

usual and customary retail price of its merchandise.

575-956 O-LT - 76 - 82

Appearances

For the Commission: *Joseph L. Hickman.*

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 M & W Electronics, Inc., and Dallas Hearing Aid Center, corporations, and John H. Wilson, Jr., individually and as an officer of said corporations, 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. Respondents M & W Electronics, Inc., and Dallas Hearing Aid Center, are corporations 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 330 South Zang Boulevard, Dallas, Texas.

Respondent John H. Wilson, Jr., is an officer of the corporate respondents. He formulates, directs, and controls the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondents.

PAR. 2. Respondents are now, and for some time last past have been engaged in the business of selling and repairing of hearing aids, audiometers and other hearing accessories.

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, is the following:

HEARING AID by nationally known manufacturer IN-THE-EAR-MODEL
Orig. Price \$319.50 CLOSE-OUT SPECIAL \$99.50
Limited Quantity Available

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:

The higher stated price set out in said advertisements in connection with the words "orig. price" was the price at which the advertised merchandise had been usually and customarily sold by respondents at retail in the recent, regular course of business and that the difference between the higher and lower price represented savings to purchasers from respondents' usual and customary retail price.

PAR. 6. In truth and in fact, the higher stated price set out in said advertisement in connection with the words "orig. cost" was in excess of the price at which the advertised merchandise had been usually and customarily sold by respondents at retail in the recent, regular course of business and the difference between the higher and lower prices did not represent savings to purchasers from respondents' customary retail price.

PAR. 7. 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 constitutes, unfair methods of competition 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 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, makes the following jurisdictional findings, and enters the following order:

1. Respondents M & W Electronics, Inc., and Dallas Hearing Aid Centers are corporations organized, existing and doing business under and by virtue of the laws of the State of Texas with their office and principal place of business located at 330 South Zang Boulevard, city of Dallas, State of Texas.

Respondent John H. Wilson, Jr., is an officer of said corporations. He formulates, directs, and controls the policies, acts and practices of said corporations, 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 respondents M & W Electronics, Inc., and Dallas Hearing Aid Center, corporations, its subsidiaries, successors, assigns, its officers, and John H. Wilson, Jr., individually and as an officer of said corporations, and respondents' agents, representatives and employees, directly or indirectly, or through any corporate or other device, in connection with the distribution, advertising, offering for sale, sale or repair of hearing aids or other related products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from:

1. Using the words "orig. price" or any other words of similar import or meaning, to refer to any amount which is in excess of the price at which such merchandise has been usually and regularly sold by respondents at retail in the recent, regular course of their business; or otherwise misrepresenting the respondents usual and customary retail price of such merchandise.

2. Failing to maintain and produce for inspection or copying for a period of two (2) years, adequate records (a) which disclose the facts upon which any savings claims, sale claims and other similar

representations, as set forth in Paragraph One of this order is based, and (b) from which the validity of any savings claims, sale claims and similar representations can be determined.

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 notify the Commission at least thirty (30) days prior to any proposed changes in the corporate respondents, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other changes in the corporations which may affect compliance obligations arising out of this order.

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

THE BENDIX CORPORATION, ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF SEC. 7
OF CLAYTON ACT

Docket 8739. Complaint, June 29, 1967—Decision, Nov. 12, 1974*

Consent order requiring, among other things the establishment of a "New Company" within six months of the effective date of this order and its spin off to shareholders on the public within two years. When it commences business, the New Company will