

FEDERAL TRADE COMMISSION ACT

Docket C-2054. Complaint, Sept. 28, 1971—Decision, Sept. 28, 1971

Consent order requiring a Cortland, Ohio, seller and distributor of new pianos to cease misrepresenting that the pianos are repossessed or being offered

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for the unpaid balance, using any false or deceptive statements to obtain leads, misrepresenting the amount of savings available to purchasers, and failing to furnish a copy of this order to each salesman and employee.

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 Robert W. Ricklefs, an individual, trading and doing business as Cortland Music Company, hereinafter referred to as respondent, has 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 Robert W. Ricklefs is an individual trading and doing business as Cortland Music Company, with his office and principal place of business located at 141 Mecca Street, Cortland, Ohio.

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 pianos to the public at retail.

PAR. 3. In the course and conduct of his business as aforesaid, respondent now causes, and for some time last past has caused, pianos, when sold, to be shipped from his place of business in the State of Ohio to purchasers thereof located in various other States of the United States, 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 said pianos, respondent has made, and is now making, numerous statements and representations in advertisements inserted in newspapers of general circulation and in oral sales presentations made by his salesmen to prospective purchasers and to purchasers with respect to the quality, condition, characteristics, and price of said pianos, the terms and conditions of sale, and of the status and position of his salesmen.

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

FOR SALE: SPINET PIANO

Wanted, responsible party to take over a spinet piano. Easy terms available. Can be seen locally. Write Credit Manager, P.O. Box 35, Cortland, Ohio 44410.

* * * * *

Reissue full 10 yr. warranty

* * * * *

Cortland Music Co.

Assistant Credit Manager

* * * * *

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

1. That pianos, partially paid for by previous purchasers, have been repossessed and may be purchased for the unpaid balance of the original purchase price.
2. That he is making bona fide offers to sell the pianos described in said advertisements.
3. That the advertised pianos are being offered for sale at special or reduced prices and that purchasers will thereby be afforded savings from respondent's regular selling prices.
4. That persons responding to said advertisements will deal with credit department or other personnel not compensated by sales commissions.

PAR. 6. In truth and in fact:

1. Few, if any, repossessed pianos are shown or made available for the unpaid balance of the original purchase price to persons responding to said advertisements. To the contrary, most, if not all, of the pianos shown or made available to such persons are new.
2. Respondent's offers are not bona fide offers. To the contrary, they are made for the purpose of obtaining leads to prospective purchasers. Respondent's salesmen, thereafter, call upon such persons and attempt to, and do, sell new pianos to them.
3. The advertised pianos are not being offered for sale at special or reduced prices, nor are purchasers thereby afforded savings from respondent's regular selling prices for new pianos. To the contrary, the prices at which respondent sells said pianos are his regular selling prices.
4. Persons responding to said advertisements do not ordinarily deal with the credit department or other personnel. To the contrary, they

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are induced to purchase pianos by sales personnel compensated by sales commissions.

Therefore, the statements and representations as set forth in Paragraph Four and Paragraph 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 is now, in substantial competition, in commerce, with corporations, firms, and individuals in the sale of pianos of the same general kind and nature as those sold by respondent.

PAR. 8. The use by respondent of 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 said pianos 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 or deceptive acts or 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 respondent named in the caption hereof with violation of the Federal Trade Commission Act, and the respondent 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 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 complaint to issue herein, 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 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 described 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 Robert W. Ricklefs is an individual trading and doing business as Cortland Music Company, with his office and principal place of business located at 141 Mecca Street, Cortland, Ohio. Respondent is now, and for some time last past has been, engaged in the advertising, offering for sale, sale, and distribution of new pianos to the public at retail.

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, Robert W. Ricklefs, an individual, trading and doing business as Cortland Music Company or any other name or names, and respondent's agents, representatives, salesmen, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of pianos or other merchandise, 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 pianos or other merchandise have been repossessed or in any manner re-acquired 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; however, it shall be a defense hereunder for respondent to show that said advertised products actually are of the character stated and are offered for sale and sold on the terms and conditions represented.

2. Representing, directly or by implication, that any pianos or other merchandise are being offered for sale when such offer is not a bona fide offer to sell the advertised merchandise on the terms and conditions stated.

3. Using any sales plan or procedure involving the use of false, misleading, or deceptive statements to obtain leads or prospects for the sale of pianos or other merchandise.

4. Using any deceptive sales scheme or device to induce the sale of pianos or other merchandise offered by respondent.

5. Misrepresenting, in any manner, the amount of savings

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available to purchasers or prospective purchasers of pianos or other merchandise.

6. Misrepresenting, in any manner, the title, status, or position of any agent, representative, salesman or employee.

7. Failing to serve a copy of this order upon each present and every future agent, representative, salesman, and employee engaged in the sale of pianos or other merchandise; failing to obtain from each such person so served a written acknowledgement of the receipt thereof and an agreement in writing to abide by the terms of this order; and failing to discharge any such person so served for failure to abide by the terms of this order.

It is further ordered, That respondent, for a period of one year from the effective date of this order, shall furnish each newspaper or other advertising media which is utilized by the respondent to obtain leads for the sale of pianos or other merchandise, or to advertise, promote, or sell pianos or other merchandise, with a copy of the Commission's news release setting forth the terms of this 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 firm, partnership, or corporation, 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

COMPACT VACUUM CENTERS, INC., ET AL.

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

Docket C-2055. Complaint, Sept. 30, 1971—Decision, Sept. 30, 1971

Consent order requiring a Kansas City, Mo., seller of vacuum cleaners, electrical appliances, soaps and group purchasing memberships to cease misrepresent-