District of Columbia, having sufficient power to carry such broadcasts across state lines.

Typical and illustrative of the foregoing, but not all inclusive thereof, are the following:

No down payment.

No money down.

* * * only 25 cents a day.

Only quarters a day.

If you can afford a pack of cigarettes you can afford to own 23" famous make TV the easy METERMATIC WAY.

* * * every day you just place a few coins in a hidden meter behind your TV set * * * and in just a few months * * * you own the set outright.

There's no banks * * * no finance companies.

No bill collectors. That meter keeps the bill collectors away.

* * * they gotta give good service. They know that if the set isn't working you won't put any coins in the meter that's hidden behind the set * * * So they gotta get around there and fix it.

Service's fully guaranteed!

Service guarantee included.

The Metermatic plan is better because service is guaranteed.

Brand new giant screen Olympic Console Television with Full One Year Guarantee including picture tube.

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PAR. 6. By and through the use of the aforementioned statements, and others of similar import and meaning not specifically set out herein, the respondents represent, directly or by implication:

- (1) That no down payment is required in any case.
- (2) That purchasers can apply as little as 25 cents each day toward the purchase of the television set, service and other charges.
- (3) That in a few months purchasers will own their television sets outright.
- (4) That no purchasers will have to deal with banks or finance companies.
- (5) That no purchasers will have to deal with bill collectors.
- (6) That respondents provide repair and maintenance service without additional charge.
- (7) That respondents' product is unconditionally guaranteed for one year.

PAR. 7. In truth and in fact:

- (1) Down payments are, in fact, required in many cases.
- (2) Purchasers of respondents' products are required to pay more than 25 cents a day toward the purchase of the television set. They are, in fact, required to sign a contract providing for monthly payments varying in amount with the model television purchased. Should the amount deposited in the meter aggregate less than the monthly payment contracted for, respondents' employees or representatives undertake to collect the difference from the purchaser.
- (3) Few, if any, purchasers acquire full title to respondents' products within a few months. The period of time usually required to discharge all liabilities, obligations and duties under the contract of purchase is 24 months.
- (4) Purchasers, in many instances, are required to make payments to banks or finance companies.
- (5) Purchasers do have to deal with bill collectors. Respondents, in many instances, send men around to purchasers once or twice a month to collect payments.
- (6) Respondents do not provide repair and maintenance service without additional charge. An annual charge of approximately 65 dollars is included in the sales contract for servicing respondents' products.
- (7) Respondents' products are not unconditionally guaranteed for one year. Said guarantee is subject to numerous requirements, limitations and restrictions. In addition, the advertised guarantee fails to set forth the nature, conditions and extent of the guarantee, the manner

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in which the guarantor will perform thereunder and the identity of the guarantor.

Therefore, the advertisements and representations referred to in Paragraphs Five and Six were and are false, misleading and deceptive.

PAR. 8. In the conduct of their business, at all times mentioned herein, the respondents have been in substantial competition in commerce with corporations, firms and individuals engaged in the sale of television sets, appliances and other products of the same general kind and nature as those 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' 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 in commerce, in violation of Section 5 of the Federal Trade Commission Act.

Mr. Terral A. Jordan and Mr. Laurence W. Fenton supporting the complaint.

Gerber and Galfand, Philadelphia, Pa., by *Mr. Hyman Schwartz* for the respondents.

INITIAL DECISION BY WILLIAM K. JACKSON, HEARING EXAMINER*

MAY 4, 1964

This proceeding was commenced by the issuance of a complaint on September 13, 1963, charging the respondents with unfair and deceptive acts and practices and unfair methods of competition, in commerce, in violation of Section 5 of the Federal Trade Commission Act by misrepresenting the selling terms, financing, service and guarantees for new and used television sets sold by them.

After respondents had been duly served with the complaint, two of the corporate respondents, World Wide Television Corporation and

*Paragraph 4 of the Order is reported as corrected by Hearing Examiner's Order dated May 20, 1964.

Lu-Gil¹ Corporation, and the individual respondent, Gilbert Tucker, appeared by counsel and thereafter filed their joint answer admitting a number of the specific allegations in the complaint, but denying generally the illegality of the practices charged in the complaint.

As to Saveway-Meter-Matic Television Corporation, the aforesaid three respondents stated in their answer that they have no knowledge as to the truth of the averments in the complaint as to that corporation.

