

Complaint

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IN THE MATTER OF

EMPRESS STERLING CORPORATION, ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-1590. Complaint, Oct. 6, 1969—Decision, Oct. 6, 1969*

Consent order requiring a Richmond, Va., marketer of cookware, tableware and other household products to cease misrepresenting that prospective customers are being called long distance, that its offering prices constitute a saving, that prospective purchasers have been specially selected or will receive any article free, making deceptive guarantee claims, inferring that its products are advertised nationally, and implying that it is connected with the publishers of the International Sunday School Lessons.

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 Empress Sterling Corporation, a corporation, and Ernest M. Bernstein, 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 in that respect as follows:

PARAGRAPH 1. Empress Sterling Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia, with its principal office and place of business located at 120 South 6th Street, Richmond, Virginia, 23219.

Respondent Ernest M. Bernstein is an individual and an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His 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 types of household products, including cookware, tableware, chinaware and books 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 Virginia to purchasers thereof located in various other States of the United States and in the District of Columbia, 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 placed in newspapers, in promotional material and in recorded telephone solicitations with respect to price, guarantees, value, customer selection, product advertisement, and other aspects of their products and the selling methods thereof.

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

LISTEN FOR YOUR PHONE TO RING! IT'S LONG DISTANCE! Empress Company of Richmond, Va. MAY CALL YOU THIS MONTH! Be a member of the Empress Long Distance Telephone Plan.

Your name was selected here today to receive a \$50 enrollment award in the Long Distance Telephone Club Plan on a 17-piece set of Regal Stainless Steel Waterless Cookware, or on a 60-piece set of William A. Rogers Silverplate knives, forks and spoons.

The set (cookware) is made to sell for \$149.95, but listen to this, your total cost is only two and a quarter a week, \$2.25 per week or \$99.95.

The set (silverware) normally sells for \$149.95 on a regular dinner party plan * * *

There is no down payment, no c.o.d. no interest charges, no carrying charges, no service charges, no postage charges.

As a free gift we're going to send you a sugar shell, a butter spreader, a pierced tablespoon and cold meat serving fork * * * and they are absolutely free * * * As an added free gift, we're going to send you a beautiful hardwood chest for you to keep the silver in.

Anyone * * * can put aside a few pennies a day for a set of silverplate which will last a lifetime. In fact, it is guaranteed to last a lifetime.

You've probably seen it advertised in Good Housekeeping, or one of the leading magazines. Now we'll answer your questions about it in just a moment, but first I want to tell you that we are sending you a 60-piece set of William A. Rogers silverplate. * * *

It is the finest imported Bohemian china that money can buy. The name of the set is Royal Heiden Society china.

* * * I want to tell you that you're going to save ten to twelve dollars a month on your food bill by having this set of cookware.

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We have just made arrangements to cooperate with the International Sunday School Lessons and we are sending you a * * * Bible. * * *

As an added feature we will emboss your name in gold on the front of both books.

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:

1. That prospective purchasers are being called by respondents by long distance telephone from their place of business in Richmond, Virginia.

2. That prospective purchasers are afforded a discount or savings in the amount of \$50 from the price of \$149.95 at which either the 17 piece set of Regal Stainless Steel cookware or the 60 piece set of William A. Rogers silverplate has been openly and actively offered for sale for a reasonably substantial period of time, in good faith by respondents in the recent regular course of their business.

3. That prospective purchasers have been specially selected for enrollment in respondents' Long Distance Telephone Club Plan and by virtue thereof have won a prize or award.

4. That the price of \$149.95 for the set of cookware or the set of silverware referred to in Paragraph 2 hereof does not appreciably exceed the price at which substantial sales of each of said sets is being made in respondents' trade area.

5. That purchasers of respondents' products pay no interest, c.o.d., carrying, service, or postage charges.

6. That purchasers of respondents' silverware receive a sugar shell, butter spreader, tablespoon, fork and chest as additional items of merchandise free, as a gift and at no extra cost. (Other items are similarly offered with the purchase of cookware, books, etc.)

7. That respondents' products are unconditionally guaranteed for a lifetime.

8. That products sold by respondents are advertised in Good Housekeeping magazine and in leading national magazines.

9. That the Royal Heiden Society Bohemian china sold by respondents is the finest, that is, the best quality, imported Bohemian china that can be purchased in this country.

10. That users of respondents' stainless steel cookware will save \$10 to \$12 per month on food.

11. That respondents are cooperating with an organization called International Sunday School Lessons in the sale of a bible which will have purchasers' names embossed in gold on the cover.

PAR. 6. In truth and in fact:

1. Prospective purchasers in a substantial number of instances are not being called by respondents by long distance telephone from their place of business in Richmond, Virginia, but by respondents' representatives from local telephones.

2. The price of \$149.95 is not the price at which respondents have openly and actively offered said articles for sale, for a reasonably substantial period of time, in good faith, in the recent regular course of their business and purchasers are not afforded a saving of \$50 on the purchase of each set. Respondents' offer each of these sets to everyone at \$149.95 less \$50, hence \$99.95 is respondents' actual bona fide regular price and the represented saving of \$50 is therefore nonexistent.

3. Prospective purchasers have not been specially selected for enrollment in respondents' Long Distance Telephone Club Plan, nor have they won a prize or award. Their names are taken indiscriminately from telephone books. Furthermore, respondents' Long Distance Telephone Club Plan is not a club plan at all, but is merely a name used to add to the illusion that persons called are members of a select group.

