
IN THE MATTER OF
ITHACA GUN COMPANY, INC.

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

Docket C-1926. Complaint, May 26, 1971—Decision, May 26, 1971

Consent order requiring an Ithaca, N.Y., manufacturer and seller of sporting firearms and firearm accessories to cease requiring its retail dealers to agree to sell at resale prices fixed by respondent, harassing and threatening dealers to observe its resale prices, requesting dealers to report dealers who do not observe the established prices, preventing independent dealers from selling its products to any other distributor, and distributing list or documents indicating resale prices without stating such prices are only suggested.

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 Ithaca Gun Company, Inc., a corporation, and more particularly described and referred to hereinafter as respondent, has violated and is now violating the provisions of Section 5 of said Act (15 U.S.C. 45), 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 respect thereto as follows.

PARAGRAPH 1. Respondent Ithaca Gun Company, Inc., is a corporation organized, existing and doing business under and by virtue

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of the laws of the State of New York, with its office and principal place of business located at 123 Lake Street, Ithaca, New York.

PAR. 2. Respondent has been and is now engaged in the manufacture, sale and distribution of sporting firearms and firearm accessories, with net sales in 1969 in excess of \$11,000,000. Respondent manufactures sporting firearms and firearms accessories at its plant located in Ithaca, New York, and sells such products directly to approximately 7,000 authorized dealers located throughout the United States.

PAR. 3. In the course and conduct of its business as aforesaid, respondent has been and is now engaged in commerce, as "commerce" is defined in the Federal Trade Commission Act, in that respondent has caused and now causes its various products to be shipped from the state of manufacture thereof to other States of the United States for resale and distribution through its authorized dealers.

PAR. 4. Except to the extent that competition has been hindered, frustrated, lessened and eliminated as set forth in this complaint, respondent has been and is now in competition with other persons, firms and corporations engaged in the manufacture, sale and distribution of sporting firearms and firearm accessories.

PAR. 5. Respondent, in combination, agreement, understanding and conspiracy with some of its authorized dealers, or with the cooperation or acquiescence of other of its dealers, has for the last several years been engaged in a planned course of action to fix, establish and maintain certain specified uniform prices at which its products are resold. In furtherance of said planned course of action, respondent has for the past several years engaged in the following acts and practices, among others:

- (a) Regularly furnishing all its dealers with price lists and necessary supplements thereto containing the established resale prices;
- (b) Establishing agreements, understandings and arrangements with its dealers, some of whom are located in states which do not have fair trade laws, as a condition precedent to the granting of a dealership, that such dealers will maintain its resale prices;
- (c) Informing its dealers, by direct and indirect means, that it expects and requires all of its dealers to maintain and enforce its resale prices, or such dealerships will be terminated;
- (d) Requiring its dealers to agree not to sell or otherwise supply its firearms and firearm accessories to anyone who is not an authorized dealer of the respondent;
- (e) Soliciting and obtaining from its dealers, cooperation and assistance in identifying and reporting dealers who advertise, offer

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to sell or sell respondent's products at prices lower than its established resale prices;

(f) Directing its salesmen, representatives, and other employees to secure and report information identifying any dealer who fails to adhere to and maintain its established resale prices; and,

(g) Threatening to terminate and terminating the authorization certificates of its dealers who fail or refuse to observe and maintain respondent's established resale prices.

PAR. 6. By means of the aforesaid acts and practices, and more, respondent, in combination, agreement, understanding and conspiracy with certain of its authorized dealers and with the acquiescence of other of its authorized dealers, has established, maintained and pursued a planned course of action to fix and maintain certain specified uniform prices at which respondent's products will be resold.

PAR. 7. The acts and practices of respondent as hereinabove described, have been and are now having the effect of hindering, lessening, restricting, restraining and eliminating competition in the resale and distribution of respondent's firearms and firearm accessories, and constitute unfair methods of competition in commerce, all in derogation of the public interest and in violation of Section 5 of the Federal Trade Commission Act.

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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 Competition 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, its attorney 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, having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, and having fully considered comments received from the public during said period, 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 Ithaca Gun Company, 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 123 Lake Street, Ithaca, New York.

