

Complaint

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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
PAUL BRUSELOFF, ET AL.

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

Docket C-2369. Complaint, Mar. 26, 1973—Decision, Mar. 26, 1973.

Consent order requiring two Southfield, Michigan, individuals, doing business under various trade names, engaged in selling ovenware, among other things to cease misrepresenting that their products are being sold at a loss; that their prices are usual and customary, special or reduced; misrepresenting the quality or properties of their products; failing to disclose their names and address; and misrepresenting guarantees.

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 Paul Bruseloff and Martin Bruseloff, individually and as co-partners, doing business under various trade names, sometimes hereinafter referred to as respondents, have 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. Paul Bruseloff and Martin Bruseloff are individuals with their principal place of business located at 22218 Ivanhoe Lane, in the city of Southfield, State of Michigan. From time to time, they operate as co-partners trading and doing business under various trade names.

PAR. 2. Respondents are now, and for sometime last past have been, engaged in the business of advertising, offering for sale, and sale of ovenware.

PAR. 3. In the course and conduct of said business, respondents now cause and for sometime last past have caused said ovenware to be sold to distributors who resell said product di-

rectly to consumers or to subdistributors or others who, in turn, sell to consumers.

PAR. 4. In the course and conduct of their business, respondents promote the sale of said ovenware and aid and assist distributors and subdistributors or other individuals in selling it by preparing and providing sales promotion literature to said distributors, subdistributors and others. Respondents assist said distributors and subdistributors, and others in the sale of said ovenware by providing instructions and advice, by arranging shipments to various locations throughout the country, as requested by the distributor, by extending credit from time to time, and by other means.

PAR. 5. In the course and conduct of their business as aforesaid, respondents now cause, and for sometime last past have caused, said ovenware, when sold, to be shipped from its place of manufacture in the State of Pennsylvania to purchasers thereof located in various other States of the United States, and have transmitted and received, and have caused to be transmitted and received, in the course of selling, delivering and collecting payment for said ovenware among and between the several States of the United States, contracts, invoices, checks and various other kinds of commercial paper and documents. Respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in said ovenware in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 6. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of said ovenware by consumers, respondents operate from time to time as co-partners trading and doing business under various business or trade names including, among others, the E. Fink Company, Queen Victoria Company and Lady Odellia Company. The products offered for sale and sold by respondents are designated with various trade or brand names including but not limited to, "Lady Cornellia," "Lady Odellia," "Countess Regalla" and "Queen Victoria."

PAR. 7. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of said ovenware by consumers, respondents, some distributors, subdistributors and others make, and have made, certain statements with respect to prices, guarantees, product performance, and other qualities

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related to said ovenware. Typical and illustrative of such statements are the following:

1. *Advertising Leaflets:*

New Modern Miracle Way Countess Regalla (Queen Victoria) 41-piece Ovenware Cook-'N'-Serve Ensemble.

Countess Regalla (Queen Victoria) decorated Milk White bakeware is so practical * * * all you do is take it from refrigerator to oven * * * on to table without damage * * * Countess Regalla (Queen Victoria) * * * fired at 1200° F * * * makes set impervious to oven heat, icy-cold. Set will be intact.

\$89.50.

2. *Packaging Materials:*

Modern way to store, cook and serve foods from refrigerator * * * to oven * * * to your table.

Created for Queen Victoria Company, 15402 Northgate Drive, Southfield, Michigan 48075.

3. *Statements of Distributors, Subdistributors and Others to Prospective Customers:*

a. That said ovenware is being sold at lower-than-normal prices or "distress" prices because it is left over from a home show, the manufacturer is closing out his stock, or it was left stranded on a broken truck, among other purported reasons given.

b. That said ovenware is capable of withstanding heat in the same manner as certain identified higher-priced, nationally known products.

c. That said ovenware can be dropped on the floor, thrown about, or otherwise abused without breaking or cracking.

d. That said ovenware is guaranteed for use under any circumstances and will be replaced if any pieces are damaged or break.

PAR. 8. By and through the use of the aforementioned statements and others of similar import and meaning but not expressly set out herein, separately and in connection with the oral statements of said distributors, subdistributors and others, the respondents have represented, and are now representing, directly or by implication:

1. That said ovenware is being offered for sale at special, reduced or "distress" prices and that savings from the regular selling prices are thereby afforded to purchasers.

2. That said ovenware is capable of withstanding heat and cold in the same manner as certain identified higher-priced,

competing nationally known products and is better than such products in that it can be dropped on the floor, thrown about, or otherwise abused without breaking or cracking.

3. That the address listed on the ovenware carton is the address at which the respondents are located and can be contacted.

4. That said ovenware is unconditionally guaranteed without limitation or condition.

PAR. 9. In truth and in fact:

1. Savings are not afforded because of a reduction from the regular selling price because few, if any, sales of said ovenware are or have been made at the so-called "regular" price printed on the carton, or leaflets, and/or orally represented to prospective purchasers. Statements that said ovenware is being sold at lower-than-normal prices, "distress" prices, or that it is left over from a home show, are used to entice the consumer into believing that he is obtaining a much better bargain for his money than, in fact, he is obtaining.

2. Said ovenware is not comparable to, and does not have the same qualities as, certain identified higher-priced, nationally known products, since it cannot be removed from the freezer and immediately be put into an oven without cracking, and it will crack upon exposure to direct heat or to an open flame.