4. The price of \$149.95 for the set of cookware or the set of silverware appreciably exceeds the price at which substantial sales of each of said sets is being made in respondents' trade area.

5. Purchasers of respondents' products pay interest, c.o.d., carrying service and postage charges. Such charges, when applicable, are included in the purchase price without being revealed to the purchaser.

6. Purchasers of respondents' products do not receive the aforesaid items of merchandise free as a gift or at no extra cost. The price of the purported gift is included in the price of the purchased product.

7. The guarantee of respondents' products is subject to significant limitations and conditions which are not disclosed in the advertising and said advertising does not designate the lifetime during which said guarantee applies.

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8. Products sold by respondents are not advertised in Good Housekeeping or in other magazines.

9. The Royal Heiden Society Bohemian china is not the finest, that is, the best quality, imported Bohemian china that can be purchased in this country.

10. Users of respondents' stainless steel cookware will not save \$10 to \$12 per month, or any significant amount, on food.

11. The organization International Sunday School Lessons referred to by respondents in connection with the sale of the bible is fictitious; and the purchaser's name is not embossed in gold on the cover, but is printed on a tape which is attached to the cover.

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 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 household products 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, 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. 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 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 Empress Sterling Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia, with its principal office and place of business located at 120 South 6th Street, Richmond, Virginia, 23219.

Respondent Ernest M. Bernstein 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 the respondents, Empress Sterling Corporation, a corporation, and its officers, and Ernest M. Bernstein, 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 advertising, offering for sale, sale or distribution of cookware, tableware, chinaware, books, or any other product, 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 persons called by local telephone are being called by long distance telephone.

2. Representing, directly or by implication, that any price amount is respondents' regular selling price for any item of merchandise or that purchasers save \$50 or any other amount from respondents' selling price unless the amount referred to as respondents' selling price is the price at which said item of merchandise has been openly and actively sold or offered for sale, for a reasonably substantial period of time, in good faith, by respondents in the recent regular course of business; or misrepresenting, in any manner, the price at which respondents' merchandise has been sold or offered for sale.

3. Falsely representing that savings are afforded purchasers or prospective purchasers; or misrepresenting, in any manner, the amount of savings available to purchasers or prospective purchasers.

4. Representing, directly or by implication, that the prospective purchaser has been specially selected for enrollment in a club or other organized group plan, or has won a prize or award; or misrepresenting, in any manner, the nature or purpose of a purchaser solicitation.

5. Representing, directly or by implication, that a price is the retail price of a product in respondents' trade area unless such price does not appreciably exceed the price at which substantial sales of said product are being made in said trade area.

6. Representing, directly or by implication, that purchasers of respondents' products will not have to pay any c.o.d., postage, interest, carrying or service charges.

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 unless the stated price of the merchandise required to be purchased in order to obtain said article is the same or less than the customary and usual price at which such merchandise has been sold separately for a substantial period of time in the recent and regular course of business in the trade area in which the representation is made.

8. Representing, directly or by implication, that their products are guaranteed unless the nature, conditions 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; and where the guarantee extends for the "Life" or "Lifetime" or the like and relates to any life other than that of the original purchaser, the life referred to shall be clearly and conspicuously disclosed.

9. Representing, directly or by implication, that their products are advertised in Good Housekeeping magazine or in leading national magazines; or misrepresenting the manner or extent of their advertising.

10. Representing, directly or by implication, that their Royal Heiden Society Bohemian chinaware products are the finest, that is, the best quality imported Bohemian china that can be purchased in this country; or misrepresenting, in any manner, the quality or value of their products.

11. Representing, directly or by implication, that the user of respondents' stainless steel cookware products will save \$10 to \$12 per month from the purchaser's food purchasing bill; or falsely representing the savings which accrue to users of respondents' cookware products.

12. Representing, directly or by implication, that they have made any arrangement, or are working in cooperation with, an organization known as International Sunday School Lessons in the sale of their Bible products; or misrepresenting, in any manner, respondents' connections or affiliations with businesses or organizations.

13. Representing, directly or by implication, that they will emboss or print the purchaser's name in gold on the covers of their book products, when in fact the names are merely printed on an adhesive-backed tape which is affixed to the covers.

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.

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IN THE MATTER OF

TOPS FURNITURE COMPANY, INC., ET AL.

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

Docket C-1591. Complaint, Oct. 6, 1969—Decision, Oct. 6, 1969

Consent order requiring a Washington, D.C., retailer of furniture and appliances to cease using unfair credit practices by failing to disclose to customers the legal import of its conditional sales contract, tendering any incomplete instrument for signature, failing to disclose the details of its "finance charge" system, and using debt collection forms which simulate legal documents.

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 Tops Furniture Company, Inc., a corporation, and Milton Mecklar, 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 in that respect as follows:

PARAGRAPH 1. Tops Furniture Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the District of Columbia, with its principal office and place of business located at 1001 H Street, NE., in Washington, D.C.

Respondent Milton Mecklar is an individual and is an officer of the corporate respondent. He formulates, directs, and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His 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 offering for sale, sale and distribution of furniture and appliances to the public. Respondents' customers are principally of the low income group and a large amount of respondents' sales to such customers are on credit.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have