

forthwith distribute a copy of this order to each of its operating divisions.

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.

IN THE MATTER OF
WESTERN APPAREL AND EQUIPMENT
MANUFACTURERS ASSOCIATION, ET AL.

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

Docket C-2354. Complaint, Feb. 13, 1973—Decision, Feb. 13, 1973.

Consent order requiring an Albuquerque, New Mexico, western apparel and equipment trade association, among other things to cease enforcing contractual provisions restricting association members from participating in non-WAEMA trade shows; coercing, intimidating or inducing members from participating in trade shows sponsored by other trade associations or to participate in WAEMA sponsored trade shows.

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 has reason to believe that the respondents named in the caption hereof have violated the provisions of said Act. Accordingly, it appears to the Commission that a proceeding by it in respect thereof would be in the public interest, and the Commission hereby issues its complaint stating its charges as follows:

PARAGRAPH 1. Respondent Western Apparel and Equipment Manufacturers Association, hereinafter referred to as WAEMA, is a non-profit corporation organized, existing and doing business under and by virtue of the laws of the State of Colorado, with its office and principal place of business located at 1718 Yale Boulevard, S.E., Albuquerque, New Mexico.

Respondent John Sullivan is president of WAEMA. He is elected by the board of directors and has primary responsibility for executing the policies formulated by said board.

Respondent Sid M. Vinyard is executive director of WAEMA. He is appointed by the board of directors and is responsible for

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the daily operations and conduct of the business affairs of WAEMA.

Respondents John Sullivan and Sid M. Vinyard and respondent corporation WAEMA cooperated and acted together to bring about the acts and practices hereinafter set forth.

PAR. 2. Members of WAEMA, through various corporate and other business devices, manufacture western apparel and equipment in various states of the United States, and cause said products to be shipped across state borders to businesses located in other states. Their volume of sales in commerce has been, and is, substantial.

PAR. 3. WAEMA is the only trade association representing manufacturers of western apparel and equipment, and includes among its members a substantial number of all such manufacturers. Active membership in WAEMA is limited to manufacturers of western apparel and equipment, and there are more than one hundred such members. Said respondent was organized for the purpose of promoting, through concerted efforts, the western apparel and equipment industry. In furtherance thereof, WAEMA sponsors trade shows and exhibitions, thereby fostering the sale and public acceptance of industry products. Respondent encourages the promotion of western apparel and equipment by companies engaged in the sale of unrelated products in advertisements disseminated through national media.

In the course of such promotion, WAEMA's representatives, employees, and agents have engaged and are now engaged in interstate travel, advertising and communication. For the past several years and at all times mentioned herein WAEMA has been and is now engaged in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Mountain States Men's, Boys' and Western Apparel Club, hereinafter referred to as MAC, is a non-profit corporation organized, existing and doing business under and by virtue of the laws of the State of Colorado, with its office and principal place of business located at 4585 Denver Merchandise Mart, 451 East 58th Avenue, Denver, Colorado. MAC is a trade association composed primarily of salesmen representing manufacturers of western and dress apparel. Some members of MAC who manufacture western apparel and equipment are also members of WAEMA.

PAR. 5. Since 1968, MAC and WAEMA have co-sponsored an annual trade show at the Denver Merchandise Mart, Denver, Colorado, during the month of January. Wholesale sales made at

the January 1972 joint MAC-WAEMA show totaled approximately \$15,000,000. This January 1972 joint MAC-WAEMA show extended over a period of five days and was attended by retailers from more than forty states, seven Canadian provinces, and three other foreign countries. At said show, 247 salesmen exhibited, all of whom were members of MAC. Of these salesmen, 101 represented member manufacturers of WAEMA, and accounted for 50 percent to 70 percent of the sales consummated. During the year following the 1972 show, reorders of merchandise will total approximately \$3,750,000, 25 percent of the total sales made at the show. 1972 sales originating from contacts made at the show will total approximately \$30,000,000.

PAR. 6. As the result of a dispute between MAC and WAEMA concerning the conduct of the proposed co-sponsored 1973 show, WAEMA and the individual respondents, acting between and among themselves, and with other members of WAEMA, terminated participation in the said 1973 co-sponsored trade show and elected to hold their own trade show at Currigan Hall, Denver, Colorado, during January 12-16, 1973. Consequently, the formerly co-sponsored show now will be conducted only by MAC, during January 6-10, 1973 in the Denver Merchandise Mart.