3. The mailing address which appears on the ovenware carton is an incorrect address, and mail sent to this address is returned to the sender, marked "Addressee Unknown."

4. Said ovenware carries no guarantee of any sort.

PAR. 10. Respondents accept the revenues flowing from the sale of said ovenware to distributors, and have knowledge of, and benefit from, some of the statements, representations, acts and practices set forth in Paragraphs Six, Seven, and Eight hereof. Respondents, while having full knowledge and notice of the acts and practices of the distributors, subdistributors and others, have failed to prevent the said parties from utilizing such methods.

PAR. 11. In the course and conduct of their business as herein described, respondents have been, and are now, in substantial competition in the sale and distribution of ovenware in commerce between and among the various States of the United States with other corporations, persons, firms and partnerships

in the sale of products of the same general kind and nature as those sold by respondents.

PAR. 12. The acts, practices and methods of competition engaged in, followed, pursued or adopted by the respondents are unfair acts and practices, to the prejudice of the public because of the misleading and deceptive acts and practices utilized and employed by some of the distributors, subdistributors and other individuals in the course of, and for the purpose of, inducing the sale of and selling respondents' ovenware; respondents' knowledge of such acts and practices by the distributors, subdistributors and other individuals; respondents' acceptance of some of the pecuniary and other benefits flowing therefrom; and respondents' failure to adopt methods reasonably designed to eliminate the utilization and employment of said acts and practices by the said parties. Said acts and practices, and the adverse competitive effect resulting therefrom, constitute unfair methods of competition in commerce, and unfair and deceptive acts and practices in commerce, within the intent and meaning of Section 5 of the Federal Trade Commission Act, as amended.

PAR. 13. The acts and practices of the respondents as set forth above, were, and are, all to the prejudice and injury of the public and of respondents' 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 respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Cleveland 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. Respondents Paul Bruseloff and Martin Bruseloff are individuals with their principal place of business located at 22218 Ivanhoe Lane, in the city of Detroit, State of Michigan. From time to time they operate as co-partners trading and doing business under various trade names.

Respondents are now, and for sometime last past have been, engaged in the advertising, offering for sale and sale of ovenware to consumers.

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 Paul Bruseloff and Martin Bruseloff, individually or trading and doing business as co-partners under any name or names, their successors and assigns, and respondents' agents, representatives and employees, through any corporation, subsidiary, division or other device in connection with the advertising, offering for sale, sale and distribution of ovenware, or any other product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, orally, in writing or visually, that ovenware or any other product is being sold at a "distress" price or at a loss for any reason.

2. Representing, directly or by implication, orally, in writing or visually, that any amount is the usual and customary retail price for ovenware or any other product, unless such amount is the price at which such ovenware or other product has been

usually and customarily sold at retail in the recent regular course of business.

3. Representing, directly or by implication, orally, in writing or visually, that any price for respondents' ovenware or any other product is a special or reduced price, unless such price constitutes a significant reduction from an established selling price at which said ovenware or other product has been sold in substantial quantities at retail in the regular course of business; or misrepresenting, in any manner, the savings available to purchasers.

4. Representing, directly or by implication, orally, in writing or visually, the quality, color, physical properties and/or characteristics of ovenware or any other product, in a manner which is inconsistent with, negates or contradicts any statements set forth in any instructions accompanying the ovenware or other product or which limits, qualifies or detracts from any statement set forth in any such instructions; or misrepresenting the quality, color, physical properties and/or characteristics of ovenware or any other product in any manner.

5. Failing to accurately disclose respondents' name and business address clearly, conspicuously, and accurately on all advertising, sales, packaging and promotional materials for ovenware or any other product sold by respondents.

6. Failing to include inside any packaging materials containing ovenware or any other product, a statement setting forth respondents' business name and correct mailing address.

7. Failing to include inside any packaging materials containing ovenware or any other product, a self-addressed postcard with adequate space for identification of the customer and his address, and bearing a statement which instructs the customer to mail the card to respondents' principal place of business.

8. Failing to maintain adequate records which disclose the name, home address and telephone number, or business address and telephone number, of each customer to whom respondents sell ovenware or any other product.

9. Representing directly, or by implication, orally, in writing or visually, that respondents' ovenware or any other product is guaranteed unless the nature and extent of the guarantee, the identity of the guarantor, and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed, and unless respondents promptly and fully perform

all of their obligations and requirements, directly or impliedly represented, under the terms of each such guarantee.

It is further ordered, That respondents maintain a complete file at their principal place of business of all customer correspondence, inquiries, complaints, postcards, customer lists, etc., relating to respondents' ovenware or any other product, for a period of three (3) years from the date of receipt.

It is further ordered, That respondents shall forthwith deliver a copy of this order to cease and desist to all of their distributors, agents, representatives, employees and suppliers, or others, engaged in the offering for sale or sale of ovenware or any other product, and that respondents secure a signed statement acknowledging the receipt of said order from each such person.

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which they are engaged, as well as a description of their duties and responsibilities.

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 the order to cease and desist contained herein.

IN THE MATTER OF

ILLINOIS CENTRAL INDUSTRIES, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT AND CLAYTON ACT,
SEC. 7

Docket C-2370. Complaint, Mar. 26, 1973—Decision, Mar. 26, 1973.

Consent order requiring one of the nation's largest publicly held industrial corporations, headquartered in Chicago, Illinois, among other things, to take immediate steps to create a viable new entrant into the business