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, Ithaca Gun Company, Inc., a corporation, its subsidiaries, successors, assigns, officers, directors, agents, representatives, and employees, individually or in concert, directly or through any corporate or other device, in connection with the manufacture, distribution, offering for sale or sale of firearms and firearm accessories, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from hindering, suppressing, or eliminating competition or from attempting to hinder, suppress, or eliminate competition between or among dealers handling respondent's products by:

1. Requiring dealers, through a franchise agreement or other means, to agree that they will resell at prices specified by respondent or that they will not resell below or above specified prices;

2. Requiring prospective dealers to agree, through direct or indirect means, that they will maintain respondent's specified resale prices as a condition of buying respondent's products;

3. Requesting dealers, either directly or indirectly, to report any person or firm who does not observe the resale prices suggested by respondent, or acting on reports so obtained by refusing or threatening to refuse sales to the dealers so reported;

4. Harassing, intimidating, coercing or threatening dealers, either directly or indirectly, to observe, maintain, or advertise established resale prices;

5. Directing or requiring respondent's salesmen, or any other agents, representatives, or employees, directly or indirectly, as part of any plan or program of requiring its dealers to adhere

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to its suggested resale prices, to report dealers who do not observe such suggested resale prices, or to act on such reports by refusing or threatening to refuse sales to dealers so reported;

6. Requiring from dealers charged with price cutting or failure to observe suggested resale prices, promises or assurances of the observance of respondent's resale prices as a condition precedent to future sales to said dealers;

7. Publishing, disseminating or circulating to any dealer, any price lists, price books, price tags or other documents indicating any resale or retail prices without stating on such lists, books, tags or other documents that the prices are suggested or approximate;

8. Utilizing any other cooperative means of accomplishing the maintenance of resale prices established by respondent;

9. Requiring or inducing by any means, dealers or prospective dealers to refrain, or to agree to refrain from reselling respondent's products to any other dealers or distributors;

Provided, however, Nothing hereinabove shall be construed to waive, limit or otherwise affect the right of respondent to enter into, establish, maintain and enforce in any lawful manner any price maintenance agreement excepted from the provisions of Section 5 of the Federal Trade Commission Act by virtue of the McGuire Act amendments to said Act and any other applicable statutes, whether, now in effect or hereafter enacted.

It is further ordered, That the respondent herein shall within sixty (60) days after service upon it of this order, mail a copy of this order to each of its dealers in the States of Alabama, Alaska, Hawaii, Kansas, Mississippi, Missouri, Montana, Nebraska, Nevada, Rhode Island, Texas, Utah, Vermont, Wyoming and Puerto Rico and the District of Columbia under cover of the letter annexed hereto as Exhibit A, and furnish the Commission proof of the mailing thereof.

It is further ordered, That the respondent herein shall:

1. Within sixty (60) days after service upon it of this order send each dealer terminated between January 1, 1966, and the date hereof and listed in Exhibit B annexed hereto (such list of terminated dealers having been previously verified by the staff of the Federal Trade Commission) a letter advising him that he may apply within thirty (30) days from receipt of that letter for reinstatement as a certified dealer;

2. Upon receipt of such application promptly reinstate any such dealer as a certified dealer; and

3. Within one hundred and twenty (120) days after service upon it of this order submit to the Commission a list of all

dealers on Exhibit B who have not been reinstated and the reason or reasons therefor.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions, and to all of its sales personnel and shall instruct each sales person employed by it now or in the future to read this order and to be familiar with its provisions.

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

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

EXHIBIT A

[Letterhead of Ithaca Gun Company, Inc.]

Dear Dealer: Ithaca Gun Company, Inc. has entered into an agreement with the Federal Trade Commission relating to the distributional activities and pricing policy of Ithaca Gun. A copy of the consent order entered into pursuant to that agreement is enclosed herewith.

Ithaca Gun has entered into this agreement solely for the purpose of settling a dispute with the Commission, and the agreement and order is not to be construed as an admission by Ithaca Gun that it has violated any of the laws administered by the Commission. Instead, the order merely relates to the activities of Ithaca Gun in the future.

In order that you may readily understand the terms of the order we have set forth the essentials of the agreement with the Commission although you must realize that the order itself is controlling rather than the following explanation of its provisions:

(1) While Ithaca Gun may suggest resale prices for its products, distribute suggested resale price lists, and preticket with suggested prices, Ithaca Gun will not solicit the agreement of its dealers in your state to adhere to those suggested prices or take any other action to induce such dealers to follow those suggested prices since they are not binding.

(2) Ithaca Gun will not solicit, invite or encourage dealers in your state to report any person not following its suggested prices, and furthermore will not act on any such reports sent to it.

(3) Ithaca Gun will not require or induce its dealers in your state to refrain from advertising Ithaca Gun products at any price they choose or from selling Ithaca Gun products at any price to any person of their choice.

Yours sincerely,

JERALD T. BALDRIDGE,
President.

