

IN THE MATTER OF

UNITED STATES SALES CORP. DOING BUSINESS AS
UNITED STATES PURCHASING EXCHANGE, ETC.

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

Docket C-1082. Complaint, July 7, 1966—Decision, July 7, 1966

Consent order requiring a North Hollywood, Calif., mail-order retailer of miscellaneous merchandise to cease misrepresenting itself as a liquidator, as being connected with United States Government, that it sells at public auctions, the nature of its guarantees, that it sells at wholesale prices, the source of its merchandise, and making other false claims.

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 United States Sales Corp., a corporation, and Ronald D. Goldman and Theodore J. Slavin, 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 United States Sales Corp. is a corpo-

ration organized, existing and doing business under and by virtue of the laws of the State of California with its office and principal place of business presently located at 5260 Vineland Avenue, North Hollywood, California. Its former office and place of business was located at 435 East Washington Boulevard, Los Angeles, California.

It also does business under the names of United States Purchasing Exchange and U.S. Purchasing Exchange.

Respondents Ronald D. Goldman and Theodore J. Slavin 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.

Respondents are successors to United States Claim Adjusters whose principal office and place of business was located first at 1028 South Olive Street, Los Angeles, California and then at 435 East Washington Boulevard in that city.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of a variety of products including electric household appliances, housewares, tools, radios, watches, tape recorders and other articles of 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 products, when sold, to be shipped from their place of business in the State of California 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. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their merchandise, respondents through the use of their several trade names and in circulars and promotional material sent to prospective purchasers make numerous statements and representations respecting their trade status, the nature of their business, the source of their merchandise, their connection with the United States Government, and the nature and extent of their advertised guarantees.

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

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On envelopes:

United States Claim Adjusters
1028 South Olive Street
Los Angeles 15, California

OFFICIAL NOTICE

* * * * *

UNITED STATES CLAIM ADJUSTERS

P. O. BOX 15662
LOS ANGELES 15, CALIFORNIA
(underprint depicting an eagle)

PUBLIC NOTICE

DO NOT
DESTROY
THIS BULLETIN!

On promotional material:

ESTATES

BANKRUPTCIES
PUBLIC NOTICE

LIQUIDATIONS

WHEREAS:

CLAIM NO B30772

BULLETIN NO 2163

Gentlemen:

We have just been notified that this division has received authorization to liquidate a distressed shipment of 535 brand new waterless cookware sets.

Rather than dispose of these sets at public auction, we are being permitted to make them available to commercial accounts for the benefit of their employees.

LIQ NO. B30772

CONDITION: BRAND NEW PACKAGED

"Honor Craft" Stainless Steel Waterless Cookware Set
Home Demonstration Price ---- \$199.50 LIQUIDATION
PRICE
\$35.00

* * * * *

This shipment is being sold on a no limit—no reserve—piece by piece basis. All orders will be processed on the priority system regardless of quantities until supply is exhausted.

The following claims are included in this Bulletin: Claim B63182. Claim R83347. Claim A83775.

Claim # B63182

MAXWELL HOUSE COFFEE: 1 lb cans available in regular and drip grind only. Shipped in case lots only (24 cans per case)

per case \$3.20

Crest tooth paste: Large size, with Fluoristan. Shipped in larger lots only.
per dozen \$1.50

Refer to: correct claim when ordering

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Quantity

74 "Remington" electric can opener
 216 "Hamilton" Deluxe Liquifier and Blender

WALTHAM WATCHES

LOT # C82401

Liquidation price \$19.80

----- Guarantee

----- Factory Guarantee

All watches offered at the above liquidation prices.

United States Purchasing Exchange
 (address)
 not a federal agency

Bulletin # 38524

ATTENTION: Shopowners & Foremen
 GENTLEMEN:

Enclosed is our latest bulletin containing merchandise now available. Upon close examination of this bulletin, you will find many items used in your specific business (for resale) for your personal use or for the benefit of your employees.

SHOCKPROOF . . . WATCH

ATTENTION MANUFACTURERS

If you have any surplus inventory that you WISH TO LIQUIDATE or are UNDER FORCED LIQUIDATION write at once giving full particulars on available merchandise.

ATTENTION WHOLESALERS: Please do not ask for additional discounts regardless of quantities.

PAR. 5. By and through the use of the aforementioned statements and representations, and others of similar import and meaning but not expressly set out herein, respondents, represent, and have represented, directly or by implication:

1. Through the use of the name "United States Claim Adjusters" separately and in connection with the foregoing statements and representations and others of similar import and meaning not expressly set out herein that they are liquidators, authorized adjusters or agents engaged in the sale or disposition of bankrupt, estate, salvage, distrained or other distress or surplus merchandise for the purpose of liquidating, adjusting, paying off or otherwise settling indebtedness or claims.

2. Through the use of the words "United States" or the abbrevi-

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viation "U.S." as part of respondents' said corporate or trade names in connection with the foregoing statements and representations, and particularly the words "official notice," that respondents are engaged in a business which has a connection or affiliation with the United States Government.

3. That they are making bona fide offers to sell each and every one of the several articles of merchandise described in said advertisements.

4. That the merchandise offered for sale by respondents is normally disposed of by them at public auction.

5. That the supply of each of the several articles of merchandise offered for sale by respondents is limited and that orders will be filled on a first-come first-served basis.

6. That Waltham wrist watches offered for sale by respondents are unconditionally guaranteed.

7. Through the use of the statement "Attention Manufacturers etc." that a substantial source of their merchandise is manufacturers' surplus inventory which is being voluntarily or involuntarily liquidated.

8. Through the use of the statement "Attention Wholesalers etc." that the merchandise is being offered to the public at wholesale prices.

9. That certain of their advertised watches are "Shockproof," that is, that the entire watch so described is protected against damage from any type or amount of shock.

