

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
POSTAGE STAMP SERVICE BUREAU, INC., ET AL.

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

Docket C-2430. Complaint, August 14, 1973—Decision, August 14, 1973.

Consent order requiring a Las Vegas, Nevada, seller and distributor of postage stamp vending machines, among other things to cease misrepresenting the earnings and profits derived from a distributorship or franchise misrepresenting the opportunities in the product or business; misrepresenting dealer assistance; and misrepresenting that the firm is affiliated with the U.S. Government or U.S. Postal Service. The order further requires respondents to initiate a 10-day, cooling-off period during which purchasers may cancel their contracts and receive full refund of all monies spent.

Appearances

For the Commission: *R. F. Manifold.*

For the respondents: *Thomas Steffen of George, Steffen & Simmons, Las Vegas, Nevada.*

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 Postage Stamp Service Bureau, Inc., a corporation, and Carlton Lee Struble, individually and as an officer of said corporation, 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:

Complaint

83 F.T.C.

PARAGRAPH 1. Respondent Postage Stamp Service Bureau, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nevada, with its principal office and place of business located at 1721 E. Charleston Boulevard, Las Vegas, Nevada.

Respondent Carlton Lee Struble is an individual and an officer of said corporation. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of postage stamp vending machines, and supplies used and dispensed thereby to purchasers for installation in commercial establishments such as hotels, motels, drug stores, etc., and operated as a business on a route basis.

PAR. 3. In the course and conduct of their business respondents caused, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of Nevada and their suppliers' places of business in the State of Illinois, and other States, to purchasers thereof located in various other States of the United States. In addition, in the course and conduct of their business, respondents have disseminated and caused to be disseminated in newspapers of interstate circulation, advertisements designed to be read by persons residing outside the State of Nevada and intended to induce such persons to enter into contractual agreements with respondents to purchase distributorships or franchises and products from respondents. Respondents have maintained, and at all times mentioned herein maintained, a substantial course of trade in products, distributorships or franchises, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business as aforesaid, respondents cause advertisements to be inserted in newspapers, soliciting persons to whom to sell said products. Persons responding to said advertisements are contacted by respondents or their representatives. Said respondents or their representatives, in soliciting the sale of said products, make various oral statements and representations concerning the business opportunities and benefits to be derived by purchasing said products.

Among and typical, but not all inclusive, of the statements and representations made in newspapers, circulars, form letters,

319

Complaint

flyers and by other printed material given to prospective purchasers are the following:

UP TO \$750.00 A MONTH OR MORE

* * * * *
 CONVERT YOUR CAPITAL OR SAVINGS INTO A LUCRATIVE
 HIGH RETURN BUSINESS, NO SELLING,

* * * * *

U.S. POSTAGE
 Stamp Machines

* * * * *

ALL LOCATIONS SECURED FOR YOU. MINIMUM CASH REQUIRED
 \$1,495.00 SECURED BY EQUIPMENT.

* * * * *

men or women
 operate from home
 part time
 depression proof
 age no barrier
 no overhead
 6 to 8 hrs monthly
 permanent

* * * * *

INQUIRE NOW FOR YOUR AREA. NO OBLIGATION. SEND NAME,
 ADDRESS, PHONE NUMBER & PERSONAL REF. TO

* * * * *

POSTAGE STAMP SERVICE BUREAU, INC. Dept. B-160 1721 E.
 Charleston Blvd. Las Vegas, Nevada 89104

* * * * *

PAR. 5. By and through the use of the aforesaid statements and representations, and others of similar import and meaning not expressly set out herein, respondents have represented directly or by implication that:

A. Persons who purchase a distributorship or franchise from respondents can earn \$750 or more a month in their spare time.

B. Said earnings projections are the earnings made by a significant number of persons who have purchased and operated respondents' distributorships or franchises.

C. Persons who purchase a distributorship or franchise from respondents can expect an average of 20 sales a day from each machine.

D. The cost of supplies and the store owners' commission are

Complaint

83 F.T.C.

the only expenses involved in operating a distributorship and the remaining money is net profit.

E. Respondents obtain top sales producing locations such as leading restaurants, hotels, motels, and drug stores for the placing of vending machines purchased from them.

F. Prompt delivery and prompt assistance in installation are furnished by respondents.

G. A survey has been made of the market in which the prospective purchaser will operate.

H. Respondent is affiliated with the United States Government or the United States Postal Service.

PAR. 6. In truth and in fact:

A. Relatively few, if any, persons who purchased a distributorship or franchise from respondents earned \$750 or more a month in their spare time or full time.

B. Respondents' claimed earnings projections are far in excess of the earnings of any person or persons who purchased and operated respondents' distributorships or franchises.

C. Respondents' claimed sales projections are far in excess of the sales of any person or persons who purchased respondents' distributorships.

D. There are many expenses involved in operating a distributorship besides the cost of supplies and the store owners' commission.

E. Respondents do not obtain top income producing locations, but place most of the machines in small stores which have very little consumer traffic. The locations secured by respondents are usually undesirable, unsuitable and unprofitable.