PAR. 7. In the course of its business in commerce, WAEMA and the individual respondents, acting between and among themselves, and with other members of WAEMA, commencing on or about February 1, 1972, and continuing to the present, entered into an understanding, agreement, combination and conspiracy to establish, and did establish, place into effect, and carry out a planned common course of action to adopt and adhere to certain practices and policies for the purpose or with the effect of hindering, lessening, restraining or eliminating competition in the sale and distribution of western apparel and equipment and dress apparel.

Pursuant to and in furtherance of said understanding, agreement, combination, conspiracy and planned course of action, WAEMA and the individual respondents, acting between and among themselves, and with other members of WAEMA, concertedly induced, or attempted to induce, various manufacturers, including members of WAEMA and members of MAC, to refuse to participate in the scheduled January 1973 MAC show, for the purpose or with the effect of (a) reducing or eliminating purchases of western apparel and equipment and dress apparel at

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the 1973 MAC show, and (b) assuring the success of the January 1973 WAEMA show. The purpose or effect of respondents' acts and practices as hereinbefore stated is to hinder, lessen or restrain all competing apparel and equipment shows in Denver during the month of January 1973.

In furtherance of said understanding, agreement, combination, conspiracy and planned course of action, WAEMA, acting through its directors and officers, enacted two resolutions at its February 1972 directors meeting, to wit:

(1) Be it moved, that all WAEMA members, *except* those that have permanent show rooms, under yearly contract, at the Denver Merchandise Mart, by January 1, 1973; must *not* show at any other 1973 Denver January Show, or lose his WAEMA membership.

(2) Be it moved, that contracts sent to all proposed exhibitors for the WAEMA sponsored show, provide that the exhibitor is a member of WAEMA, or that they thereby apply for membership with the show application; further, that applicant agrees that he will *not* show at any other competing show; further, that he will show *only* the line of the WAEMA member. (Emphasis original)

These two resolutions were subsequently ratified by members of WAEMA at its July 15, 1972, meeting.

PAR. 8. Pursuant to and in furtherance of said understanding, agreement, combination, conspiracy and planned course of action to induce members to refuse to participate in the 1973 MAC show, respondents prepared the WAEMA Western Market Exhibit Space Contract for the January 1973 WAEMA show.

Said contract contains a provision prohibiting WAEMA member exhibitors from showing in any other apparel or equipment show in Denver during the month of January 1973, to wit:

By making this application, our company agrees to abide by all association show rules and regulations, which have been established for the benefit of all exhibitors, and agrees that our company's line will not be shown at any other apparel, or equipment show in Denver, during the month of January, in 1973.

PAR. 9. As a condition of participation in its January 1973 show, WAEMA requires all member exhibitors to purchase a one-page advertisement in its "Buyers' Guide." Said requirement is contained in the WAEMA Western Market Exhibit Space Contract, to wit:

Advertising is sold at \$75.00 per page, or \$135.00 for two pages, and all exhibitors are required to take a minimum one full page ad.

More than one hundred WAEMA members have executed the aforementioned contract.

PAR. 10. The acts and practices of respondent WAEMA and the individual respondents, as herein alleged, have had and do have the effect of hindering, lessening, restricting, restraining or eliminating competition among said respondents and others engaged in the sale and distribution of western apparel and equipment and dress apparel; and are to the prejudice of the public; and constitute unfair methods of competition and unfair acts and practices in commerce within the intent and meaning 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 respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Los Angeles Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; 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 aforesaid draft of complaint, 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 thereafter considered the matter and having determined that it had reason to believe that the respondents have 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 Western Apparel and Equipment Manufacturers Association is a corporation organized, existing and doing

business under and by virtue of the laws of the State of Colorado, with its office and principal place of business located at 1718 Yale Boulevard, S.E., Albuquerque, New Mexico.

Respondent John Sullivan is president of WAEMA. He is elected by the board of directors and has primary responsibility for executing the policies formulated by said board.

Respondent Sid M. Vinyard is executive director of WAEMA. He is appointed by the board of directors and is responsible for the daily operations and conduct of the business affairs of WAEMA.

Respondents John Sullivan and Sid M. Vinyard and respondent corporation WAEMA cooperated and acted together to bring about the acts and practices set forth in the complaint.

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 Western Apparel and Equipment Manufacturers Association, a corporation, its successors and assigns, and its officers and directors, and John Sullivan, individually, and as an officer of said corporation, and Sid M. Vinyard, individually, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the purchase or sale of western apparel and equipment and other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Enforcing, directly or indirectly, any contractual provision restricting any member of WAEMA from participating in any non-WAEMA trade show, exhibition or display.

2. Requiring, directly or indirectly, through contract or other device, any member of WAEMA or any other exhibitor as a condition of membership or participation in any WAEMA trade show, exhibition or display, to refrain from participating in any non-WAEMA trade show, exhibition or display.

