

Complaint

75 F.T.C.

IN THE MATTER OF

ALBERT BELL'S MIDWEST APPLIANCE CO., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-1536. Complaint, May 22, 1969—Decision, May 22, 1969*

Consent order requiring a Kansas City, Mo., retailer of home appliances to cease using deceptive pricing and savings claims and failing to disclose the total purchase price and other interest and service charges.

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 Albert Bell's Midwest Appliance Co., a corporation, and Albert Bell and Harold A. Bell, 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. Albert Bell's Midwest Appliance Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business located at 3300 Troost Avenue, in the city of Kansas City, State of Missouri.

Respondents Albert Bell and Harold A. Bell are individuals and 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 various items of home appliances, including household furniture, television and stereo sets to the public.

PAR. 3. In the course and conduct of their business as aforesaid, 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 Missouri 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 products, the respondents have made, and are now making, numerous statements and representations in advertisements inserted in newspapers with respect to price, savings and lay-away or unclaimed merchandise.

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

1. Magic Chef Gas Range
\$138 Save \$41.

* * * * *

Hotpoint Refrigerators
Your Choice
\$246 Save \$51.

* * * * *

Save 35% on Food Freezers
Choose from
Gibson • Hotpoint
15 Cu. ft. Chest
or Upright \$179.

* * * * *

2. SACRIFICED
UNCLAIMED MERCHANDISE
LAYAWAYS Being Sold For
Balance Due
Just Take Over Payments
30%—50%—70% OFF
..... RCA VICTOR STEREO
Balance Due \$117.

PAR. 5. By and through the use of the above-quoted statements and representations, and others of similar import and meaning but not expressly set out herein, the respondents have represented, and are now representing, directly or by implication, that:

1. Purchasers of respondents' merchandise are afforded a stated dollar amount or percentage of savings from respondents' regular selling price of said merchandise.

2. Through the use of statements, "Unclaimed merchandise," "layaways being sold for balance due * * * \$117," "Just take over payments," "30%—50%—70% OFF," and statements of similar import, that unclaimed merchandise was partially paid

for by a previous purchaser and left in lay-away and is being offered for the unpaid balance of the purchase price, thereby affording savings of 30-70% to purchasers on said merchandise.

PAR. 6. In truth and in fact:

1. Purchasers of respondents' merchandise are not afforded a stated dollar amount or percentage of savings from respondents' regular selling price of said merchandise. In fact, respondents do not have a regular selling price, but the price at which respondents' merchandise is sold varies from purchaser to purchaser depending upon the resistance of the prospective purchaser.

2. The advertised articles, in a substantial number of instances, are not unclaimed merchandise, partially paid for by a previous purchaser and left in lay-away and are not being offered for the unpaid balance of the purchase price, and the represented savings of 30-70% are not afforded to purchasers. In fact, said merchandise consists mostly of slow-moving merchandise from the general stock and is priced without regard for the balance due.

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 further course and conduct of their business, respondents and their salesmen or representatives have engaged in the following additional unfair and false, misleading and deceptive acts and practices:

In a substantial number of instances and in the usual course of business, respondents and their salesmen or representatives fail to disclose the exact amount of the total purchase price of merchandise, including all interest, credit, insurance, service or other handling charges, at the time the contract for the sale of such merchandise is executed by the purchaser or purchasers.

Therefore, the acts and practices as set forth in Paragraph Seven hereof were and are unfair and false, misleading and deceptive acts and practices.

PAR. 8. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and now are, in substantial competition, in commerce, with corporations, firms and individuals in the sale of various items of home appliances, including household furniture, television and stereo sets, of the same general kind and nature as that sold by respondents.

PAR. 9. The use by respondents of the aforesaid false, mis-

leading 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 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 respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Albert Bell's Midwest Appliance Co. is a cor-

poration organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at 3300 Troost Avenue, Kansas City, Missouri.

Respondents Albert Bell and Harold A. Bell 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 Albert Bell's Midwest Appliance Co., a corporation, and its officers, and Albert Bell and Harold A. Bell, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of household furniture, television, stereo sets or other home appliances or 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, that any savings, or stated amount or percentage of savings, are afforded to purchasers of respondents' merchandise unless the price at which such merchandise is offered constitutes a significant reduction, and a reduction equal to any amount or percentage, stated or otherwise, from an established selling price at which such merchandise has been sold in substantial quantities by respondents in the recent regular course of their business.

2. Falsely representing, in any manner, that savings are available to purchasers or prospective purchasers of respondents' merchandise; or misrepresenting, in any manner, the amount of savings available to purchasers or prospective purchasers of respondents' merchandise.

3. Representing, directly or by implication, that merchandise is offered for sale for the unpaid balance of the purchase price or for taking over the payments or on any other terms or conditions as unclaimed or lay-away merchandise or for any other reason unless such merchandise is of the represented kind and status and its purchase affords the

purchaser all of the reductions in price and advantages claimed for it.

4. Failing to disclose the exact amount of the total purchase price of merchandise and all interest, credit, insurance, service or other charges in writing at the time the contract for the sale of such merchandise is executed by the purchaser or purchasers.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

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.

IN THE MATTER OF

BERNARD SPIVACK & CO., INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING
ACTS

Docket C-1537. Complaint, May 22, 1969—Decision, May 22, 1969

Consent order requiring a Chicago, Ill., manufacturer of fur trimmed ladies' garments to cease misbranding, falsely invoicing, and deceptively guaranteeing its fur products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Bernard Spivack & Co., Inc., a corporation, and Bernard Spivack, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling 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 Bernard Spivack & Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois.