F. Respondents do not deliver the equipment promptly and afford the purchaser no assistance in its installation.

G. No survey has been made of the market in which the prospective purchaser intends to operate, prior to the contact by the salesman or thereafter.

H. Respondent is not affiliated with the United States Government or the United States Postal Service.

Therefore, the statements and representations as set forth in Paragraphs Four and Five hereof were, and are, false, misleading and deceptive.

PAR. 7. The use by respondents of the aforesaid unfair and false and misleading and deceptive statements, representations and practices, as aforesaid, has had the capacity and tendency to mislead members of the public into the erroneous and mistaken

belief that said statements and representations were true and complete, and into the purchase of respondents' distributorships or franchises and products by reason of said erroneous and mistaken belief and unfairly into the assumption of obligations and the payment of monies which they might otherwise not have incurred.

PAR. 8. In the course and conduct of their business, and at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of the same or similar products.

PAR. 9. The aforesaid acts and practices of respondents, as herein alleged, were all to the prejudice and injury of the public and of respondents' competitors and 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 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 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

Decision and Order

83 F.T.C.

following jurisdictional findings, and enters the following order:

1. Respondent Postage Stamp Service Bureau, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nevada, with its office and principal place of business located at 1721 E. Charleston Boulevard, Las Vegas, Nevada.

Respondent Carlton Lee Struble is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation, and his principal office and place of business is located at the above stated address.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is the public interest.

ORDER

It is ordered, That respondents, Postage Stamp Service Bureau, Inc., a corporation, its successors and assigns, and its officers, and Carlton Lee Struble, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of vending machines and vending machine supplies or any other products or of distributorships or franchises in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, that:

1. (a) Persons investing in respondents' products or distributorships will receive any stated amount of income or gross or net profits or other earnings.

(b) Any stated sums of money are past earnings of distributors or purchasers of respondents' products if such sums are not based upon the actual average figures for all distributors not owned or operated by the respondent or an affiliate thereof in operation during the entire preceding twelve month period, and disclosing clearly and conspicuously immediately adjacent to any such representation that "REPRESENTATIONS ARE BASED ON THE AVERAGE EARNINGS OR PROFITS OF ALL INDEPENDENT DISTRIBUTORS IN OPERATION DURING THE PAST YEAR. THESE FIGURES SHOULD NOT BE CONSIDERED AS

ACCURATE REPRESENTATIONS OF POTENTIAL EARNINGS OR PROFITS OF ANY SPECIFIC DISTRIBUTOR."

(c) Any stated sums of money are past earnings without (1) identifying such earnings as "earnings before expenses" or "earnings after expenses" and (2) disclosing the expenses incurred by those distributors in producing such earnings, such expenses to include, but not be limited to, telephone, automobile and freight charges on supplies.

(d) Persons investing in respondents' distributorships or products will make any stated number of sales.

(e) Any stated number of sales is the past sales of distributors or purchasers of respondents' products if such number is not based upon the actual average figures for all distributors not owned or operated by the respondent or an affiliate thereof in operation during the entire preceding twelve month period, and disclosing clearly and conspicuously immediately adjacent to any such representation that "REPRESENTATIONS ARE BASED ON THE AVERAGE SALES OF ALL INDEPENDENT DISTRIBUTORS IN OPERATION DURING THE PAST YEAR. THESE FIGURES SHOULD NOT BE CONSIDERED AS ACCURATE REPRESENTATIONS OF POTENTIAL SALES OF ANY SPECIFIC DISTRIBUTOR."

2. Respondents, their agents, representatives, or employees will obtain satisfactory or profitable locations for the machines purchased from them; *Provided, however*, That nothing herein shall be construed to prohibit respondents from truthfully and non-deceptively representing that they have obtained locations or assisted in obtaining locations if respondents clearly and conspicuously disclose, in immediate conjunction therewith, the average net or gross earnings realized by all purchasers from machines in locations obtained by respondents or through their assistance.

3. Respondents will deliver their merchandise within a specific period of time, or on a specific date, unless in each instance such delivery is made as represented by

respondents, or misrepresenting in any other manner the time within which respondents' merchandise will be delivered; or representing that respondents assist in the installation of vending equipment unless respondents in each instance furnish such assistance at the time of the delivery.

4. Respondents make a survey or an investigation of neighborhoods for suitable locations for vending machines for their customers unless the nature and extent of such survey or investigation is clearly and expressly revealed and the respondents can establish that such survey or investigation actually has been made.

B. Failing to furnish any prospective distributor with all of the following information, in a clear, permanent, and straight-forward form, at the time when contact is first established between such prospective distributor and the respondent or its representative:

1. The official name(s) and address(es) of the corporate respondent, the parent firm or holding company of the respondent, if any; all affiliated companies that will engage in business with the distributor.

2. The business experience of the respondents, including the length of time the respondents have conducted a business of the type to be operated by the distributor; have granted distributorships for such business; and have granted distributorships in other lines of business.

