
IN THE MATTER OF

HOLIDAY UNIFORM COMPANY, INC., ET AL.

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

Docket C-1162. Complaint, Jan. 27, 1967—Decision, Jan. 27, 1967

Consent order requiring two Brooklyn, N.Y., sellers of uniforms to cease misrepresenting the character of their salesmen, their policy on refunds

and exchanges, deceptively using offers of free merchandise, making false guarantees, and engaging in other deceptive practices.

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 Holiday Uniform Company, Inc., a corporation, and Town & Country Fashion Designers, Inc., a corporation, and Warren J. Lewis, individually and as an officer of said corporations, and as an individual trading as Brooklyn Uniform Center and Universal Uniforms, 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. Respondents Holiday Uniform Company, Inc., and Town & Country Fashion Designers, Inc., are corporations organized, existing and doing business under and by virtue of the laws of the State of New York, with their principal office and place of business located at 519 Fulton Street, Brooklyn, State of New York.

Respondent Warren J. Lewis is an officer of the corporate respondents. He formulates, directs and controls the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth.

Respondent Warren J. Lewis also does business as an individual trading as Brooklyn Uniform Center and Universal Uniforms. The principal office and place of business of Brooklyn Uniform Center is also located at the aforementioned address and the principal place of business of Universal Uniforms is located at 1200 Hyland Boulevard, city of New York, State of New York. The address of the individual respondent is the same as that of the corporate respondents.

The aforementioned respondents cooperate and act together in carrying out the acts and practices hereinafter set forth.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of uniforms and other clothing 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 New York 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, respondents sell and distribute substantial quantities of their uniforms and other clothing to the public by and through direct sales agents. Direct sales agents are usually recruited by respondents through advertising solicitation. Said advertisements appear in periodicals circulated throughout the United States. Persons responding to said advertising are supplied by respondents with a sales kit consisting of an illustrated catalog and price list, swatch book and printed order book.

The aforesaid catalog contains detailed illustrations and descriptions of the style, features, workmanship, fabric, size, color and selling price and deposit of said garments, together with a section consisting of a swatch book with representative fabric samples.

PAR. 5. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their uniforms and other clothing, the respondents in their catalogs and other advertising material have made numerous statements and representations respecting the character of their salesmen, guarantees and their policy concerning return of merchandise.

Typical and illustrative of such statements and representations but not all inclusive thereof, are the following:

A Pledge of Quality
Value and integrity.
H O L I D A Y
G U A R A N T E E
TO SAVE YOU MONEY
TO DELIVER YOUR
MERCHANDISE SAFELY
TO SATISFY YOU
PERFECTLY.

We guarantee that every article shown in this catalog is honestly described and represented in good faith.

We guarantee that any article bought from us will give you the service you have a right to expect.

If, for any reason, you are dissatisfied with any article purchased from us, we assure you that you may return it to us.

You can be confident when you buy from Holiday * * * .

* * * * *

Style 0300

Dacron Knit Jersey

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71 F.T.C.

Sizes 6-11, 5-15, 18½-22½
 Colors White, Blue, Aqua
 Price \$11.98
 Deposit \$3.00

* * * * *

We guarantee that every article shown in this catalog is honestly described and represented in good faith.

We guarantee that any article bought from us will give you the service you have a right to expect.

If, for any reason, you are dissatisfied with any article purchased from us, we assure you that you may return it to us.

We will then exchange it for exactly what you want, or you will get a refund of the money we received. The merchandise must be returned to us within five days of receipt and in the same condition as it was received by you.

YOU CAN BE CONFIDENT WHEN YOU BUY FROM HOLIDAY UNIFORM CO., INC.

252 Duffield Street, Brooklyn 1, N. Y.
 Triangle 5-7780.

Respondents' sales representatives usually call on prospective purchasers at their places of business or employment such as medical offices, restaurants or similar establishments where uniforms are worn. Orders are solicited by respondents' sales representatives with the aid of the aforesaid catalog and other sales materials furnished by respondents.

Under respondents' sales program, as aforesaid, respondents' sales agents are permitted to retain cash deposits as their sales commissions. In many instances, respondents' sales agents, after accepting the amount of deposit specified in the catalog or a greater amount, have failed to transmit the customers' orders to respondents. When the customer fails to receive his order and complains to respondents, the respondents disclaim all responsibility for return of the funds so deposited with respondents' sales agents and the customer is advised by respondents that it will be necessary for the customer to obtain such refund exclusively from the particular sales agent to whom the deposit was paid.

PAR. 6. By and through the above-quoted statements and representations and others of similar import, but not specifically set out herein, separately and in connection with oral statements and representations of their salesmen, respondents represent, and have represented, directly or by implication, that:

1. The persons to whom respondents furnished their sales kits have been screened by respondents for reliability and integrity prior to the issuance of such material.

2. Respondents customarily make full refunds or satisfactory exchanges in the event of dissatisfaction on the part of the purchaser with any of respondents' merchandise.

3. Purchasers placing orders for respondents' merchandise with persons displaying respondents' sales kits will be afforded personal delivery by such persons of the ordered merchandise.

4. Respondents' sales agents can assure purchasers safe and prompt delivery within a specified time.

5. Respondents offer complimentary merchandise such as ladies hosiery or other free merchandise as an inducement for the purchase of respondents' products.

