

---

IN THE MATTER OF  
AARON STERN, INC., ET AL.

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

*Docket C-1634. Complaint, Nov. 19, 1969—Decision, Nov. 19, 1969*

Consent order requiring a New York City wholesale distributor of watches to cease preticketing its merchandise, misrepresenting the amounts of savings available to purchasers, furnishing others means to mislead retail customers, and failing to maintain required records.

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 Aaron Stern, Inc., a corporation, and Aaron Stern, 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

## Complaint

76 F.T.C.

be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Aaron Stern, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 66 West 47th Street, New York, New York 10036.

Respondent Aaron Stern is an individual and 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 business 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 watches to wholesale and retail jewelers for resale to the purchasing 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 New York, 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 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 watches of the same general kind and nature as those sold by respondents.

PAR. 5. In the course and conduct of their aforesaid business respondents purchase watches directly from manufacturers already packaged and preticketed in individual display cases. Respondents in many instances remove price tags affixed in the said display cases by the manufacturers, bearing the manufacturer's suggested retail price, and replace said price tags with other price tags bearing amounts higher than the prices placed therein by the manufacturers. The watches with the changed price tags are then shipped to respondents' customers for ultimate resale to the public.

Typical and illustrative examples of such price changes, but not all inclusive thereof, are the following:

|                               | Price tag affixed<br>by Stern | Price tag affixed<br>by manufacturer |
|-------------------------------|-------------------------------|--------------------------------------|
| Hamilton Andrew Model.....    | \$89.50                       | \$55.00                              |
| Hamilton Martin Model.....    | 79.50                         | 55.00                                |
| Hamilton Debbie Model.....    | 85.00                         | 55.00                                |
| Hamilton Elinor Model.....    | 75.00                         | 55.00                                |
| Hamilton Dorothy Model.....   | 85.00                         | 45.00                                |
| Hamilton Martin Model.....    | 85.00                         | 55.00                                |
| Hamilton Dorothy Model.....   | 69.50                         | 45.00                                |
| Hamilton Martin Model.....    | 69.50                         | 55.00                                |
| Hamilton Sea Rover Model..... | 55.00                         | 45.00                                |
| Hamilton Debbie Model.....    | 65.00                         | 45.00                                |
| Hamilton Gary Model.....      | 55.00                         | 45.00                                |

PAR. 6. By and through the use of price tags as described in Paragraph Five the respondents have represented, and are now representing, directly or by implication that the amounts appearing on the price tags affixed by respondents are the manufacturers' suggested list prices and are the respondents' bona fide estimate of the actual retail prices of said products in respondents' trade area and that they do not appreciably exceed the highest prices at which substantial sales of said products are made at retail in the said trade area.

PAR. 7. In truth and in fact, the respondents' price tag amounts are not the manufacturers' suggested list prices and are not respondents' bona fide estimate of the actual retail prices of said products in respondents' trade area and they appreciably exceed the highest prices at which substantial sales of the said products are made at retail in the said trade area.

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

PAR. 8. By removing the price tag bearing the manufacturers' suggested retail price and replacing it with a price tag bearing a substantially higher price, as described in Paragraph Five, respondents have placed in the hands of retailers and others the means and instrumentalities to deceive purchasers and prospective purchasers of said watches by misleading them as to the amount of savings to be realized by the purchase of a particular watch at a price lower than that appearing on the price tag.

PAR. 9. In the course and conduct of the aforesaid business respondents also distributed price tags unaffixed to individual watches, bearing the manufacturers name and/or trademark and various dollar amounts to respondents' customers thereby supplying others with the means and instrumentalities whereby the purchasing public may be misled as to the price at which substantial numbers of said watches are sold in the trade areas where the price tags are used and as to the amount of savings able to be realized by the purchase of a particular watch at a price lower than that appearing on the price tag.

PAR. 10. The use by respondents of the aforesaid false, misleading and deceptive 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 watches distributed by respondents by reason of said erroneous and mistaken belief.

PAR. 11. The acts and practices of respondents, as herein alleged were, and are, all to the prejudice and injury of the public and 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 the 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 alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having considered the agreement and having accepted same, and the agreement containing consent order hav-

ing thereupon been placed 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 in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Aaron Stern, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its office and principal place of business located at 66 West 47th Street, New York, New York 10036.

Respondent Aaron Stern is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation. His address is the same as that of the corporate respondent.

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 Aaron Stern, Inc., a corporation, and its officers, and Aaron Stern, 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 watches or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Disseminating or distributing any purported retail price or preticketing merchandise with any stated price amount unless (a) it is respondents' bona fide estimate of the actual retail price of the product in the area where respondents do business and (b) it does not appreciably exceed the highest price at which substantial sales of said product are made in said trade area.

2. Using any tags, labels, words or any other representation which, directly or by implication, refer to any amount as manufacturer's list price or other price designed or suggested by the manufacturer unless the price amount so referred to was in fact provided by the manufacturer and is the price at which the merchandise is regularly offered for sale in the

trade area where respondents do business and does not appreciably exceed the highest price at which substantial sales of said product are made in said trade area.

3. Misrepresenting, in any manner, the prices at which respondents' merchandise is sold at retail.

4. Misrepresenting, in any manner, the amount of savings available to purchasers of respondents' merchandise at retail.

5. Furnishing to others any means or instrumentalities whereby the purchasing public may be misled or deceived as to the retail prices of respondents' merchandise or savings in connection with the purchase of said merchandise.

6. Failing to maintain adequate records (a) which disclose the facts upon which any savings claims, including former pricing claims, and comparative value pricing claims and similar representations of the type described in paragraphs 1-4 of this order, are based, and (b) from which the validity of any saving claims, including former pricing claims and comparative value claims, and similar representations of the type described in paragraphs 1-4 of the order can be determined.

*It is further ordered,* That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, or any of them, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

*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

## IN THE MATTER OF

## HI-GEAR TIRE &amp; AUTO SUPPLY, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE  
FEDERAL TRADE COMMISSION ACT*Docket C-1635. Complaint, Nov. 19, 1969—Decision, Nov. 19, 1969*

Consent order requiring a Capitol Heights, Md., distributor of automobile tires, parts and accessories to cease making false pricing and savings claims in the sales promotion of its products and failing to maintain adequate records to support such claims.

## 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 Hi-Gear Tire & Auto Supply, Inc., a corporation, and Murray Friedman, Stanley Love and Abe Shuster, 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 Hi-Gear Tire & Auto Supply, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland with its principal office and place of business located at 110 Ritchie Road, Capitol Heights, Maryland.

Respondents Murray Friedman, Stanley Love and Abe Shuster are individuals and 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 addresses are 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 automobile tires, automobile parts and accessories and other articles of general merchandise to the public.

In connection therewith, respondents own, operate and control a substantial number of retail stores located in the States of Maryland and Virginia. In the course of their business, respond-