As to Saveway Meter Corporation, the aforesaid three respondents stated in their answer that "Articles of Merger of said Saveway Meter Corporation with and into a corporation known as Philamet Corporation were filed December 1, 1961, in the Office of the Secretary of State of the Commonwealth of Pennsylvania; that on February 29, 1963, a Certificate of Election to Dissolve was filed by Philamet Corporation, but that Articles of Dissolution have not yet been filed in the said Department of State for the sole reason that there exists a delay on the part of the Department of Revenue of the Commonwealth of Pennsylvania and other cognizant departments of the Commonwealth of Pennsylvania in furnishing the required clearance certificate indicating the payment of all State taxes to date. These three respondents aver that such taxes have, in fact, all been paid but that nevertheless the Department of State of the Commonwealth of Pennsylvania requires the filing of the clearance certificate with the Articles of Dissolution; and these three respondents are informed that in due course as soon as the clearance certificate is supplied by the Department of Revenue of said Commonwealth of Pennsylvania the aforementioned Articles of Dissolution will be filed."

Upon the motion of complaint counsel, a prehearing conference was scheduled for December 12, 1963. By a joint motion of the parties filed December 9, 1963, it was requested that the prehearing conference be cancelled for the reason that as a result of pretrial negotiations the parties were about to enter into a stipulation of facts. Accordingly, by order dated December 11, 1963, the prehearing conference was cancelled subject to being reset on ten days notice.

Thereafter, a Stipulation of Facts dated January 6, 1964, and an undated addendum thereto, together with Commission Exhibits 1 to 21 inclusive, attached to and made a part of the Stipulation of Facts, were presented to the hearing examiner and by order dated February 19, 1964, the Stipulation of Facts, undated addendum, and Commission Exhibits 1 to 21 inclusive, were accepted and received in evidence and made a part of the official record of this proceeding.

¹ Referred to as "Lou-Gil Corporation" only in respondents' answer.

Paragraph Seven of the Stipulation of Facts set forth that the Stipulation should be received in lieu of evidence and further hearings are waived by the parties.

The record was accordingly closed and the parties were afforded an opportunity to submit proposed findings, conclusions, and order.

Both parties filed proposed findings of fact, conclusions and order together with their respective reasons in support thereof.

Consideration has been given to the proposed findings, conclusions and briefs submitted. The findings of fact adopted follow, as referenced, the exact language of the Stipulation of Facts, and to that extent are not in dispute. Certain proposed findings and conclusions of respondents, not a part of the Stipulation of Facts, not herein after specifically adopted are rejected. Based upon the entire record, consisting of the Complaint, Answer, Stipulation of Facts and addendum thereto, exhibits, and other matters of record, the hearing examiner makes the following findings as to facts, conclusions drawn therefrom and order.

FINDINGS OF FACT

1. For the reasons set forth in respondents' answer and agreed to by complaint counsel, the complaint may be dismissed as to respondent, Saveway Meter Corporation. (Stip. of Facts, para. 2; Ans. para. 1, p. 2.)

2. The complaint may also be dismissed as to respondent Saveway-Meter-Matic Television Corporation which now appears to have had no separate corporate existence and to have been a trade name used, at one time, by respondent, Saveway Meter Corporation. (Stip. of Facts, para. 3; Ans. para. 2, p. 1.)

3. Respondent World Wide Television Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its principal office and place of business located at 4905 Annapolis Road, Bladensburg, Maryland (formerly 2375 Rhode Island Avenue, N.E., Washington 18, D.C.).

Respondent Lu-Gil Corporation, trading under the names of Lancaster Sales Company and Lancaster Sales, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania with its principal office and place of business located at 2163 Ridge Avenue, Philadelphia 21, Pennsylvania.

Respondent Gilbert Tucker is an individual and is an officer of each of the corporate respondents. He formulates, directs and controls the acts and practices of each of said corporate respondents, including the

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acts and practices hereinafter set forth. His address is the same as that of respondent Lu-Gil Corporation. (Ans. para. 2, p. 1.)

4. Respondents are now, and for a number of years last past have been, engaged in the advertising, offering for sale, sale and distribution of new and used television sets, appliances and other products to the purchasing public. (Ans. para. 2, p. 1.)

5. In the course and conduct of their business, respondents cause said products to be shipped from their respective locations in the States of Pennsylvania and Maryland to various purchasers thereof located in various other States of the United States and 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. (Ans. para. 2, p. 1.)

