

IN THE MATTER OF

BEST PRODUCTS COMPANY, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-1030. Complaint, Jan. 12, 1966—Decision, Jan. 12, 1966*

Consent order requiring a Richmond, Va., dealer in miscellaneous merchandise to cease misrepresenting by means of catalogue advertisements that it is a wholesaler and sells at wholesale prices.

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 Best Products Company, Inc., a corporation, and Sydney Lewis, 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 Best Products Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia, with its office and principal place of business located at 4909-13 West Marshall Street, in the city of Richmond, State of Virginia.

Respondent Sydney Lewis is an individual and officer of the said corporate respondent. He formulates, directs and controls the policies, acts and practices of said corporate respondent, including those hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents have been, and are now, engaged in the advertising, offering for sale, sale and distribution of various articles of merchandise including jewelry, watches, silverware, cameras, kitchen utensils, household appliances, toys and sporting goods to retailers and to members of the consuming public.

PAR. 3. 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 Virginia 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 merchandise, 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 purchase of their merchandise, have advertised the same by means of catalogs, disseminated by and through the United States mails to prospective purchasers located in various States other than the State of Virginia.

Among and typical, but not all inclusive, of the statements appearing in respondents' catalog are the following:

THE BEST BUYERS BOOK
WHOLESALE CATALOG

Confidential

HOW TO FIND
YOUR WHOLESALE COST

Your wholesale cost is hidden in the stock number that appears with each item. The figures at the right end of the stock number represent your wholesale cost as per example below:

EXAMPLE

1218-C1204 \$17.95

OUR STOCK NO.	YOUR COST \$12.04	RETAIL PRICE
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BEST PRODUCTS CO., INC. • Wholesale Distributors •

BEST'S SALES POLICY
WE SELL WHOLESALE ONLY

PAR. 5. Respondents, for each article of merchandise described in their catalog set forth two prices, one, a so-called coded price which is their selling price; and the other, a higher price, purported to be the "retail price." By means of such pricing methods, the aforesaid quoted statements, and other of similar import but not specifically set out herein, respondents represent, directly or by implication: (1) that they are wholesalers or wholesale distributors; (2) that they sell all of their merchandise at wholesale prices and that the so-called coded price is the wholesale price of each article of merchandise.

PAR. 6. In truth and in fact: (1) respondents are not wholesalers or wholesale distributors; (2) they do not sell all such articles of merchandise at wholesale prices and the so-called coded selling price is not the wholesale price of each article of merchandise but is substantially in excess thereof.

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

PAR. 7. At all times mentioned herein respondents have been, and are 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. 8. The use by respondents of the aforementioned false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements were, and are, true, and into the purchase of substantial quantities of respondents' products because of said mistaken and erroneous 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 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.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents 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 respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents 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 respondents 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 Best Products Company, Inc., is a corporation organized, existing and doing business under and by virtue of the

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laws of the State of Virginia with its office and principal place of business located at 4909-13 West Marshall Street, in the city of Richmond, State of Virginia.

Respondent Sydney Lewis is an officer of said corporation, and his 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 Best Products Company, Inc., a corporation, and its officers, and Sydney Lewis, 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 offering for sale, sale or distribution of jewelry, watches, silverware, cameras, kitchen utensils, household appliances, toys, sporting goods, or any other merchandise to the ultimate consumer in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the term "wholesale" or "wholesale distributor" or any other word or words of similar import as descriptive of respondents' business or otherwise representing that respondents are wholesalers or wholesale distributors.

2. Using the words "wholesale," "wholesale cost" or any other term of similar import as descriptive of a selling price or representing directly or by implication that merchandise is being offered for sale at a wholesale price: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the price so described or referred to is the wholesale price in the trade area or areas where the representation is made.

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.

Complaint

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IN THE MATTER OF

BURSTEIN-APPLEBEE COMPANY ET AL.

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

Docket C-1031. Complaint, Jan. 12, 1966—Decision, Jan. 12, 1966

Consent order requiring a Kansas City, Mo., retailer of radios, phonographs, electronic equipment and other merchandise with stores in Missouri and Colorado, and also selling by mail-order catalog, to cease making deceptive pricing, savings, and guarantee claims in its advertising.

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 Burstein-Applebee Company, a corporation, and J. E. Burstein and Lee Marcus, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of the 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 Burstein-Applebee Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at 1012 McGee Street in the city of Kansas City, State of Missouri.

Respondents J. E. Burstein and Lee Marcus 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 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 radios, phonograph equipment, radio electronic equipment and general merchandise to the public. Respondents also own and operate retail stores in the States of Missouri and Colorado.