

IN THE MATTER OF

GOODMAN BROS. JEWELERS, INC., ET AL.

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

Docket C-1146. Complaint, Dec. 9, 1966—Decision, Dec. 9, 1966

Consent order requiring two affiliated Minnesota jewelry stores to cease using limited availability, false pricing, "free," and deceptive guarantee claims to sell their merchandise.

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 Goodman Bros. Jewelers, Inc., a corporation, Goodman Jewelers, Inc., a corporation, and Stanley B. Goodman and Arthur N. Goodman, individually and as officers of each of said corporations, 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 Goodman Bros. Jewelers, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its main office located at 518 American National Bank Building, St. Paul, Minnesota, and its principal place of business located at 94 East Seventh Street, St. Paul, Minnesota.

Respondent Goodman Jewelers, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its main office located at 518 American National Bank Building, St. Paul, Minnesota, and its principal

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place of business located at 32 South Seventh Street, Minneapolis, Minnesota.

Respondent Stanley B. Goodman is an individual and is the president of each of the corporate respondents. He formulates, directs and controls the acts and practices of each of the corporate respondents, including the acts and practices hereinafter set forth. His address is 518 American National Bank Building, St. Paul, Minnesota.

Respondent Arthur N. Goodman is an individual and is the vice president of each of the corporate respondents. He assists in the formulation, direction and control of the acts and practices of each of the corporate respondents, including the acts and practices hereinafter set forth. His address is 518 American National Bank Building, St. Paul, Minnesota.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the business of advertising, offering for sale, sale and distribution of jewelry, stereophonic equipment, electrical appliances, tape recorders, dinnerware, cookware, radios, typewriters, cameras, bowling balls and other merchandise to the public at retail.

PAR. 3. In the course and conduct of their business, respondents have been and are now engaged in disseminating and in causing to be disseminated, in newspapers of interstate circulation, advertisements designed and intended to induce sales of their merchandise. The amount expended upon such advertising is approximately \$80,000 per year.

PAR. 4. Among and typical, but not all inclusive of the representations and statements appearing in the advertisements described in Paragraph Three are the following:

1. One Day Only

Round Bobbin

Sewing Machine

\$49.73

* * * * *

One Day Only

Stereo Console

4-Speaker System

\$88

* * * * *

Limited Time Only

Complete 45-piece set

Melmac

Dinnerware

\$14.88

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2. Short Wave AM/FM

10 Transistor Portable

Comp. at 59.50

\$39.88

* * * * *

All Transistor Tape Recorder

\$13.88

Comp. at 19.95

* * * * *

Round Bobbin

Sewing Machine

\$49.73

75.00

Value

* * * * *

Stereo

Console

\$129.95

Value

88.88

3. Bell and Howell

Autoload Projector

Price 84.85

Now \$69.95

* * * * *

Diamonds

Robert Orr

Price \$179

Now \$128

4. Remington New 25 Shaver

Lowest Price Ever

\$11.88

* * * * *

Lowest Price for 7 Transistor

Portable Radio

\$6.88

5. Polaroid

Color Pack Camera

Now ½ Price

* * * * *

4-Speaker System

Stereo Console

Save \$40

88.88

* * * * *

Save 30%

45-Pc Break-Resist

Melmac Dinnerware

14.88

* * * * *

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Save \$11

Portable Transistor
Tape Recorder

13.88

* * * * *

\$1,000,000.00 Diamond Sale

Save 20% to 40%

Full 1/3 Carat Diamond

\$98

6. Revere Teflon Coated

9-Piece Festival Set

Special Price

\$39.95

* * * * *

\$1,000,000.00

Diamond Sale

Save 20% to 40%

1/4 Carat

Reduced

Sale price \$78

* * * * *

Class Rings

Special Savings

For Her

14.88

16.88

for Him

7. Teflon Cookware

14 Piece Combination Set

\$29.95 complete

Free

3 pc Wood Spatula Set

* * * * *

54 Piece Stainless

4-Pc \$3.95 Hostess Set

Free

with the purchase
of 50-piece service

54 pieces complete

\$11.88

8. Elgin—Bulova—

Waltham—Rivera—

All Guaranteed

* * * * *

Round Bobbin

Sewing Machine

25 Year Guarantee

PAR. 5. Through the use of the aforesaid statements and representations and others similar thereto, but not specifically set forth,