6. The majority of the shares of stock of each of the said corporate respondents is owned by the said Tucker who, as aforesaid, formulates, directs and controls the affairs of each of the corporate respondents. Respondent Tucker causes the said products to be shipped from the said place of business of respondent Lu-Gil Corporation located in the State of Pennsylvania to respondent World Wide Television Corporation located in the State of Maryland. The two corporate respondents are, therefore, but devices employed by the said Tucker to effectuate the acts and practices established herein. (Ans. para. 2, p. 1.)

7. In the course and conduct of their business and for the purpose of inducing the purchase of their products, respondents have made numerous statements and representations respecting the terms of sale, financing, service and guarantees for said products in advertisements inserted in newspapers and other advertising media, and by means of radio broadcasts transmitted by radio stations located in various States of the United States, and in the District of Columbia, having sufficient power to carry such broadcasts across State lines.

Typical and illustrative of the foregoing, but not all inclusive thereof, are the following:

- (1) No down payment. (CX 1, 17, 19)
- (2) No money down. (CX 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 16, 18)
- (3) * * * just 25 cents a day. (CX 2, 8, 12)
- (4) Only quarters a day. (CX 9, 10, 16, 17, 18, 19)
- (5) If you can afford a pack of cigarettes you can afford to own 23" famous TV the easy METERMATIC WAY. (CX 9, 10)
- (6) * * * every day you just place a few coins in a hidden meter behind your TV set * * * and in just a few months * * * you own the set outright! (CX 7, see also CX 1, 11, 12)
- (7) No banks, no finance companies! (CX 1, 4, 5, 8, 12, 14, 16, 18)

- (8) That meter keeps the bill collectors away. (CX 15)
- (9) Meter Matic's GOTTA GIVE GOOD SERVICE! They know if your set isn't working * * * you won't put any coins in the hidden meter. (CX 12, see also CX 1, 3, 4, 11, 13)
- (10) Service's fully guaranteed! (CX 14)
- (11) Service guarantee included! (CX 17)
- (12) The Metermatic Plan is better because service is guaranteed. (CX 4)
- (13) BRAND NEW GIANT SCREEN OLYMPIC CONSOLE TELEVISION with FULL ONE YEAR GUARANTEE including picture tube. (CX 8)

8. By and through the use of the aforementioned statements, and others of similar import and meaning not specifically set out herein, the respondents represent, directly or by implication (CX 1-20):

- (1) That no down payment or money down is required.
- (2) That purchasers can apply as little as 25 cents each day toward the purchase of the television set, service and other charges.
- (3) That in a few months purchasers will own their television sets outright.
- (4) That no purchasers will have to deal with banks or finance companies.
- (5) That no purchasers will have to deal with bill collectors.
- (6) That respondents provide repair and maintenance service without additional charge.
- (7) That respondents' products are unconditionally guaranteed for one year.

9. The aforesaid statements and representations, and others of similar import and meaning not specifically set forth herein, are false, misleading and deceptive.

(1) At or about the time of delivery, respondents usually require of purchasers of new television sets a payment of between \$15 and \$20 which is variously denominated as delivery charge, sales tax or deposit on the meter; but, on occasion, respondents will accept payments as low as \$5. (Stip. of Facts, Para. Five, 1.)

(2) At the time of purchase, purchasers of respondents' television sets sign conditional sales contracts or other contracts of purchase which provide for monthly payments approximating \$20 a month for brand new television sets for a period of 24 months. (Stip. of Facts, Para. Five, 2.)

(3) Prior to May 1, 1962, substantial numbers of the promissory notes executed by purchasers of television sets from respondents have been transferred and assigned by respondents to banks or finance companies and such purchasers, as a consequence thereof, have been required to make payments to and otherwise deal with such banks or finance companies. Subsequent to May 1, 1962, and up to August 1,

1962, the only financing done was by way of direct loans to respondents from financing agencies. Respondents, after May 1, 1962, collected directly from all their customers, so that, in fact, none of said purchasers were required to deal with banks or finance companies in connection with their said purchases (of television sets) from respondents. As of August 1, 1963, respondents resumed the practice of discounting purchasers' notes with financial institutions, so that as of August 1, 1963, purchasers of respondents' television sets whose notes were discounted have been required to deal with the said financial institutions. (Stip. of Facts, Para. Five, Addendum to Stip. of Facts, and CX 21.)

(4) Respondents send out collectors or other employees once or twice a month to collect the amounts purchasers have deposited in their meters. Should the amount deposited in the meter aggregate less than the monthly payment contracted for, respondents' employees or representatives undertake to collect the difference from the purchasers. (Stip. of Facts, Para. Five, 4.)