3. Requiring, directly or indirectly, through contract or other device, any member of WAEMA or any other exhibitor as a condition of participating in any WAEMA trade show,

exhibition or display, to purchase advertising, or any other product or service.

4. Coercing, intimidating or inducing, in any manner or by any means, including boycott or threat of boycott, any manufacturer, wholesaler, distributor, salesman or competitor to refrain from participating in any trade show, exhibition or display sponsored by any other trade association, corporation or other business entity, *Provided, however*, That nothing contained herein shall prohibit any individual respondent from advising or instructing any employee of his own company to refrain from participating in any trade show, exhibition or display.

5. Coercing, intimidating or inducing, in any manner or by any means, including boycott or threat of boycott, any manufacturer, wholesaler, distributor, salesman or competitor to participate in any WAEMA trade show, exhibition or display: *Provided, however*, That nothing contained herein shall prohibit any individual respondent from advising or instructing any employee of his own company to participate in any WAEMA trade show, exhibition or display.

It is further ordered, That respondent WAEMA shall:

1. Within thirty (30) days after this order becomes final, serve by mail or otherwise cause to be served on all its members (a) a copy of this consent order and (b) a copy of the letter attached hereto as Appendix A, signed by the president of WAEMA.

2. Provide each applicant for membership in WAEMA within one (1) year after this order becomes final with (a) a copy of this consent order and (b) a copy of the letter attached hereto as Appendix A, signed by the president of WAEMA.

3. Within thirty (30) days after this order becomes final, or sooner, request each WAEMA member to serve on its respective salesmen, sales representatives and sales agents a copy of the letter attached hereto as Appendix B.

4. Within thirty (30) days after this order becomes final, or sooner, serve on all persons, corporations and other business entities engaged in the retail sale and distribution of western apparel and equipment that registered for the 1972 Western and Dress Apparel Show held at the Denver Merchandise Mart, Denver, Colorado, a copy of the letter at-

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tached hereto as Appendix C, signed by the president of WAEMA.

It is further ordered, That respondent WAEMA shall, within thirty (30) days after this order becomes final, or sooner, place for publication the advertisement measuring $4\frac{3}{4}$ " x $4\frac{3}{4}$ ", attached hereto as Appendix D in the following trade publications: *Western Wear and Equipment Magazine*, *Tack-'N-Togs*, and *Western Outfitter*.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

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 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.

APPENDIX A

(WAEMA Letterhead)

(Date)

Dear WAEMA Member (or Prospective Member) :

The Western Apparel and Equipment Manufacturers Association has entered into a consent agreement with the Federal Trade Commission which, among other things, provides that you may participate in any non-WAEMA sponsored trade show, exhibition or display, whether or not you are participating, or intend to participate, in any WAEMA sponsored trade show, exhibition or display.

Our agreement with the Commission is for settlement purposes only and does not constitute an admission by us that the law has been violated. We are enclosing a copy of the Order for your information.

Very truly yours,

President

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APPENDIX B

(WAEMA Member Letterhead)

(Date)

Dear Sales Representative:

The Western Apparel and Equipment Manufacturers Association has passed a resolution September 30, 1972 which provides that WAEMA members may participate in any non-WAEMA sponsored trade show, exhibition or display, whether or not they are participating, or intend to participate, in any WAEMA sponsored trade show, exhibition or display. We wish for you to be advised of this resolution.

Very truly yours,

(Responsible Company Official)

APPENDIX C

(WAEMA Letterhead)

(Date)

Dear Retailer:

There has been some confusion over the trade shows in Denver in January of 1973. By resolution of the Board of Directors of WAEMA, WAEMA members may participate in any non-WAEMA sponsored trade show, exhibition or display, whether or not they are participating, or intend to participate, in any WAEMA sponsored trade show, exhibition or display.

Consequently, you may wish to contact other non-WAEMA sponsored trade shows to ascertain if western apparel and equipment will be exhibited and to what extent.

Very truly yours,

(President)

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APPENDIX D

WESTERN APPAREL AND EQUIPMENT MANUFACTURERS
ASSOCIATION

(SEAL)

We do not want to inconvenience any of our members or customers in our zeal to have the best show featuring western apparel and equipment on January 12-16 in Denver at Currigan Hall. Our members made certain agreements which were objected to by the Federal Trade Commission.

We hereby advise our members, salesmen and retail customers that WAEMA members are free to show their merchandise at any competing trade show, including the 1973 Denver MAC show, without fearing loss of membership or