

the store of a retail seller of music and voice amplification equipment, among other things to cease misrepresenting the usual or regular selling price of merchandise; misrepresenting the amount of savings available to purchasers; and failing to maintain adequate records.

Appearances

For the Commission: *Stuart E. Armetty.*

For the respondents: *Pro se.*

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 Electronic Centers, a corporation, and Harvey Zinn, individually and as an officer of said corporation, hereinafter sometimes 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. Respondent Electronic Centers, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Texas, with its principal office and place of business located at 5323 Wesleyan, Houston, Tex.

Respondent Harvey Zinn, is an officer of the corporate respondent. 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, and sale of electronic equipment and other items normally found in the store of a retail seller of music and voice amplification equipment.

PAR. 3. In the course and conduct of their business as aforesaid, respondents have disseminated, and caused the dissemination of certain advertisements concerning the said products by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including but not limited to newspapers for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of said products; and have disseminated and caused the dissemination of advertisements concerning said products by various means, including but not limited to newspapers, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said products in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Typical and illustrative of the statements and representations in said advertisements, disseminated as aforesaid, but not all inclusive thereof, are the following:

1. Harmon Kardon + 50 Four Channel Sound * * * Reg. \$689.75 Custom Hi Fi Saves you \$230.75 * * * \$459
2. Marantz 4415 Four Channel Sound * * * Reg. \$771.75 Custom Hi Fi Saves you \$232.75 * * * \$559
3. Harmon Kardon + 7J Four Channel Sound * * * Reg. \$1069.70 Custom Hi Fi Saves you \$222.70 * * * \$847

4. Sansui CXR 4500 Four Channel Sound * * * Reg. \$1449.70 Custom Hi Fi saves you \$270.70 * * * \$1179

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

1. The higher prices, accompanied by the words "Regular," "Reg.," or words of similar import or meaning, were the prices at which the advertised merchandise was offered for sale or sold by respondents in good faith for a reasonably substantial period of time in the recent, regular course of their business. Purchasers of such merchandise would save an amount equal to the difference between respondents' higher selling prices and the corresponding advertised lower selling prices.

2. During the period of the advertised "Sale" or words of similar import and meaning, the advertised price of any merchandise represents a reduction from the price at which respondents have made a bona fide offer to sell or have sold said merchandise on a regular basis for a reasonably substantial period of time in the recent, regular course of their business.

3. The represented reduced prices are offered only during the limited period of the sale and such reduced prices will be returned to respondents' pre-sale bona fide offering price or to some other substantially higher amount immediately after completion of the sale.

PAR. 6. In truth and in fact:

1. The higher prices, accompanied by the words "Regular," "Reg.," or words of similar import and meaning, were not the prices that advertised merchandise was offered for sale or sold by respondents in good faith for a reasonably substantial period of time in the recent, regular course of their business, and purchasers thereof would not save amounts equal to the difference between respondents' higher selling prices and the corresponding advertised lower selling prices.

2. During the period of the advertised "Sale" or words of similar import and meaning, the advertised price of any merchandise did not represent a reduction from the price at which respondents have made a bona fide offer to sell or have sold said merchandise on a regular basis for a reasonably substantial period of time in the recent, regular course of their business.

3. The represented reduced prices are not offered for a limited period of time, but are the prices at which respondents sell or offer to sell their merchandise on a regular basis for a reasonably substantial period of time in the recent, regular course of their business.

Therefore, the statements and representations as set forth in Para-

graphs Four and Five hereof were and are false, misleading and deceptive.

PAR. 7. In the course and conduct of their aforesaid business at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of merchandise of the same general kind and nature as the aforesaid merchandise sold by the respondents.

PAR. 8. The use by respondents of the aforesaid false, misleading and deceptive statements, representations, acts 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 respondents' merchandise by reason of said erroneous and mistaken belief.

PAR. 9. 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 Dallas 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 pre-

scribed 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, Electronic Centers, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business located at 5323 Wesleyan, city of Houston, State of Texas.

Respondent Harvey Zinn, 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 in the public interest.

ORDER

It is ordered, That respondent Electronic Centers, a corporation, its successors and assigns, and its officers, and Harvey Zinn, individually and as an officer, and respondents' agents, representatives and employees directly or through any corporation, subsidiary, division or other device, in connection with advertising, offering for sale and sale of electronic equipment and other products in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "Sale," or any other word or words of similar import or meaning unless the price of such merchandise being offered for sale constitutes a reduction, in an amount not so insignificant as to be meaningless, from the actual bona fide price at which such merchandise was sold or offered for sale to the public on a regular basis by respondents for a reasonably substantial period of time in the recent, regular course of their business.

2. Using the words "Regular," "Reg.," or any other words of similar import or meaning to refer to any price amount which is in excess of the price at which such merchandise has a reasonably substantial period of time in the recent, regular course of their business, or misrepresenting, in any manner the usual or regular selling price of respondents' merchandise.

3. Representing, directly or by implication, that by purchasing any of said merchandise, customers are afforded savings amounting to the difference between respondents' stated price and respondents' former price unless such merchandise has been sold or offered for sale in good faith at the former price by respondents for a

reasonably substantial period of time in the recent, regular course of their business.

4. Misrepresenting, directly or by implication, the amount of savings available to purchasers or prospective purchasers of respondents' merchandise at retail.

5. Failing to maintain adequate records (a) which disclose the facts upon which any savings claims, including former pricing claims, and similar representations of the type described in Paragraphs 1-4 of this order are based, and (b) from which the validity of any savings claims, including former pricing claims and similar representations of the type described in Paragraphs 1-4 of this order can be determined.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new 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 in the event that respondent merges with another corporation or transfers all or a substantial part of its business or assets to any other corporation or to any other person, respondent shall require said successor or transferee to file promptly with the Commission a written agreement to be bound by the terms of this order; *Provided*, That if respondent wishes to present to the Commission any reasons why said order should not apply in its present form to said successor or transferee, it shall submit to the Commission a written statement setting forth said reasons prior to the consummation of said succession or transfer.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each person engaged in the writing or placing of advertising for Electronic Centers.

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 emergency 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.

IN THE MATTER OF
MOTA-NU, INC., ET AL.

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

Docket C-2503. Complaint, Mar. 20, 1974—Decision, Mar 20, 1974

Consent order requiring a Fort Worth, Tex., manufacturer of gasoline and other oil additives for internal combustion engines, among other things to cease misrepresenting the performance or effectiveness of its products, and failing to maintain adequate records to substantiate its claims.

Appearances

For the Commission: *Joseph L. Hickman.*

For the respondents: *James T. Blanton*, Fort Worth, Tex.

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 Mota-Nu, Inc., a corporation, and Joe F. Williams, individually and as an officer of said corporation, hereinafter sometimes 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. Respondent Mota-Nu, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas with its principal office and place of business located at 2909 Evans Street, Fort Worth, Tex.

Respondent Joe F. Williams is an officer of the corporate respondent. 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 manufacturing, advertising, offering for sale, sale and distribution of gasoline and oil additives for internal combustion engines to the public. Respondents advertise that the gasoline additive, when combined with the "secret metal pellet," will clean the engine, fill in scratched, worn and pitted surfaces of pistons, rings, valves, cylinder walls, will increase engine compression, and decreases oil burning.

PAR. 3. In the course and conduct of their business, respondents ship or cause to be shipped products from their facilities in the State of Texas