(5) Purchasers of new television sets from respondents pay \$65 per year for two years for repair, maintenance and service. (Stip. of Facts, Para. Five, 5.)

(6) The warranty or guarantee set forth in the booklet entitled, "Operating Instructions and Warranty, Olympic Division of the Siegler Corporation," (CX 20 a-h) is the warranty or guarantee given by the respondents on the Olympic television sets which constituted a substantial proportion of the sets sold by respondents and the guarantee or warranty given by respondents on other makes and kinds of television sets provides for substantially similar terms and conditions; in addition to the foregoing warranty or guarantee, and as part of the aforesaid annual service charge in the amount of \$65, respondents give and provide an unconditional guarantee on parts, labor and maintenance. (Stip. of Facts, Para. Five, 6.)

10. Predicated on the facts set forth in finding No. 9, it is further found that:

(1) Down payments of between \$15 and \$20 are usually required of purchasers of new television sets at or about the time of delivery variously denominated as a delivery charge, sales tax or deposit on the meter.

(2) Purchasers of respondents' products are required to pay more than 25 cents a day toward the purchase of the television set.

(3) Few, if any, purchasers acquire full title to respondents' products within a few months.

(4) Purchasers prior to May 1, 1962, were, and subsequent to Au-

gust 1, 1963, are, required to make payments to banks or finance companies.

(5) Purchasers have to deal with bill collectors.

(6) Respondents do not provide repair and maintenance service without additional charge.

(7) Respondents' products are not unconditionally guaranteed for one year. Said guarantee is subject to numerous requirements, limitations and restrictions. (See CX 20 h, for conditions, limitations, etc.) The advertised guarantee fails to set forth the nature, conditions and extent of the guarantee, the manner in which the guarantor will perform thereunder and the identity of the guarantor.

11. In the conduct of their business, at all times mentioned herein, the respondents have been in substantial competition in commerce with corporations, firms and individuals engaged in the sale of television sets, appliances and other products of the same general kind and nature as those sold by respondents. (Ans. Para. 1, p. 3, Stip. of Facts, Para. Six.)

12. 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.

CONCLUSIONS

1. 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.

2. The Federal Trade Commission has jurisdiction of and over respondents and the subject matter of this proceeding.

3. The complaint herein states a cause of action, and this proceeding is in the public interest.

ORDER

It is ordered. That respondents World Wide Television Corporation, a corporation, Lu-Gil Corporation, a corporation, trading under the names of Lancaster Sales Company and Lancaster Sales or under any other name or names, and their officers, and Gilbert Tucker, individually and as an officer of each of said corporations, and respond-

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ents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of television sets, appliances or 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, that no down payment is required of purchasers of respondents' products when such payments must, in fact, be made by all or a part of said purchasers.

2. Representing, directly or by implication, that purchasers of respondents' products are required to pay as little as 25 cents a day; or, by any means, misrepresenting the amount, frequency or duration of the payments required under respondents' sales contracts.

3. Representing, directly or by implication, that purchasers of respondents' products become the owners of such products within any period of time which is less than that time actually required to discharge all liabilities, obligations and duties under the contract of purchase and to acquire full title thereto.

4. Misrepresenting, directly or by implication that purchasers of respondents' products will not have to deal with banks or finance companies.

5. Representing, directly or by implication that no purchasers of respondents' products will have to deal with bill collectors: or, by any means, misrepresenting respondents' usual and customary methods of collection.

6. Representing, directly or by implication, that repair and maintenance service on products purchased from respondents is provided without additional charge.

7. Representing, directly or by implication, that respondents' products are guaranteed unless the nature, extent and duration of the guarantee, the manner in which the guarantor will perform thereunder and the name and address of the guarantor are clearly and conspicuously disclosed.

It is further ordered. That this complaint be, and it hereby is, dismissed as to Saveway-Meter-Matic Television Corporation, and Saveway Meter Corporation.

FINAL ORDER

This case has been heard by the Commission on respondents' appeal from the initial decision of the hearing examiner. Upon examination of the record and after full consideration of the issues of fact and law

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presented, the Commission has concluded that the initial decision is correct in all respects. Accordingly,

It is ordered, That the initial decision of the hearing examiner, including the findings, conclusions, and order, as corrected by the hearing examiner's order dated May 20, 1964, correcting clerical error in initial decision, be, and it hereby is, adopted as the decision of the Commission.

It is further ordered, That respondents shall, within sixty (60) days after service of the order herein upon them, file with the Commission a report in writing, signed by such respondents, setting forth in detail the manner and form of their compliance with the order to cease and desist.