

CAPITOL SEWING MACHINE SALES OF MARYLAND

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

Docket C-1667. Complaint, Jan. 6, 1970—Decision, Jan. 6, 1970

Consent order requiring a Baltimore, Md., distributor of new and used sewing machines to cease using bait tactics and fictitious pricing and savings claims, deceptively guaranteeing its products, and failing to maintain adequate 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 James A. Povich, an individual, formerly trading and doing business as Capitol Sewing Machine Sales of Baltimore, and now trading and doing business as Capitol Sewing Machine Sales of Maryland, hereinafter referred to as respondent, has violated the provisions of said Act, and

Complaint

77 F.T.C.

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 James A. Povich is an individual, formerly trading and doing business as Capitol Sewing Machine Sales of Baltimore, and now trading and doing business as Capitol Sewing Machine Sales of Maryland, with his office and principal place of business located at 930-32 West Patapsco Avenue, in the city of Baltimore, State of Maryland.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the advertising, offering for sale, sale and distribution of new and used sewing machines and related products to the public.

PAR. 3. In the course and conduct of his business as aforesaid, respondent now causes, and for some time last past has caused, his said products, when sold, to be shipped from his place of business in the State of Maryland to purchasers thereof located in various other States of the United States and in the District of Columbia, and maintains, and at all times mentioned herein has 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 his aforesaid business, and for the purpose of inducing the purchase of his products, respondent has made, and is now making, numerous statements and representations in the oral sales presentations made by his salesmen to prospective purchasers and to purchasers and in advertisements inserted in newspapers of general circulation and in promotional material with respect to the kind, quality, price, savings, guarantees and credit of his merchandise.

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

SEWING MACHINE

1968 Singer Console

Slightly used zig-zag in style walcab. Does everything without attach. (Sews on-buts., makes button holes, overcasts, appliques and darns.) Controls built in. Full price \$56.70 or assume pymts, of \$5.67 mo. Call Credit Mgr. till 9 P.M. for no oblig. home demo. 628-6706.

CAPITAL SEWING MACHINE
SALES OF MARYLAND

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SEWING MACHINE

1968 Zig-Zag

Zig-Zag portable, slightly used. Make but. holes, monogram, overcast, blind hemstitch without attach. Sews with 1 or 2 needles. Good cond. Full price \$34.70 or assume pymts. of \$3.47 a mo. For free home demo. call Credit Mgr. till 9 P.M. No oblig. 628-6706.

CAPITOL SEWING MACHINE
SALES OF MARYLAND

However, a CAPITOL sewing machine * * * carries a 5 year guarantee and does everything but bait hooks.

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, separately and in connection with oral statements and representations by his salesmen and representatives, respondent has represented, and is now representing, directly or by implication:

1. Through the use of the phrase or words "assume pymts." separately and in connection with the words "Credit Mgr." and other phrases and words of similar import, that sewing machines, partially paid for by a previous purchaser, have been repossessed and are being offered for sale for the unpaid balance of the purchase price.

2. That he is making bona fide offers to sell repossessed sewing machines, as described in said advertisements, for reason of default in payment by the previous purchaser and on the terms and conditions stated.

3. That respondent's merchandise is being offered for sale at special or reduced prices, and that savings are thereby afforded to purchasers from respondent's regular selling prices.

4. That a Capitol sewing machine is guaranteed for a period of five years without condition or limitation.

PAR. 6. In truth and in fact:

1. In few, if any, instances are the advertised products repossessed sewing machines being offered for the unpaid balance of the original purchase price, or a portion thereof.

2. Respondent is not making bona fide offers to sell repossessed sewing machines on the terms and conditions stated; but said offers are made for the purpose of obtaining leads as to persons interested in the purchase of sewing machines. After obtaining leads through responses to said advertisements, respondent or his salesmen call upon such persons but make no effort to sell advertised sewing ma-

chines. Instead, they exhibit sewing machines which are in such poor condition as to be unusable or undesirable, and disparage the advertised product to discourage its purchase, and attempt, and frequently do, sell much higher priced sewing machines.

