

tion or subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered, That respondents 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

JAMES B. LANSING SOUND, INC.

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

Docket C-1785. Complaint, Aug. 24, 1970—Decision Aug. 24, 1970

Consent order requiring a Los Angeles, Calif., manufacturer and distributor of high fidelity loudspeaker equipment to cease fixing the resale price of its products, preventing retailers from selling to customers of their own choosing, and preventing retailers from soliciting sales outside their market areas.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act (Title 15, U.S.C. Section 41 *et seq.*) and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the party identified in the caption hereof and more particularly described and referred to hereinafter as respondent, has violated the provisions of Section 5 of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the interest of the public, hereby issues its complaint stating its charges as follows:

PARAGRAPH 1. Respondent James B. Lansing Sound, Inc., is a corporation organized on or about October 7, 1946, and is existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 3249 Casitas Avenue, Los Angeles, California.

Complaint

77 F.T.C.

PAR. 2. Respondent is engaged in the manufacture, sale and distribution of high fidelity loudspeakers, loudspeaker systems and other components, among other merchandise, through a dealer organization located throughout the United States. The annual sales volume of this high fidelity equipment distributed under the trademark "JBL" is approximately six million dollars.

PAR. 3. In the course and conduct of its business of distributing its high fidelity equipment, respondent ships or causes to be shipped said products from the State in which they are manufactured or warehoused to dealers located throughout the United States. There is now and has been for several years last past a constant, substantial, and increasing flow of such products in "commerce" as that term is defined in the Federal Trade Commission Act.

PAR. 4. Except to the extent that competition has been hampered and restrained by reason of the practices hereinafter alleged, respondent's dealers, in the course and conduct of their business of offering for sale high fidelity products manufactured by respondent, are in substantial competition in commerce with one another and with other firms or persons engaged in the distribution and sale of similar products, and respondent is likewise in substantial competition with other firms engaged in the manufacture and distribution of said products.

PAR. 5. For several years last past, and continuing to the present time, it has been the policy and practice of respondent to establish, maintain and enforce a merchandising or distribution program under which contracts, combinations, agreements, understandings, or other arrangements are entered into with its independent retail dealers, which have the purpose and effect of:

- a) fixing, establishing or maintaining the resale prices of respondent's products;
- b) preventing the independent dealers from reselling their products to customers of their own choosing; and
- c) restricting the independent dealers from soliciting sales through demonstrations or exhibitions outside of their geographic market area.

PAR. 6. Among the practices employed by respondent to carry out the aforementioned policy and planned course of conduct, respondent requires its retail dealers to agree to make their sales records of all JBL products available for inspection.

PAR. 7. Said acts, practices and methods of competition engaged in and pursued by respondent, and the combination, conspiracy,

agreement or common understanding entered into or reached between it and its dealers, are all unfair methods of competition and unreasonable restraints of trade in commerce, within the intent and meaning of Section 5 of the Federal Trade Commission Act, as amended, and to the prejudice of the public because of the restrictions upon free competition resulting therefrom.

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 Restraint of Trade proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the respondent with violation of Section 5 of the Federal Trade Commission Act; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, which was approved and consented to by Jervis Corporation in its capacity as parent corporation of respondent, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of the 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 said 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 Section 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 B. Lansing Sound, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 3249 Casitas Avenue, Los Angeles, California.
2. Respondent is a corporate subsidiary of Jervis Corporation, a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan.

3. 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

I

It is ordered, That respondent James B. Lansing Sound, Inc., and its subsidiaries, successors, assigns, officers, directors, agents, representatives and employees, individually or in concert with others, directly or indirectly, or through any corporate or other device, in connection with the manufacture, distribution, offering for sale, or sale of high fidelity equipment in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Entering into, maintaining or enforcing any contract, agreement, combination, understanding or course of conduct which has as its purpose or effect the fixing, establishing or setting of the prices at which its independent dealers or distributors may resell their products: *Provided, however*, That nothing contained herein shall be construed to prevent respondent from engaging in a legitimate fair trade program in those states having fair trade laws.
2. Preventing or prohibiting any independent dealer or distributor from reselling his products to any person or group of persons, business or class of businesses, except as may be expressly provided herein.
3. Preventing or prohibiting any independent dealer or distributor from soliciting sales outside of his market area.
4. Requiring its independent dealers or distributors to make their sales records available to respondent for inspection.

II

It is further ordered, That respondent, within sixty (60) days from the effective date of this order, shall:

1. Mail a conformed copy of this order to all dealers or distributors of its JBL high fidelity equipment, and to all JBL dealers terminated since January 1, 1966.
2. Notify each of its operating divisions of the substance of the complaint and order herein.
3. Offer to reinstate any dealer or distributor who may have been terminated by respondent for having violated any of the policies of respondent which this order seeks to prohibit: *Provided, however*, That respondent need not offer to rein-

1165

Order

state any dealers in states having fair trade laws, who in fact were terminated by respondent for violating any fair trade agreement only.

4. File with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in its corporate structure 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.

IN THE MATTER OF

AMERICAN TIRE COMPANY, ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE