

Consent order requiring a Kansas City, Mo., dealer of new and used cars, trucks and other products, among other things to cease disseminating advertisements wherein false, misleading or deceptive statements are made concerning guarantees or warranties.

Appearances

For the Commission: *Tommie W. Wakefield.*

For the respondents: *William J. Aimonette, Brown, Koralchik, Fingersh & Sildon, Kansas City, Mo.*

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

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Commission, having reason to believe that S-H-S Motor Sales Corporation, a corporation, and Harry Schwartz and Sherman Schwartz, individually and as officers 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:

PARAGRAPH 1. Respondent S-H-S Motor Sales Corporation, doing business as Midwest Motors, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Missouri with its principal office and place of business located at 601 Truman Road, Kansas City, Mo.

Respondents Harry Schwartz and Sherman Schwartz 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, service, and distribution of new and used automobiles, trucks, and other products in commerce as "commerce" is defined by the Federal Trade Commission Act. Respondents' volume of business has been and is substantial.

PAR. 3. In the course and conduct of their business as aforesaid and for the purpose of promoting the sale of new and used automobiles, trucks and other products, respondents have made certain statements and representations in advertising media concerning various new and used car warranties which advertisements are deceptive and unfair in that, by omission, respondents have led the consumer to believe he is receiving a much better warranty than in truth is available to him.

PAR. 4. Representative of such advertising statements seen in Kansas and Missouri on WDAF-TV, Channel 4, are the following:

A. Midwest Dodge makes sure each car is in top condition *** and then *** and only then does Midwest give it our exclusive double guarantee *** 5 years, 50,000 miles and a guaranteed low price ***

B. I've been in business over 40 years *** when I tell you you're getting a good deal on a quality used car *** you can depend on it *** If not, I couldn't afford to give you Midwest's exclusive 5 year, 50,000 mile used car warranty.

C. We're jammed at Midwest with a big selection of hundreds of new Dodges *** Like this '73 Sport with all the extras including air conditioning, plus a 7-year, 70,000-mile warranty ***

D. And with every new car, you get Midwest's exclusive 7-year, 70,000-mile warranty *** plus a 40-year reputation for fair and honest dealing ***

PAR. 5. In truth and in fact the 5-year, 50,000-mile warranty states as follows:

The automobile covered by this warranty is guaranteed by MIDWEST MOTORS for the exclusive benefit of the purchaser for a period of thirty (30) days from the date of delivery, or one thousand (1,000) miles, whichever occurs first. This guarantee means that the dealer will make any repairs deemed necessary by the buyer in the dealer's shop, at a cost to the buyer of only 50% of the regularly established price on both parts and labor, except where such repairs have become necessary by abuse, negligence, or collision, the owner to pay the remaining 50% in cash at the time work is completed.

In addition to the above, MIDWEST MOTORS for the balance of 5 years or 50,000 miles, whichever occurs first, agrees to give the above named purchaser a discount of 20% of regularly established price on both parts and labor for any repairs the buyer deems necessary (not including body repairs) but to include normal maintenance such as tune up, front end alignment, wheel balance, etc. No guarantee is made in respect to mileage, tires and tubes, glass, batteries, speedometers, trade accessories, or to repairs of any nature made at any shop other than Midwest Motors.

PAR. 6. In truth and in fact the 7-year, 70,000-mile warranty is a lifetime New Car Lubrication Guarantee made by the Quaker State Oil Refining Corporation to repair or replace at its expense for the duration of the original purchaser's ownership, any parts of said vehicle that require periodic lubrication services, which fail or experience abnormal wear during normal use of vehicle, if the purchaser will meet certain conditions such as: exclusively using Quaker State Motor oil and lubricants in accordance with the manufacturer's specified intervals; having all of the work done by the authorized dealer from whom the car was purchased or another authorized dealer at least 50 miles away; servicing the chassis, wheel bearings and universal joints in accordance with the manufacturer's specified intervals; changing the lubricants in the transmission and the rear axle housing at the termination of the manufacturer's warranty and specified periods thereafter; replacing oil filter and air cleaner element according to manufacturer's recommendations; and, in the event of any claims for repairs under this guarantee, the owner must provide the company with evidence that the above mentioned services were performed as specified. The guarantee does not include vehicles owned or used by business firms, municipalities, or governmental agencies. It also does not include valve grinding; ignition, fuel or electrical system parts; brakes; shocks; instruments; tires; wheel alignment; 4-wheel drive vehicles; or any automobile on which the speedometer mileage has been altered.

PAR. 7. The aforesaid acts and practices of respondents were and are in violation of the Federal Trade Commission Act, and now constitute unfair methods of competition and unfair and deceptive acts and practices in commerce, within the intent and meaning 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, 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 S-H-S Motor Sales Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at 601 Truman Road, Kansas City, Mo.

Respondents Harry Schwartz and Sherman Schwartz 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 respondent S-H-S Motor Sales Corporation, a corporation, its successors and assigns, and its officers, and respondents Harry Schwartz and Sherman Schwartz, individually and as officers 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 new or used automobiles, trucks or any other products in

commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Disseminating or causing the dissemination of any advertisement wherein any warranty or guarantee is mentioned or shown which does not clearly and conspicuously disclose the following terms and conditions:

- (1) The identity of the guarantor or warrantor;
- (2) The effective date of the warranty or guarantee;
- (3) The duration of the warranty or guarantee and any of its parts, if different;
- (4) The parts or materials included within the warranty or guarantee;
- (5) The parts or materials specifically excluded from the warranty or guarantee;
- (6) The manner in which the guarantor or warrantor will perform such repair, replacement or refund; and
- (7) The obligations imposed upon the purchaser to avail himself of the guarantee or warranty such as any payment for services or labor charges, partial payment for parts or the exclusive use of any product or service.

2. Disseminating or causing the dissemination of any advertisement wherein false, misleading or deceptive statements are made concerning the issuance or existence of any guarantee or warranty.

3. Misrepresenting in any manner the nature, terms or conditions of any guarantee or warranty.

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 thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, 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 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 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

NU-PRIME MARKETING SYSTEMS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-2594. Complaint, Nov. 4, 1974—Decision, Nov. 4, 1974*

Consent order requiring a St. Petersburg, Fla., retailer and wholesale distributor of aluminum replacement windows and other aluminum siding products, among other things to cease misrepresenting the savings or benefits to be derived from their products and misrepresenting their guarantees.

Appearances

For the Commission: *David E. Krischer.*

For the respondents: *Thomas K. Riden*, St. Petersburg, Fla.

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 Nu-Prime Marketing Systems, Inc., a corporation, and Herbert Anderson, 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 Nu-Prime Marketing Systems, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida with its principal office and principal place of business located at 10590 Oak Street, N.E., St. Petersburg, Fla.

Respondent Herbert Anderson is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of 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 engaged in the advertising, offering for sale, sale and distribution of aluminum replacement windows and other aluminum siding products to consumers through a retail outlet. In addition, respondents are now, and for some time last past have been engaged in the sale and distribution of aluminum replacement windows and other aluminum siding products