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as used variously by the respondents in their advertising, respondents have represented, directly or indirectly:

1. That offers of sale, accompanied by the words "Limited Time Only," "One Day Only" are limited in point of time;

2. That the higher price amounts accompanied by the words "Comp. at . . .," ". . . Value" or words of similar import do not appreciably exceed the price at which substantial sales of the article are being made in the trade area where such representations were made; and the difference between the higher price and the corresponding lower sales price represents a saving to the purchaser;

3. That the higher price amount, accompanied by the words "Price . . . Now" or words of similar import 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 by the respondents in the recent regular course of their business; and the difference between the higher price amount and the corresponding lower sale price represented a saving to the purchaser;

4. By the use of the words "Lowest Price Ever," "Lowest Price" or words of similar import, that respondents' prices for such merchandise are the lowest prices at which the said merchandise referred to was sold or offered for sale at retail in the trade area or areas where the representations were made;

5. By the use of the words ". . . 1/2 Price," "Save \$40," "Save 30%" or other words of similar import, that the purchasers of such merchandise save the stated or implied percentage or dollar amounts from the prices at which such merchandise was sold or offered for sale in good faith for a reasonably substantial period of time by the respondents in the recent regular course of their business;

6. By the use of the words "Special Price," "Reduced Sales Price," "Special Savings" or other words of similar import, that the respondents' offering price constitutes a substantial reduction from the prices at which such merchandise was sold or offered for sale in good faith for a reasonably substantial period of time by the respondents in the recent regular course of their business;

7. By the use of the words "Free," "Free with Purchase" or other words of similar import, that the described merchandise is given free as a gift or gratuity without cost to the purchaser;

8. By the use of the words "All Guaranteed," "25 yr. Guarantee" or other words of similar import, that the merchandise referred to is guaranteed in all respects unconditionally without

any limitation or without any limitation for the stated period of time by the respondents.

PAR. 6. In truth and in fact:

1. The offers for sale of merchandise described as "Limited Time Only," "One Day Only" were not limited in time as represented but said merchandise could be purchased at the same price over an extended period of time;

2. The higher price amounts, set out in connection with the words "Comp. at . . ." and ". . . Value" did exceed the price at which substantial sales of the articles were made in the trade area where the representations were made; and the purchasers of such merchandise did not save an amount equal to the difference between the higher price amount and the corresponding lower sales prices;

3. The higher price amounts, accompanied by the words "Price . . . Now" or words of similar import are not prices at which such merchandise was sold or offered for sale in good faith for a reasonably substantial period of time by respondents in the recent regular course of their business; and the difference between such higher amount and respondents' corresponding lower sales prices did not represent savings to purchasers;

4. Respondents' prices, accompanied by the words "Lowest Price Ever," "Lowest Price" or words of similar import, are not the lowest prices at which the said merchandise referred to was sold or offered for sale at retail in the trade area or areas where the representations were made;

5. The prices set out in said advertising in connection with the words "1/2 Price," "Save \$40," "Save 30%" or other words of similar import, did not represent savings in the stated or implied percentage or dollar amounts from the prices at which such merchandise was sold or offered for sale in good faith for a reasonably substantial period of time by respondents in the recent regular course of their business and purchasers or prospective purchasers of such merchandise did not save the stated or implied percentage or dollar amounts as a result thereof;

6. The prices set out in said advertising in connection with the words "Special Price," "Special Savings," "Reduced Sale Price" or other words of similar import did not constitute a substantial reduction from the prices at which such merchandise was sold or offered for sale by the respondents in the recent regular course of their business;

7. Merchandise described as "Free," "Free with purchase" or

other words of similar import is not given free as a gift or gratuity without cost to the purchaser. The price of the "free" item of merchandise is included in the price of the item to be purchased in combination with the "free" item;

8. The items of merchandise described as "All Guaranteed" or "25 yr. Guarantee" are not guaranteed by the respondents unconditionally without any limitation or without any limitation for the stated period of time in the advertisement.