3. A list of the names and addresses of the ten persons who purchased a distributorship, for products or product lines similar to, or the same as, those being offered by respondents to any prospective distributor, and are situated in the same geographic area.

4. A statement of the conditions and terms under which the respondents allow the distributor to sell, lease, assign, or otherwise transfer his distributorships, or any interest therein.

5. A statement that respondents are not affiliated in any way with the United States Government or the United States Postal Service.

6. A statement of the number of persons who have signed distributor agreements for whom locations have not yet been agreed upon by both respondents and the distributor.

Decision and Order

7. A statement of the average length of time between the signing of a distributor agreement and the location of the vending machines.
8. A statement of the average length of service of personnel who are responsible for assisting the distributor at his location, and the average number of hours such personnel spend during the past year with each distributor that was in business for less than one year.

All of the foregoing material is to be contained in a single package, is to be made available to the Commission or its staff upon demand, and is to carry a distinctive and conspicuous cover sheet with the following information (and no other) imprinted thereon in bold face type of not less than 10 point size:

INFORMATION FOR PROSPECTIVE DISTRIBUTORS
REQUIRED BY FEDERAL TRADE COMMISSION

This package of information is provided for your own protection. It is in your best interest to study it carefully before making any commitment. If you do sign a contract, you may cancel it, and obtain a full refund of any money paid, for any reason within ten business days after signing. Details appear on the contract itself.

The information contained herein has not been reviewed or approved by the Federal Trade Commission, but any misrepresentation constitutes a violation of Federal law. If you feel you have been misled, you should contact the Federal Trade Commission in Washington, or the Federal Trade Commission Regional Office nearest you.

C. Making any claim in any advertising or promotional material for which the respondents do not have in their possession valid substantiating data, which data shall be made available to prospective distributors or the Commission or its staff upon demand.

D. Failing to include immediately above and on the same page as the distributor's signature line of any contract establishing or confirming a distributorship agreement, the following statement in bold face print at least 50 percent larger than any other print in the body of such contract, or in bold face print of a contrasting color:

NOTICE: YOU ARE ENTITLED TO CERTAIN IMPORTANT INFORMATION CONCERNING THIS TRANSACTION, ENTITLED "INFORMATION FOR PROSPECTIVE DISTRIBUTORS REQUIRED BY FEDERAL TRADE COMMISSION." IT IS IN YOUR BEST INTEREST TO DEMAND AND STUDY SUCH INFORMATION. YOU MAY CANCEL THIS CONTRACT FOR ANY REASON WITHIN TEN BUSINESS DAYS AFTER YOU SIGN IT. If you do choose to cancel, you

Decision and Order

83 F.T.C.

will be entitled to receive full refund of any money paid within ten business days after Postage Stamp Service Bureau, Inc. receives notice of your cancellation. You may use any reasonable method to notify Postage Stamp Service Bureau, Inc. of your cancellation within the grace period. For your own protection you may wish to use certified mail with return receipt requested, or a telegram, either of which should be sent to the address below. [Respondent will insert here the address and telephone number to which such notices should be sent.]

E. Failing to cancel any contract for which a notice of cancellation was sent by any reasonable means within ten business days after the contract's execution, or to fail to refund any money paid by distributor within ten business days after the date of receipt of such notice of cancellation. As used in this order, the following definitions shall apply:

1. "Prospective distributor" means any person who approaches, or is approached by, respondents or their agent or representative for the purpose of investigating a distributorship between such person and respondents;

2. "Time when contact is first established" means the earlier of the time when

(a) A direct personal meeting first occurs between respondents or their agent or representative and a prospective distributor, or

(b) Any document or promotional literature is distributed to a prospective distributor.

It is further ordered, That respondents:

Inform orally all prospective customers and provide in writing in all contracts that the contract is not final and binding until respondents have completely performed their obligations thereunder by placing the vending machines in locations satisfactory to the customer and said customer has thereafter signed a statement indicating his satisfaction.

Refund immediately all monies to (1) customers who have requested contract cancellation in writing within ten days from the execution thereof, (2) customers who have refused to sign statements indicating satisfaction with respondents' placement of the machines, and (3) customers showing that respondents' contract, solicitations or performance were attended by or involved violations of any of the provisions of this order.

It is further ordered, That respondents maintain files containing all inquiries or complaints from any source relating to acts or practices prohibited by this order, for a period of two years after their receipt, and that such files be made available for ex-

amination by a duly authorized agent of the Federal Trade Commission during the regular hours of the respondents' business for inspection and copying.

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

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future employees, agents and representatives engaged in the offering for sale or sale of respondents' distributorships or products or in any aspect of preparation, creation or placing of advertising and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That the corporate respondent distribute a copy of this order to each of its operating divisions or departments.

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
UNIROYAL MERCHANDISING COMPANY, INC.

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

Docket C-2431. Complaint, August 16, 1973—Decision, August 16, 1973.

Consent order requiring a Houston, Texas, wholly-owned subsidiary of Uniroyal, Inc., engaged in the sale and distribution of mufflers, auto-