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EXHIBIT B

Keith's Hardware
3625 Parkway Ave.
Birmingham, Ala. 35226

J. O. Callahan & Son
Black Rock, Arkansas 72415

Jim Shepard Guns
1521 West Magnolia Blvd.
Burbank, Calif. 91506

San Gabriel Valley Gun Club
4001 Fish Canyon Road
Duarte, Calif. 91010

Sam Luis Sport Shop
542 Packeco Blvd.
Los Banos, Calif. 93635

Ship Ahoy Country Store
5676 Holt Blvd.
Ontario, Calif. 91762

Suburban Sportsman, Inc.
2720 Summer St.
Stamford, Conn. 06901

T. R. Brown Co.
11 South Railroad Ave.
Camden-Wyoming, Del. 19934

O'Daniels Grocery & Gun Store
1122 North Main
Acworth, Georgia 30101

Dean's, Inc.
1126 West Peachtree St., N.E.
Atlanta, Georgia 30309

The Outdoorsman
370 Shoup Ave.
Idaho Falls, Idaho 83401

Canton Sporting Goods
120 South Main St.
Canton, Illinois 61520

Witvoet Gun Shop
179th & Corchester
South Holland, Ill. 60473

Cantrell Lumber & Hardware Co.
Xenia, Illinois 62399

Bait King
116 South 10th & ½ St.
Terre Haute, Indiana

Mile Zero
2605 Rhomberg Ave., Box 876
Dubuque, Iowa

Dick's Gun Repair
Fareside Road
Topsham, Maine 04086

Airport Sales
180 Crawford St.
Leominster, Mass. 01453

Detra Sporting Goods
71-2 Union Square
Somerville, Mass 02143

Nicks Sporting Goods
23833 John R
Hazel Park, Mich. 48030

Allen's Sports Center
Route 3, North on M-66
Ionia, Mich. 48846

Dave's
911 Military St.
Port Huron, Mich. 48060

Smith's Hardware
106 Main St.
Starkville, Miss.

Brown's Sports Center
16th St. West at Alpine Ave.
Billings, Montana 59102

Reiter's Marina
450 Main Highway 10E
Billings, Montana 59101

The Sportsman of Butte
18 North Main
Butte, Montana 59701

M. L. Brown Co.
812 North Main
Helena, Mont. 59601

Wolf Enterprises
27 Main St.
Denville, New Jersey 07834

Roth-Schlenger, Inc.
Sayre Woods Shopping Center
Parlin, New Jersey 08859

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Roth-Schlenger, Inc. Route 22 & West Chestnut St. Union, New Jersey 07083	Sunset Sporting Goods 4625 North Detroit Ave. Toledo, Ohio 43612
Furr's Family Center No. 22 Central & San Pedro Albuquerque, New Mexico 87108	Thomson Hardware & Sporting Goods 116 North Main Altus, Oklahoma 73521
Morley's Sporting Goods 52-54 Division St. Amersterdam, New York 12010	Hales Sporting Goods P. O. Box 693 Blackwell, Okla. 74631
Avoca Pharmacy 12 Main St. Avoca, New York 14809	Lampus Company 2656 Northeast Union Portland, Oregon 97212
Johnny Jo Stores, Inc. Camillus Plaza Camillus, New York 13031	Don Williams Hardware Co. P. O. Box 193 The Dallas, Oregon 97058
Owego-Murray Co., Inc. 181 Front St. Owego, New York 13827	M. C. Ebbecke Hardware Co., Inc. 606 Hamilton St. Allentown, Penna. 18100
Ray's Gun Shop R. D. 3, Route 22 Plattsburgh, New York 12901	S. L. Spotto 804 West Crawford Connellsville, Penna. 15425
Marjax Enterprises, Inc. 2720 West Henrietta Road Rochester, New York 14620	Mike Sahlaney Estate, Inc. Main St. Houtzdale, Penna. 16651
Badgley & Wheeler Hardware Main St. Schoharie, New York 12157	Froff's Fishing Equip. 62 Landis Ave. Millersville, Penna. 17551
Dom's Sports Shop 2467 Niagara Falls Blvd. Tonawanda, New York 14150	Jerrys Sport Center R. D. No. 1, Route 347 Olyphant, Penna. 18447
Albert Coppotelli 2103 Genesee St. Utica, New York 13501	Nulls General Store R. D. 2, Route 15 S. Gettysburg, Penna. 17325
Sportsman's Supply Co. 600 North Cherry St. Winston-Salem, North Carolina 27100	Lenny's Sport Center 15 West Third St. Williamsport, Penna. 17701
Dakota Firearms 24 North Main Minot, North Dakota 58701	Royal Arms 846 Pine Abilene, Texas 79600
F & G Police Equip. Co. 860 Broad Road Bedford, Ohio 44146	Bargain Fair of Denton, Inc. 1620 University Drive Denton, Texas 76201
Southern Ohio Distributors 3700 Redbank Road Cincinnati, Ohio 45200	Don's Tackle Box 333 Highway 64 Henderson, Texas 75652

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FEDERAL TRADE COMMISSION DECISIONS

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Texas Gun Clinic
3450 Gulf Freeway
Houston, Texas 77004

Stewart Hardware
North Side Square
Kaufman, Texas 75142

The Gift House
120 25th St.
Ogden, Utah

Village Barber & Sport Shop
2603 West Albany
Kennewick, Wash. 99336

Al Kreideman
548 Janich Circle, W.
Stevens Point, Wisconsin 54481