PAR. 6. In truth and in fact:

1. Respondents are not liquidators, authorized adjusters or agents engaged in the sale or disposition of bankrupt, estate, distrained or other distress or surplus merchandise for the purpose of liquidating, adjusting, paying off or otherwise settling indebtedness or claims. Instead, respondents are engaged in the business of purchasing the advertised merchandise from manufacturers, wholesalers or other suppliers and selling it at retail for their own account to the public.

2. Respondents' business has no connection or affiliation whatsoever with the United States Government.

3. Respondents' offers as to certain products are not bona fide. For example, well-known brand name products such as Maxwell House Coffee are offered at prices below the usual retail prices of the products to entice purchasers to order additional merchandise. Respondents fill the order for such additional merchandise but in a substantial number of cases do not fill the order for the

brand name products because they do not have a sufficient stock of such items of merchandise to meet reasonably anticipated demands.

4. Respondents do not sell their merchandise at public auction; they are solely retailers selling their merchandise through their "Bulletin" at the prices stated therein.

5. The supply of each of the several articles of merchandise offered for sale by respondents is not so limited as to allow them to fill orders only on a first-come first-served basis.

6. Said Waltham watches are not unconditionally guaranteed, said guarantee is subject to conditions and limitations not set forth in respondents' advertisements of guarantee.

7. Very little, if any, of respondents' merchandise is liquidated surplus inventory of manufacturers. Respondents obtain their merchandise from wholesalers, distributors and other suppliers engaged in the business of selling merchandise for resale.

8. Respondents' merchandise is not offered to the public at wholesale prices.

9. Respondents' watches are not "Shockproof." The entire watch so described is not protected against damage from any type or amount of shock.

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

PAR. 7. Respondents use the words "Hamilton" and "Remington" and other well known domestic names as trade or brand names in advertising various products. The words "Hamilton" and "Remington" and other well known domestic names are the names or parts of names of, or are used as trade or brand names by long established business firms doing business in the United States which are well and favorably known to the purchasing public.

PAR. 8. By using trade or brand names such as "Hamilton" and "Remington" and other well known domestic names, respondents represent, directly or by implication, that their products so designated are manufactured by or are connected in some way with, the well and favorably known United States firm or firms with which said names have long been associated, which is contrary to fact.

PAR. 9. There is a preference among members of the purchasing public for products manufactured by well and favorably known and long established concerns whose identity is connected

with "Hamilton" and "Remington" and other well known domestic names, a fact of which the Commission takes official notice.

PAR. 10. 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 in the sale of electric household appliances, tools, radios, tape recorders, and other items of merchandise, of the same general kind and nature as that sold by respondents.

PAR. 11. 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. 12. The aforesaid acts and practices of respondents, as hereinbefore 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 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 said Acts, and having determined that complaint

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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 United States Sales Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its office and principal place of business located at 5260 Vineland Avenue, in the city of North Hollywood, State of California.

It also does business under the names United States Purchasing Exchange and U.S. Purchasing Exchange.

Respondents Ronald D. Goldman and Theodore J. Slavin 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 United States Sales Corp., a corporation, trading under its own name and as United States Purchasing Exchange and U.S. Purchasing Exchange, or under any other name or names, and its officers, and Ronald D. Goldman and Theodore J. Slavin, 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 offering for sale, sale or distribution of electrical household appliances, housewares, tools, radios, watches, tape recorders, or any other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the term "claim adjuster" or any other word or words of similar import or meaning, in or as a part of respondents' trade or corporate name, or representing, directly or by implication, that they are liquidators, authorized adjusters or agents engaged in the sale or disposition of bankrupt, estate, salvage, distrained or other distress or surplus merchandise.

2. Representing, directly or by implication, that they are liquidating, adjusting, paying off or otherwise settling indebtedness or claims.

3. Misrepresenting, in any manner, their trade or business

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status or the source, character or nature of the merchandise being offered for sale.

4. Using the name United States or the abbreviation U.S. in or as a part of their corporate or trade name without clearly and conspicuously disclosing in immediate conjunction therewith that respondents are a private stock corporation not connected or affiliated with the United States Government; or representing in any manner that respondents' business is connected or affiliated with the United States Government.

5. Offering for sale, products at prices appreciably less than the prices at which substantial sales of said products are being made in the area where respondents do business unless respondents have on hand a sufficient supply of said products to fill the orders reasonably to be expected, or, if respondents have a limited supply that the number of items be clearly disclosed in connection with the offer.

6. Representing, directly or by implication, that merchandise offered for sale by respondents is sold by them at public auctions; or representing in any manner that respondents' method of selling merchandise is other than the over-the-counter and mail-order retail sale thereof.

7. Representing, directly or by implication, that the supply of merchandise offered for sale is limited: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder in respect to any article of merchandise so advertised for respondents to establish that their supply of said items is not sufficient to meet reasonably anticipated demands therefor and that the supply cannot be replenished through their customary sources.

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

9. Representing, directly or by implication, that the merchandise offered for sale by respondents is manufacturers' liquidated or surplus inventory: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder in respect to any article of merchandise so represented for respondents to establish that it is merchandise of such class.

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10. Representing, directly or by implication, that merchandise is being offered to the public at wholesale prices.

11. Representing, directly or by implication, that watches are shockproof; or misrepresenting in any manner the degree or extent to which the watch case or watch movement is protected from damage by shock.

12. Using the words "Hamilton" or "Remington," or any simulation thereof, as brand or trade names to designate, describe or refer to any of their products: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that a product so represented is that of the manufacturer with which such brand name or trade name is associated.

13. Misrepresenting by use of brand names, trade names or simulations thereof, or in any other manner the actual manufacturer of any product.

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.