3. Respondent's merchandise is not being offered for sale at special or reduced prices, and savings are not thereby afforded respondent's customers because of a reduction from respondent's regular selling prices. In fact, respondent does not have a regular selling price but the price at which respondent's merchandise is sold varies from customer to customer depending upon the resistance of the prospective purchaser.

4. A Capitol sewing machine is not guaranteed in every respect without conditions or limitations for a period of five years. The guarantee, that may be furnished in connection therewith, is subject to numerous terms, conditions and limitations and fails to set forth the nature and extent of the guarantee, the identity of the guarantor and the manner in which the guarantor will perform thereunder.

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 his aforesaid business, and at all times mentioned herein, respondent has been, and now is, in substantial competition, in commerce, with corporations, firms and individuals in the sale of sewing machines and related products of the same general kind and nature as those sold by respondent.

PAR. 8. The use by respondent 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 respondent's products by reason of said erroneous and mistaken belief.

PAR. 9. The aforesaid acts and practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public and of respondent's 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 respondent named in the caption

hereof, and the respondent 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 respondent with violation of the Federal Trade Commission Act; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent 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 respondent 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 respondent has 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 James A. Povich, an individual, formerly trading and doing business as Capitol Sewing Machine Sales of Baltimore, and now trading and doing business as Capitol Sewing Machine Sales of Maryland, is a proprietorship with its office and principal place of business located at 930-32 West Patapsco Avenue, in the city of Baltimore, State of Maryland.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent James A. Povich, an individual, formerly trading and doing business as Capitol Sewing Machine Sales of Baltimore, and now trading and doing business as Capitol Sewing Machine Sales of Maryland or under any other name or names, and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of sewing machines and related 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 sewing machines or other products have been repossessed or in any manner reacquired from a former purchaser, or are being offered for sale for the unpaid balance, or any portion thereof, of the original purchase price, or for the amount or any portion of the amount owed by a former purchaser, unless said advertised products actually were of the character stated and were offered for sale and sold on the terms and conditions represented.

2. Representing, directly or by implication, that any products are offered for sale when such offer is not a bona fide offer to sell said products on the terms and conditions stated; or using any sales plan or procedure involving the use of false, deceptive or misleading statements to obtain leads or prospects for the sale of other merchandise.

3. Advertising or offering any product for sale, unless the product shown or demonstrated to the prospective purchaser does in all respects conform to the representations and description thereof as contained in the advertisement or offer.

4. Using any deceptive sales scheme or device to induce the sale of the products or services offered by respondent.

5. Representing, directly or by implication, that any price for respondent's products is a special or reduced price, unless such price constitutes a significant reduction from an established selling price at which such products have been sold in substantial quantities by respondent in the recent regular course of his business.

6. Representing, directly or by implication, that any savings, discount or allowance is given purchasers from respondent's selling price for specified products, unless said selling price is the amount at which such products have been sold or offered for sale in good faith by respondent for a reasonably substantial period of time in the recent regular course of his business.

7. Misrepresenting, in any manner, the amount of savings available to purchasers or prospective purchasers of respondent's merchandise at retail.

8. 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 described in Paragraphs 5 through 7 of this

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order 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 5 through 7 of this order can be determined.

9. Representing, directly or by implication, that respondent's products are guaranteed unless the nature, extent and duration 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 therewith.

It is further ordered, That the respondent herein shall forthwith deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of respondent's products or services, and shall secure from each such salesman or other person a signed statement acknowledging receipt of said order.

It is further ordered, That the respondent shall notify the Commission at least thirty (30) days prior to any proposed change in his business organization such as dissolution, assignment, incorporation or sale resulting in the emergence of a successor corporation or partnership or any other change which may affect compliance obligations arising out of this order.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which he has complied with this order.

IN THE MATTER OF

HOUSE OF CARPETS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION AND THE TEXTILE FIBER
PRODUCTS IDENTIFICATION ACTS