

IN THE MATTER OF
MONROE WHOLESALE COMPANY ET AL.

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

Docket C-1101. Complaint, Aug. 24, 1966—Decision, Aug. 24, 1966

Consent order requiring a Chicago retailer of miscellaneous merchandise to cease misrepresenting itself as a wholesaler through the use of the term "wholesaler" or similar words in its corporate name and that the selling prices of its merchandise are 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 Monroe Wholesale Company, a corporation, and Franklin B. Orwin, 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 as follows:

PARAGRAPH 1. Respondent Monroe Wholesale Company 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 1050 East 81st Street, Chicago, Illinois.

Franklin B. Orwin is an individual and an 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 advertising, offering for sale, sale and distribution of various articles of merchandise including jewelry, cameras, silverware, sporting goods, household goods, appliances and typewriters to members of the consuming public.

PAR. 3. Respondents now cause, and for sometime 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 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 by the means of catalogs, disseminated by and through the United States mails to prospective purchasers located in various States other than the State of Illinois. Said catalogs contained numerous statements which were implied representations respecting respondents' status as a wholesaler and the wholesale prices of said merchandise.

Among and typical, but not all inclusive, of said statements are the following which appeared in respondents' catalogs for the years 1964 and 1965:

To Read Your Wholesale Cost—

(explanation follows to show how the user determines a coded price.)

We Will Not BE UNDERSOLD If—within 30 days any article purchased

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from us is offered for less in any other wholesale catalog in the United States, we will refund the difference in cash.

PAR. 5. Respondents, for the articles 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, described as the "retail price."

By and through the use of the corporate respondents' name, separately and in connection with the aforesaid statements and representations, and the use of the above described pricing methods the respondents have represented directly or by implication:

- (1) That they are wholesalers;
- (2) That they sell all of their merchandise at wholesale prices and that the coded price is the wholesale price of each article of merchandise.

PAR. 6. In truth and in fact:

- (1) Respondents are not wholesalers;
- (2) They do not sell all of their 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 aforesaid false, misleading and deceptive statements, representations and practices has had 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. 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 Monroe Wholesale Company 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 1050 East 81st Street, in the city of Chicago, State of Illinois.

Respondent Franklin B. Orwin 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 Monroe Wholesale Company, a corporation, and its officers, and Franklin B. Orwin, 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, cameras, silverware, sporting goods, household goods, appliances, typewriters 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 word "wholesale," or any other word or

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words of similar import or meaning as part of their corporate or trade name, or representing, directly or by implication, in any manner, that respondents are wholesalers: *Provided, however,* That the use of the name Monroe Merchandisers, Inc., in and of itself, shall not be construed as a violation of this paragraph or of this order: *Provided, further,* That should respondents so desire for reasons of continuity they may use the words "formerly Monroe Wholesale Company" in type smaller than and below any new corporate name selected in conformity with this order, on the front cover page of respondents' 1967 general catalog and on stationery; purchase orders, invoices, forms and other literature for a period not to exceed one year from the date of service of this order.

2. Using the words "wholesale," "wholesale cost" or any other word or 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: *And provide further,* That the designation of coded prices as "discount prices" will not of itself be taken as a representation that the price in question is a "wholesale price" in violation of this order.

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.