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 course and conduct of their business, and at all times mentioned herein, respondents have been in substantial competition in commerce with corporations, firms and individuals engaged in the sale of merchandise of the same general kind and nature as that sold by respondents.

PAR. 8. 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 such statements and representations were and are true and into the purchase of substantial quantities of respondents' said merchandise by reason of said erroneous and mistaken belief.

PAR. 9. The aforesaid acts and practices of the 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

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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 Goodman Bros. Jewelers, Inc., is a corporation organized and doing business under and by virtue of the laws of the State of Minnesota, with its office located at 518 American National Bank Building, St. Paul, Minnesota, and its principal place of business located at 94 East Seventh Street, St. Paul, Minnesota.

Respondent Goodman Jewelers, Inc., is a corporation organized and doing business under and by virtue of the laws of the State of Minnesota, with its office located at 518 American National Bank Building, St. Paul, Minnesota, and its principal place of business located at 32 South Seventh Street, Minneapolis, Minnesota.

Respondents Stanley B. Goodman and Arthur N. Goodman are officers of each of said corporations and their address is 518 American National Bank Building, St. Paul, Minnesota.

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 Goodman Bros. Jewelers, Inc., a corporation, Goodman Jewelers, Inc., a corporation, and their officers, and Stanley B. Goodman and Arthur N. Goodman, individually and as officers of each of the said corporations, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale and distribution of jewelry or other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that any offer of sale is limited in time or in any manner: *Provided,*

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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;

2. Using the words "compare at," "value" or any word or words of similar import to refer to any amount which is appreciably in excess of the 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;

3. Using the terms "Price \$. . . Now \$. . ." or any other term or terms of similar import to refer to a comparative price: *Provided, however*, That it shall be a defense in any enforcement proceeding, instituted hereunder, for the respondents to establish that the higher stated price of the comparative is not in excess of the price at which such merchandise has been sold or offered for sale in good faith by respondents for a reasonably substantial period of time 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;

4. Using the words "Lowest Price," "Lowest Price Ever," or any other word or words of similar import or meaning as descriptive of any price amount: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the price amount so described is the lowest price at which said merchandise is sold in the trade area where the representations are made;

5. Using the words "1/2 Price," "Save \$40," "Save 30%" or any other word or words of similar import or meaning as descriptive of any price amount: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the purchasers or prospective purchasers of such merchandise save the stated or implied percentage or dollar amounts from the prices at which such merchandise was sold or offered for sale in good faith for a reasonably substantial period of time by the respondents in the recent regular course of their business;

6. Using the words "Special Price," "Special Savings,"

"Reduced Sale Price" or any other word or words of similar import or meaning as descriptive of any price amount: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that such price constitutes a substantial reduction from the price at which such merchandise was sold or offered for sale in good faith for a reasonably substantial period of time by the respondents in the recent regular course of their business;

7. Representing, directly or by implication, that any article of merchandise is being given free or as a gift, or without cost or charge, in connection with the purchase of other merchandise when the price charged includes a price for the so-called free article of merchandise or when the articles of merchandise are usually and regularly sold together for the price charged;

8. Representing that merchandise is 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. Misrepresenting, in any manner, that savings are available to purchasers or prospective purchasers of respondents' merchandise at retail; or misrepresenting in any manner the amount of savings available to purchasers, or prospective purchasers of respondents' merchandise at retail.

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.
