

Complaint

IN THE MATTER OF

HI-GEAR TIRE & 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-

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ents purchase automobile tires and other merchandise to be sold at retail in their stores. Such merchandise is stored in respondents' warehouse in Maryland until it is delivered to respondents' stores as required.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, their automobile tires and other merchandise to be shipped to and from their warehouse in the State of Maryland, as aforesaid, to their retail stores located in the States of Maryland and Virginia, and to be sold to the public in such stores. In the course and conduct of said business, respondents maintain, and at all times mentioned herein have maintained a substantial course of trade in said merchandise, in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. 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 advertising, offering for sale, sale or distribution of automobile tires and other merchandise of the same general kind and nature as that sold by respondents.

PAR. 5. In the course and conduct of their aforesaid business, and for the purpose of inducing the sale of their automobile tires and other products, respondents have made many statements in advertisements inserted in newspapers with respect to the prices at which their merchandise was being offered for sale.

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

VETERANS DAY SALE

Snow Tires \$8.88 650x13 + 60¢ F.E.T.

TUES. & WED. SPECIALS AT Hi-Gear Discount
Auto Centers

Snow Tire Sale!

Tubeless . 13" - 14" - 15" - Blackwall

\$9.95 750x14 + 60¢ F.E.T.

Christmas Gift Preview

* * * * *

*** So shop our THURSDAY &
FRIDAY SALE DAYS for Solid Savings
on Quality Products!

Snow Tire Sale!

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\$9.95 775x14 + 60¢ F.E.T.

Christmas Savings Sale!

2-Day Sale! Fri. & Saturday

* * * * *

Snow Tires

\$8.95 650x13 + F.E.T.

PAR. 6. By and through the use of the statements and representations as set forth in Paragraph Five hereof, and others of similar import and meaning but not expressly set out herein, respondents have represented, directly or by implication, that the advertised tires were being offered at prices which were significantly reduced from respondents' regular selling prices for such tires, and that purchasers buying the tires at the advertised prices would thereby realize significant savings.

PAR. 7. In truth and in fact, the advertised tires were not being offered at prices which were significantly reduced from respondents' regular selling prices for the advertised tires and purchasers buying the tires at the advertised prices would not thereby realize significant savings.

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

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 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 respond-

ents 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 having thereupon been placed on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in Section 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 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 officers of said corporation. They formulate, direct and control the acts and practices of said corporation and their address is the same as that of the 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 Hi-Gear Tire & Auto Supply, Inc., a corporation, and its officers, and Murray Friedman, Stanley Love and Abe Shuster, 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 automobile tires, or any other product, in commerce, as "commerce"

is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "sale," "special," "save" or any other word or words of similar import or meaning in connection with an offer to sell an automobile tire or otherwise representing, directly or by implication, that a person purchasing such tire at respondents' offering price will realize savings in an unspecified amount unless the price at which the tire is being offered is (a) significantly reduced from the actual bona fide price at which respondents recently and regularly sold the offered tire to the public for a reasonably substantial period of time prior to the offer, or (b) significantly reduced from the lowest price of the prices at which said tire was sold to the public by respondents in the recent regular course of their business prior to such offer.

2. (a) Representing, in any manner, that by purchasing any of respondents' merchandise, customers are afforded savings amounting to the difference between respondents' stated price and respondents' former price unless such merchandise has been sold at the former price by respondents for a reasonably substantial period of time in the recent, regular course of their business.

(b) Representing, in any manner, that by purchasing any of respondents' merchandise, customers are afforded savings amounting to the difference between respondents' stated price and a compared price for said merchandise in respondents' trade area unless a substantial number of the principal retail outlets in the trade area regularly sell said merchandise at the compared price or some higher price.

(c) Representing, in any manner, that by purchasing any of respondents' merchandise, customers are afforded savings amounting to the difference between respondents' stated price and a compared value price for comparable merchandise, unless substantial sales of merchandise of like grade and quality are being made in the trade area at the compared price or higher and unless respondents have in good faith conducted a market survey or obtained a similar representative sample of prices in their trade area which establishes the validity of said compared price and it is clearly and conspicuously dis-

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closed that the comparison is with merchandise of like grade and quality.

3. Failing to maintain adequate records (a) which disclose the facts upon which any savings claims, including former pricing claims and comparative value claims and similar representations of the type are based, and (b) from which the validity of any savings claims, including former pricing claims and comparative value claims, and similar representations of the type described in paragraphs 1 and 2 of this order can be determined.

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

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent 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 the order.

It is further ordered, That respondents forthwith distribute a copy of this order to each of the operating divisions or departments of the corporate respondent and to the present and future manager of each of respondents' retail outlets.

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.
