

IN THE MATTER OF

MID-LAND ADVERTISING COMPANY ET AL.

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

Docket C-1135. Complaint, Nov. 3, 1966—Decision, Nov. 3, 1966

Consent order requiring an Omaha, Nebr., distributor of miscellaneous merchandise to cease making deceptive claims as to surveys, contest, prizes, free merchandise, savings, and value, in advertising its products.

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 Mid-Land Advertising Company, a partnership, and James L. Swanson and Lowell Growcock, individually and as copartners trading and doing business as Mid-Land Advertising Company, 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 Mid-Land Advertising Company is a copartnership comprised of the subsequently named individuals who formulate, direct and control the acts and practices of the said partnership, including the acts and practices hereinafter set forth. The principal office and place of business of respondents is located at 5011 Underwood, in the city of Omaha, State of Nebraska.

Respondents James L. Swanson and Lowell Growcock are indi-

viduals and copartners trading and doing business as Mid-Land Advertising Company with their principal office and place of business located at the above stated address.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of household appliances, books, tools 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 Nebraska 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. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their merchandise, the respondents and their salesmen and other representatives have made numerous statements and representations to prospective customers, orally and otherwise, with respect to their said products and the methods employed by them in promoting the sale thereof.

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

1. That respondents are conducting a survey and that prospective customers' names will be entered in a drawing or contest to be held in connection with the survey.

2. That prospective customers have won prizes in a drawing or contest and must make an appointment with one of the respondents' representatives in order to receive such prizes.

3. That customers are specially selected in order to promote the sale of respondents' products.

4. That customers are receiving reduced prices or a "special introductory offer" in order to promote the trade names of merchandise sold by respondents and that savings are thereby afforded to purchasers from respondents' regular prices.

5. That customers making an initial purchase from the respondents may thereafter purchase their merchandise at a 50% discount from the respondents' regular prices.

6. That when customers purchase one item from the aforesaid dealers, other items are awarded to such customers as a gift or "at no extra cost" or that they are "free."

PAR. 5. In truth and in fact:

1. The respondents are not conducting a survey and prospective customers' names are not entered in a drawing or contest to be held in connection with a survey or otherwise. Respondents are only seeking information about prospective customers' appliance needs and credit ratings which is used by respondents as a basis to determine whether an attempt shall be made to sell such customers merchandise.

2. Persons do not win prizes at drawings or any other type of contest but are so notified because such persons appear to be good prospects for the sale of merchandise. Appointments are made with prospective customers only for the purpose of selling them merchandise.

3. Respondents' customers are not especially selected. On the contrary, said merchandise is available to anyone with money or credit rating to take advantage of it.

4. Respondents' customers do not receive reduced prices or a "special introductory offer" but are afforded the same prices at which said respondents sold their merchandise in the past and savings are not thereby afforded to such purchasers.

5. Customers making purchases from respondents will not thereafter be able to buy merchandise at a 50% or any other substantial discount from said dealers' regular prices.

6. Customers of the aforesaid respondents do not receive additional merchandise as a gift or "at no extra cost" or "free," but the price of any additional items of merchandise is included in the price that such customers pay for the major or principal item sold by said respondents, and the major item required to be purchased has never been sold separately in substantial quantities at such prices.

Therefore the statements and representations set forth in Paragraph Four are false, misleading and deceptive.

PAR. 6. In the course and conduct of their business as aforesaid, and for the purpose of inducing the purchase of their said merchandise, the respondents circulate among the consuming public leaflets and other data containing retail pricing representations.

Typical and illustrative of the aforesaid representations are the following:

WALTHAM
Sea Fall
Value \$69.50

[Picture of the watch]

1134

Complaint

Air—way
Sanitizer
"88"
Value \$259.85

[Picture of the assembled machine and
the separate parts]

"7" HEAVY DUTY POWER SAW

Value
\$59.50

[Picture of the saw]

PAR. 7. Through the use of the aforesaid representations, and others similar thereto but not specifically set forth herein, respondents have represented, directly or indirectly, that said stated prices, accompanied by the word "VALUE" are not appreciably in excess of the highest prices at which substantial sales of such merchandise have been made in the recent regular course of business in the trade area where such representations are made.

PAR. 8. In truth and in fact:

The aforesaid stated prices accompanied by the word "VALUE" are appreciably in excess of the highest prices at which substantial sales of such merchandise have been made in the recent regular course of business in the trade area where such representations appeared.

Therefore, the aforesaid representations as set forth in Paragraphs Six and Seven hereof were and are false, misleading and deceptive.

PAR. 9. 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 houseware products of the same general kind and nature as that sold by respondents.

PAR. 10. The use by the 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' said appliances, books, tools and other merchandise.

PAR. 11. The aforementioned 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 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 Mid-Land Advertising Company is a partnership, with principal office and place of business located at 5011 Underwood, Omaha, Nebraska.

Respondents James L. Swanson and Lowell Growcock are individuals and copartners trading and doing business as Mid-Land Advertising Company with their principal office and place of business located at the above stated address.

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 Mid-Land Advertising Company, a partnership, and James L. Swanson and Lowell Growcock, individually and as copartners trading and doing business as Mid-Land Advertising Company, or under any other name, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of household appliances,

books, tools or any other articles of merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication:

1. That they are conducting a survey, drawing or contest in connection with the sale of merchandise.

2. That prospective customers' names will be entered in a drawing or contest held in connection with a survey.

3. That prospective customers have won prizes or "free" merchandise: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that such customers have in fact won prizes or free merchandise in a bona fide contest or drawing.

4. That prospective purchasers of any merchandise sold by respondents are especially selected.

5. That any offer or price constitutes an introductory offer or price or representing that any price is a special price unless such price constitutes a reduction from the price at which such merchandise has been sold or offered for sale by respondents in the recent, regular course of their business; or misrepresenting, in any manner, the savings available to purchasers.

6. That customers making initial purchases from respondents will thereafter be able to buy merchandise from respondents at a 50% discount or at any other substantial discount from respondents' regular prices.

7. That any item of merchandise which is sold or offered for sale in conjunction or combination with other merchandise as a gift or without extra cost is free.

B. Using the word "Value" or any word or words of similar import to refer to any amount which is appreciably in excess of the highest price at which substantial sales of such merchandise have been made in the recent regular course of business in the trade area where such representations are made; or otherwise misrepresenting the price at which such merchandise has been sold in the trade area where such representations are 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

70 F.T.C.

IN THE MATTER OF

STAR OF SIAM ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket C-1186. Complaint, Nov. 8, 1966—Decision, Nov. 8, 1966*

Consent order requiring a Lakewood, Calif., corporation to cease misrepresenting the nature and composition of its imitation pearls.

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 Star of Siam, a corporation, and Ben A. McOsker and A. C. Novick, 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 Star of Siam is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 3625 Industry Avenue in the city of Lakewood, State of California.

Respondents Ben A. McOsker and A. C. Novick 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 jewelry to retailers for resale 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 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 merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act.