

SANTA CLARA SEWING MACHINE CENTER, INC., ET AL.

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

Docket C-2543. Complaint, Sept. 12, 1974—Decision, Sept. 12, 1974

Consent order requiring a Santa Clara, Calif., sewing machine retailer, among other things to cease using bait and switch tactics in the advertising and sale of sewing machines. Specifically, respondents are prohibited from advertising a product for the purpose of obtaining leads, unless the product will do the job expected of it, and is adequately stocked and readily available for sale.

Appearances

For the Commission: *John M. Porter*

For the respondents: *Richard N. Salle, Becklund, Siner, Taketa & Salle, San Jose, Calif.*

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 Santa Clara Sewing Machine

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Center, Inc., a corporation, and Jerome Kushner and Martin Ivener, individually and as officers 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 Santa Clara Sewing Machine Center, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 3258 El Camino Real, Santa Clara, Calif.

Respondents Jerome Kushner and Martin Ivener are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. Their 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 sewing machines and other household products to the public.

PAR. 3. In the course and conduct of their business, and for the purpose of inducing the purchase of and payment for their products and services, respondents have made and cause to be made, through advertisements published in a newspaper of general interstate circulation, statements and representations with respect to respondents' sewing machines for the purpose of inducing the sale of such sewing machines and other household products. Respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Among and typical, but not all inclusive, of such statements and representations are the following:

1972 SINGER ZIG-ZAG full price \$23.75 Terms. Used, but sews perfect. Embroiders, buttonholes, fancy stitches, etc. Does all zig-zag sew. without attach. 5 yr. mtr. warr. Call for free home demonstration.

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

That respondents were making a bona fide offer to sell a reconditioned Singer sewing machine, as described in said advertisement, for \$23.75.

PAR. 6. In truth and in fact:

Respondents were not making a bona fide offer to sell a reconditioned Singer sewing machine for \$23.75. On the contrary, respondents' representations were made for the purpose of obtaining leads to persons interested in purchasing a sewing machine. After obtaining such leads, respondents or their agent or representative called upon such persons at their homes or waited upon them at respondents' place of business. At such times and places respondents or their sales agents or representatives would make no effort to sell the low priced product, but would discourage prospective purchasers from accepting the offer by various means, including disparagement of the product itself, in order to sell different and more expensive sewing machines.

Therefore, the representations referred to in Paragraph Five were and are false, misleading and deceptive.

PAR. 7. The use by respondents of the foresaid 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 respondents' products by reason of said erroneous and mistaken belief.

PAR. 8. The aforesaid acts and practices of respondents, as herein alleged, were and are to the prejudice and injury to 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 Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereto with violation of the Federal Trade Commission Act, and the respondents 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 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 complaint to issue herein, 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 considered the agreement and having provisionally accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter pursuant to Section 2.34(b) of its rules, now in further conformity with the procedure prescribed 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 Santa Clara Sewing Machine Center, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 3258 El Camino Real, in the city of Santa Clara, Calif.

Respondents Jerome Kushner and Martin Ivener are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation, and their 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 respondents Santa Clara Sewing Machine Center, Inc., a corporation, its successors and assigns, and its officers, and Jerome Kushner and Martin Ivener, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device in connection with the offering for sale, sale or distribution of sewing machines or any other products in commerce, as "commerce" is defined in Federal Trade Commission Act, do forthwith cease and desist from:

1. Advertising or offering any products for sale for the purpose of obtaining leads or prospects for the sale of different products unless the advertised products are capable of adequately performing the function for which they are offered, and respondents maintain an adequate and readily available stock of said products.

2. Disparaging in any manner, or refusing to sell, any product advertised.

3. Representing directly or indirectly that any products or services are offered for sale when such is not a bona fide offer to sell said products or services.

4. Failing to maintain and produce for inspection and copying for a period of three years adequate records to document for the entire period during which each advertisement was run and for a period of six weeks after the termination of its publication in press or broadcast media:

- a. the cost of publishing each advertisement including the preparation and dissemination thereof;
- b. the volume of sales made of the advertised product or service at the advertised price; and
- c. a computation of the profit from the sales of each advertised product or service at the advertised price.

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 the respondents 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 a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

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. Such notice shall include respondents' new 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 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.

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IN THE MATTER OF

GLORIA STEVENS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-2544. Complaint, Sept. 12, 1974—Decision, Sept. 12, 1974*

Consent order requiring Brockton and Fall River, Mass., figure salons among other things to cease misrepresenting the prices and benefits of their figure improvement programs. Further, respondents must disclose to prospective patrons the nature of their equipment, programs and suggested diets, and suggest that prospective patrons under medical supervision consult with their physician before joining to insure that respondents' programs are compatible with health plans prescribed by such physician.

Appearances

For the Commission: *Harold F. Moody.*

For the respondents: *William C. O'Malley*, Brockton, Mass.

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 Gloria Stevens, Inc., a corporation, J & M of Fall River, Inc., a corporation, and John Martin, individually and as an officer of said corporations, 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. Respondents Gloria Stevens, Inc., and J & M of Fall River, Inc., are corporations organized, existing, and doing business under and by virtue of the laws of the Commonwealth of Massachusetts. The principal office and place of business of Gloria Stevens, Inc. is located at 1666 South Main Street, in the city of Brockton, Commonwealth of Massachusetts.

The principal office and place of business of J & M of Fall River, Inc. is located at Harbour Mall, in the city of Fall River, Commonwealth of Massachusetts.

Respondent John Martin is an individual and officer of both corporate