Respondent Bernard Spivack is an officer of the corporate respondent. He formulates, directs and controls the acts, practices and policies of the said corporate respondent including those hereinafter set forth.

Respondents are manufacturers of fur trimmed ladies' garments with their office and principal place of business located at 330 South Franklin Street, Chicago, Illinois.

PAR. 2. Respondents are now and for some time last past have been engaged in the introduction into commerce, and in the manufacture for introduction into commerce, and in the sale, advertising, and offering for sale in commerce, and in the transportation and distribution in commerce, of fur products; and have manufactured for sale, sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of furs which have been shipped and received in commerce, as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act.

PAR. 3. Certain of said fur products were misbranded in that they were falsely and deceptively labeled to show that fur contained therein was natural, when in fact such fur was pointed, bleached, dyed, tip-dyed, or otherwise artificially colored, in violation of Section 4(1) of the Fur Products Labeling Act.

PAR. 4. Certain of said fur products were misbranded in that they were not labeled as required under the provisions of Section 4(2) of the Fur Products Labeling Act and in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

Among such misbranded fur products, but not limited thereto, were fur products with labels which failed to disclose that the fur contained in the fur product was bleached, dyed, or otherwise artificially colored, when such was the fact.

PAR. 5. Certain of said fur products were misbranded in violation of the Fur Products Labeling Act in that they were not labeled in accordance with the Rules and Regulations.

Among such misbranded fur products, but not limited thereto, were fur products where the required item numbers were not set forth on labels, in violation of Rule 40 of said Rules and Regulations.

PAR. 6. Certain of said fur products were falsely and decep-

tively invoiced by the respondents in that they were not invoiced as required by Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated under such Act.

Among such falsely and deceptively invoiced fur products, but not limited thereto, was a fur product covered by an invoice which failed:

1. To show the true animal name of the fur used in the fur product.
2. To disclose that the fur contained in the fur product was bleached, dyed or otherwise artificially colored, when such was the fact.

PAR. 7. Certain of said fur products were falsely and deceptively invoiced in violation of the Fur Products Labeling Act in that they were not invoiced in accordance with the Rules and Regulations promulgated thereunder in the following respects:

1. Information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was set forth on invoices in abbreviated form, in violation of Rule 4 of said Rules and Regulations.
2. Required item numbers were not set forth on invoices, in violation of Rule 40 of said Rules and Regulations.

PAR. 8. Respondents furnished false guarantees that certain of their fur products were not misbranded, falsely invoiced or falsely advertised when respondents in furnishing such guarantees had reason to believe that fur products so falsely guaranteed would be introduced, sold, transported or distributed in commerce, in violation of Section 10(b) of the Fur Products Labeling Act.

PAR. 9. The aforesaid acts and practices of respondents, as set forth above, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and constitute unfair methods of competition and unfair and deceptive acts and practices in commerce under 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 Textiles and Furs 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 Fur Products Labeling 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 respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Bernard Spivack & Co., Inc., 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 330 South Franklin Street, Chicago, Illinois.

Respondent Bernard Spivack 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 Bernard Spivack & Co., Inc., a corporation, and its officers, and Bernard Spivack, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution of any fur product

which is made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

1. Representing, directly or by implication, on labels that the fur contained in any such fur product is natural when the fur contained therein is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.
2. Failing to affix labels to fur products showing in words and in figures plainly legible all of the information required to be disclosed by each of the subsections of Section 4(2) of the Fur Products Labeling Act.
3. Failing to set forth on labels the item numbers or marks assigned to fur products.

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of Section 5(b)(1) of the Fur Products Labeling Act.
2. Setting forth information required on invoices under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations in abbreviated form.
3. Failing to set forth on invoices the item numbers or marks assigned to fur products.

It is further ordered, That respondents Bernard Spivack & Co., Inc., a corporation, and its officers, and Bernard Spivack, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from furnishing a false guaranty that any fur product is not misbranded, falsely invoiced or falsely advertised when the respondents have reason to believe that such fur product may be introduced, sold, transported or distributed in commerce.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

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

75 F.T.C.

IN THE MATTER OF

PLAZA NINE, LTD., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION, THE TEXTILE FIBER PRODUCTS IDENTIFI-
CATION AND THE WOOL PRODUCTS LABELING ACTS

Docket C-1538. Complaint, May 23, 1969—Decision, May 23, 1969

Consent order requiring a Wichita, Kans., seller of textile and wool fiber products to cease misbranding its merchandise and failing to keep required records.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Textile Fiber Products Identification Act and the Wool Products Labeling Act of 1939, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Plaza Nine, Ltd., a corporation, and Shirley M. Zakas, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Textile Fiber Products Identification Act and the Wool Products Labeling Act of 1939, 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 Plaza Nine, Ltd., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kansas. Its office and principal place of business is located at 221 East William Street, Wichita, Kansas. Individual respondent Shirley M. Zakas is the principal officer of said corporation. She formulates, directs and controls the acts, practices and policies of said corporation. Her office and principal place of business is the same as said corporation.

Respondents are engaged in the sale of textile and wool fiber products, including but not limited to the sale of designer's samples of women's apparel.

PAR. 2. Respondents are now and for some time last past have been engaged in the introduction, delivery for introduction, sale, advertising, and offering for sale, in commerce, and in the transportation or causing to be transported in commerce, and in the