

It is further ordered, That this order shall become effective upon service.

IN THE MATTER OF
WILSONS HOUSE OF SUEDE, ET AL.
CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket C-2737. Complaint, Oct. 14, 1975—Decision, Oct. 14, 1975

Consent order requiring a Beverly Hills, Calif., manufacturer and retailer of suede and leather wearing apparel, among other things to cease making deceptive pricing and savings claims.

Appearances

For the Commission: *George J. Gregores.*

For the respondents: *Glenn M. Alperstein, Gillin, Scott & Alperstein*,
Hollywood, 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 Wilsons House of Suede, a corporation, and Jerrold A. Wilson, Brian Wilson, and Jeffery Wilson, 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 Wilsons House of Suede 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 9844 Wilshire Blvd., Beverly Hills, Calif.

Respondents Jerrold A. Wilson, Brian Wilson, and Jeffery Wilson are individuals and 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 business 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 manufacturing, advertising, offering for sale, sale and distribution of used and leather wearing apparel.

PAR. 3. In the course and conduct of their business as aforesaid, respondents have caused, and now cause, their said suede and leather wearing apparel when sold, to be shipped from their place of business in the State of California to purchasers thereof located in various other States of the United States, and 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. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their suede and leather wearing apparel, respondents have made numerous statements and representations in advertisements in newspapers of interstate circulation and on interstate television respecting the price of their merchandise and the savings afforded purchasers thereof.

Typical and illustrative of said statements and representations, but not all inclusive thereof, are the following:

UP TO 50% OFF The largest selection in the world is at Wilson's! A fine collection of coats have been marked down at up to 50% off. RIGHT NOW!* * * Now is the time to

feel the rich comfort that only suede or genuine leather can offer, by coming into Wilson's House of Suede, during our big 1/2 off Sale!

* * * * *

For a limited time, Wilson's is offering \$50 off the regular price of any fur coat or jacket of your choice * * * save a full \$50 over our low price by coming in during this limited "Special" Sale!

* * * * *

WILSON'S MEMORIAL DAY SALE IS ON RIGHT NOW! And this is the right time to take advantage of our tremendous selection, marked 20% to 40% down. * * * so hurry for this limited offer Sale! SPECIAL ADDED BONUS! Cut out this coupon right now and bring it in to your nearest store for a spectacular discount \$25 OFF on any long coat of your choice * * * one week only!

* * * * *

\$69.95-ONE WEEK ONLY! WILSON'S TOTAL WAREHOUSE SALE! * * * And what's more, there are hundreds more fantastic values like this in our stores during our gigantic WAREHOUSE SALE! * * * We carry the world's largest collection of men's and women's fine suede and leather fashions at lower prices, because we make all our own coats.

* * * * *

FACTORY SHOWROOM SAVINGS! That's what you'll find at Wilson's House of Suede and Leather! Because we cut our coats, and sell them direct to you, eliminating the middleman profits, your coat will cost less!

* * * * *

SALE IS NOW ON! "Last Year's Prices on This Year's Coats!" * * * This is a "special purchase," made last year by Wilson's, of the finest suedes and leathers * * * and is now available for creating the latest styles in coats and jackets.

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

1. Through the use of the word "SALE," and other words of similar import and meaning not set out specifically herein, that suede and leather wearing apparel could be purchased at special or reduced prices, and purchasers were thereby afforded savings from respondents' regular selling prices.

2. That purchasers of the merchandise referred to would realize a savings of the stated amount from the actual, bona fide price at which respondents offered or sold said merchandise to the public in the recent, regular course of business on a regular basis for a reasonably substantial period of time in the trade area where the representation was made.

3. That the represented reduced prices were available only during the limited period of the sale and would be returned to respondent's presale bona fide offering price or changed to some price substantially higher than the allegedly reduced price, immediately after the completion of the sale.

4. That all styles of wearing apparel pictured in an advertisement were offered at the savings indicated in that particular advertisement or at a "Sale" price.

5. That a substantial supply of suede and leather wearing apparel was available in respondent's stores throughout a stated range of savings, such as "up to 50% off" or "marked 20% to 40% down."

6. That the facility or facilities at which respondents' merchandise was being offered for sale or sold were primarily "warehouses" or "factory showrooms."

