
IN THE MATTER OF
PRECISION EQUIPMENT CO. ET AL.

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

Docket C-1017. Complaint, Nov. 19, 1965—Decision, Nov. 19, 1965

Consent order requiring Chicago, Ill., sellers of filing cabinets, binoculars and other merchandise to the public, to cease making false and deceptive pricing and savings claims in advertising by such means as using the word "regular" in comparative-price advertisements to refer to prices

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which were higher than the prices respondent had sold such merchandise in the recent regular course of business, and misrepresenting that the special offers were for a limited time.

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 Precision Equipment Co., a corporation, and Walter A. Heiby, individually, and as an officer 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 Precision Equipment Co., 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 located at 4401 North Ravenswood Avenue, Chicago, Illinois 60640.

Respondent Walter A. Heiby is an officer of the corporate respondent. He formulates, directs, and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of their "Diplomat" filing cabinets, binoculars and other merchandise 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 merchandise, when sold, to be shipped from their place of business in the State of Illinois to purchasers thereof located in the various other States of the United States, and maintain and at all times mentioned herein have maintained, a substantial course of trade in said merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, for the purpose of inducing the sale of their "Diplomat" filing cabinets and binoculars, respondents have made statements and representations with respect to the prices of said merchandise. Said statements have been made in circulars, direct mail pieces, catalogs and other types of advertising and promotional material distributed by means

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of the United States mails to prospective purchasers located in States other than the State of Illinois.

Typical and illustrative of said statements and representations are the following:

Re: "Diplomat" filing cabinets:

Special introductory offer

Regular

Save

Saving of \$40.00

An outstanding value at its regular \$79.95 price

\$39.96 * * * if ordered during this sale!

(Thereafter, \$79.95 price applies.)

\$79.95 catalog price * * *

* * * \$40.00 less than catalog price.

\$39.95 * * * if ordered while this offer

is in effect. (Thereafter \$79.95 catalog price applies.)

Re: Binoculars:

A \$75.00 Binocular * * * plus \$12.00 Filtrol
both for only \$29.95.

A \$75.00 Binocular * * * plus Sport Opera
Glasses. Both for only \$29.95.

PAR. 5. By and through the use of the aforesaid statements and representations, and others of similar import and meaning not specifically set forth herein, respondents represent, directly or by implication:

a. That the amounts of \$79.95 for the letter size and \$89.95 for the legal size "Diplomat" filing cabinets and the amount of \$75 for the binoculars with the \$12 filtrol and \$75 for the binoculars with the sport opera glasses are the prices at which such articles of merchandise were sold or offered for sale in good faith for a reasonably substantial period of time in the recent regular course of respondents' business;

b. That purchasers of said merchandise save an amount equal to the difference between said higher prices and the corresponding lower prices;

c. By and through the use of the words "special introductory offer" and words or terms of similar import or meaning that the offer of sale of respondents' merchandise at the lower prices is limited in point of time.

PAR. 6. In truth and in fact:

a. The aforestated higher price amounts are not the prices at which the designated articles of merchandise were sold or offered for sale in good faith for a reasonably substantial period of time in the recent regular course of respondents' business;

b. Purchasers of respondents' said merchandise do not save an amount equal to the difference between said higher prices and the corresponding lower prices;

c. Respondents' offer to sell said merchandise at the lower prices is not limited in time, as the respondents have sold and are offering to sell said merchandise at the reduced price without imposing any limitation as to the period of time in which it may be purchased.

Therefore, the statements and representations as set forth in Paragraphs Four and Five hereof, were, and are, false, misleading and deceptive.

PAR. 7. 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 filing cabinets and binoculars of the same general kind and nature as those sold by respondents.

PAR. 8. 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' filing cabinets and binoculars by reason of such erroneous and mistaken belief.

PAR. 9. The aforesaid acts and practices of respondents as herein alleged, were, and are, all to the prejudice and injury 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(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. Respondent Precision Equipment Co., 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 located at 4401 North Ravenswood Avenue, Chicago, Illinois 60640.

Respondent Walter A. Heiby is an officer of said corporation and his address is the same as that of the 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, Precision Equipment Co., a corporation, and its officers, and Walter A. Heiby, individually and as an officer 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 filing cabinets, binoculars, or other merchandise, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "regular," or any other word or term of similar import or meaning, to refer to any amount which is in excess of the price at which such merchandise has been sold or offered for sale in good faith by the respondents in the recent regular course of their business; or otherwise misrepresenting the price at which such merchandise has been sold or offered for sale by respondents.

2. Representing in any manner that by purchasing any of said merchandise, customers are afforded savings amounting to the difference between respondents' stated price and any other price used for comparison with that price,

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(a) Unless respondents have offered such merchandise for sale at the compared price in good faith for a reasonably substantial period of time in the recent regular course of their business; or

(b) Unless substantial sales of said merchandise are being made in the trade area at the compared price, or a higher price; or

(c) Unless a substantial number of the principal retail outlets in the trade area regularly offer the merchandise for sale at the compared price, or some higher price; or

(d) When a comparable value representation is used, unless substantial sales of merchandise of like grade and quality are being made in the trade area at the compared price, or a higher price.

3. Misrepresenting, in any manner, the savings available to purchasers of respondents' merchandise.

4. Using the words "special introductory offer," or representing, directly or by implication, that any offer is limited in point of time or in any manner: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that any represented limitation or restriction was actually imposed and in good faith adhered to.

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.