6. Purchasers can obtain respondents' products for the prices stated in respondents' catalog in every instance without further charges or additional expenses.

7. The merchandise described in respondents' catalog is unconditionally guaranteed.

PAR. 7. In truth and in fact:

1. In many instances, the persons to whom respondents furnish their sales kits have not been screened by respondents for reliability or integrity prior to the issuance of such material.

2. a. Respondents do not make full refunds or satisfactory exchanges in the event of customer dissatisfaction with respondents' merchandise. Such monies as are paid directly to respondents' sales representatives can be recovered by the purchaser only from the sales representative and not from or through respondents.

b. In many instances where purchasers have attempted to obtain refunds or exchanges from respondents, purchasers have experienced unreasonable difficulty and delay in obtaining satisfactory adjustments by way of refunds or exchanges.

3. Purchasers placing orders for respondents' merchandise with sales representatives displaying respondents' sales kits will not be afforded personal delivery by such sales representatives of the ordered merchandise. Respondents' sales representatives ordinarily do not make personal delivery directly to purchasers placing orders for respondents' merchandise with such sales agents. Merchandise ordered through respondents' said sales representatives is customarily shipped directly to the purchaser and not the sales agent.

4. Respondents' sales agents cannot assure purchasers safe and prompt delivery within a specified time. Respondents' sales agents have no control over the manner in which respondents process orders and are in no position to assure safe and prompt delivery of

respondents' products. In many instances respondents' sales representatives have failed to forward orders to respondents and have absconded after obtaining payment for such orders.

5. Respondents do not offer or give complimentary merchandise such as ladies hosiery or other free merchandise as an inducement for the purchase of respondents' products.

6. Purchasers cannot obtain respondents' products for the prices stated in respondents' catalog in every instance without further charges or additional expense. Unless payment in full of the catalog price is made to respondents' order at the time the order is placed with respondents' sales agent and such payment is actually received by respondents, purchasers are obliged to pay additional amounts in excess of the aforesaid catalog prices consisting of c.o.d. charges, parcel post charges, money order charges or other similar extra charges in excess of the advertised catalog price.

7. The merchandise described in respondents' catalog is not unconditionally guaranteed in that respondents impose terms, conditions and limitations to which such claims of guarantee are subject, and the terms of said guarantees are not clearly or conspicuously stated in said catalog.

Therefore, the statements and representations referred to in Paragraphs Five and Six hereof were, and are, false, misleading and deceptive.

PAR. 8. 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 uniforms of the same general kind and nature as that sold by respondents.

PAR. 9. 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. 10. 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. Respondents Holiday Uniform Company, Inc., and Town & Country Fashion Designers, Inc., are corporations organized, existing and doing business under and by virtue of the laws of the State of New York, with their principal office and place of business located at 519 Fulton Street, Brooklyn, New York.

Respondent Warren J. Lewis is an officer of said corporations and his address is the same as that of said corporations. He also does business as an individual trading as Brooklyn Uniform Center and as Universal Uniforms. The principal office and place of business of Brooklyn Uniform Center and the principal office of Universal Uniforms are also located at the aforementioned address. The principal place of business of Universal Uniforms is located at 1200 Hyland Boulevard, New York, New York.

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 Holiday Uniform Company, Inc., a corporation, and Town & Country Fashion Designers, Inc., a corporation, and the officers of each of said corporations, and Warren J. Lewis, individually and as an officer of each of said corporations, and Warren J. Lewis, an individual trading and

doing business as Brooklyn Uniform Center or Universal Uniforms or under any other trade name or names and respondents' agents, representatives and employees, directly or through any corporate or other device in connection with the advertising, offering for sale, sale or distribution of uniforms or other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication:

a. That the persons to whom respondents furnish their sales kits have been screened by respondents for reliability or integrity prior to the issuance of such material: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish the truth or accuracy of such representation.

b. That respondents make full refunds to purchasers.

c. That respondents make exchanges or adjustments in the event of dissatisfaction of the purchaser unless the terms and conditions under which such exchanges or adjustments will be made are clearly and conspicuously disclosed in immediate conjunction therewith.

d. That persons displaying respondents' sales kit or any other of respondents' representatives will make personal delivery to prospective purchasers or purchasers of respondents' products.

e. That purchasers of respondents' merchandise can be assured safe and prompt delivery or delivery within a specified time.

f. That respondents give complimentary or free merchandise as an inducement for the purchase of respondents' products.

g. That any stated price amount constitutes the full purchase price of an article when there are additional charges of any nature added thereto; or failing, clearly and conspicuously to reveal in all promotional material the kind and amount of any charges, however imposed, in addition to any purported selling price.

h. 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 in immediate conjunction with such representation.

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2. Conducting, or causing to be conducted, any direct sales program without disclosing in sales catalogs and any other sales material shown to prospective purchasers, and, on the front of order forms or receipts given to or shown to customers, clearly and of such conspicuousness as likely to be observed and read by purchasers and prospective purchasers:

a. That respondents take no responsibility whatever for cash deposits, or payments in full or in part, paid to their salesmen.

b. That in the event the ordered merchandise is not delivered, the customer must obtain any and all refunds from the salesmen and not respondents.

3. Placing in the hands of dealers or others means and instrumentalities by and through which they may mislead or deceive the purchasing public in the manner or as to the things hereinabove prohibited.

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.