7. That all merchandise in respondents' "warehouse" was being offered at reduced prices.

8. That purchasers of suede and leather wearing apparel would realize a savings because respondents manufactured all such apparel in their own factory, or had made a special purchase of materials.

PAR. 6. In truth and in fact:

1. Respondents' merchandise was not being offered for sale at special or reduced prices. To the contrary, the price respondents regularly advertised and their so-called advertised "sale" price were substantially identical and were used to mislead prospective customers into believing there was a saving from a bona fide regular selling or offering price.

2. The purchasers of the merchandise referred to did not realize a savings of the stated amount from the actual, bona fide price at which respondents offered or sold said merchandise to the public in the recent regular course of business on a regular basis for a reasonably substantial period of time in the trade area where the representation was made.

3. Many of the represented reduced prices were not returned to respondents' presale bona fide offering prices, nor changed to some prices substantially near said "regular prices." Thus, the period during which the "reduced" prices were available on many items was not limited to the period of the sale.

4. All styles of wearing apparel pictured in various advertisements were not subject to the savings indicated in the particular advertisement, nor to a "sale" price.

5. A substantial supply of suede and leather wearing apparel was not available in respondents' stores throughout the stated range of savings.

6. The facility or facilities at which said merchandise was being offered for sale or sold were not used primarily for the storage or warehousing of merchandise used by respondents' retail business. Nor did said facilities constitute primarily a "factory showroom" or adjunct to respondents' factory for the purpose of display to retail and wholesale purchasers. Instead, respondents sold or offered their merchandise for sale in facilities regularly used for the display and sale of said merchandise at retail.

7. All merchandise in respondents' "warehouse" was not being offered at reduced prices. Instead, only a minimal number of styles was being so offered.

8. Respondents did not manufacture all suede and leather wearing apparel in their own factory, nor had they made a special purchase of materials which resulted in a lower offering price. Thus, these factors could not enable purchasers to realize a savings.

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

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

PAR. 8. The use by respondents of aforesaid 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. 9. The aforesaid acts and practices of respondents, as herein alleged, 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 or deceptive acts or 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, now in further conformity with the procedure prescribed in Section 2.34 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 Wilsons House of Suede 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 9844 Wilshire Blvd., Beverly Hills, Calif.

Respondents Jerrold A. Wilson, Brian Wilson and Jeffery Wilson 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

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It is ordered, That respondents Wilsons House of Suede, a corporation, its successors and assigns, and its officers, and Jerrold A. Wilson, Brian Wilson, and Jeffery Wilson, 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 manufacturing, advertising, offering for sale, sale and distribution of suede and leather wearing apparel, or any other product or service in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Misrepresenting in any manner, the amount of savings available to purchasers of respondents' merchandise, or the amount by which the price of merchandise has been reduced, either from the price at which it has been usually and customarily sold by respondents in the recent regular course of business, or from the price from which it has been

usually and customarily sold at retail in the trade area where the representation is made, or from the price at which such merchandise has been offered for sale in good faith for a reasonably substantial period of time, by respondents in the recent, regular course of their business.

2. Misrepresenting, directly or by implication, that the sale of suede and leather wearing apparel or other merchandise at certain prices, terms or conditions is limited to specific days or periods of time.

3. Using the word "sale" or any other words of similar import and meaning in advertising or other promotional materials containing nonsale items without clearly and conspicuously revealing in immediate conjunction with said representations that nonsale items are contained therein and distinctively identifying said nonsale items.

4. Using the words "Up to 50% Off" or "Half-off Sale" or "marked down 20% to 40%" or any other words representing a range of price reductions, unless a reasonably substantial number of items of sale merchandise are available throughout said range.

5. Using the words "warehouse," "factory showroom," or any other words of similar import and meaning; or misrepresenting, in any manner, the nature or status of respondents' business, or the size, description or classification of any of respondents' physical facilities.

6. Using the words "Total Warehouse Sale" or "Warehouse Sale," or any other words of similar import and meaning; or misrepresenting, directly or by implication, that all or a substantial amount of respondents' warehouse stock is offered for sale.

7. Representing that purchasers of respondents' merchandise will realize a savings because respondents manufacture such merchandise in their own factory, or have made a special purchase of materials, or because of any other claimed unique or special method of doing business, event, or situation; unless respondents' business records and/or other information available to respondents establish and show the basis of such representations.

8. Representing, directly or by implication, through the use of terms such as "Sale," "Savings" or in any other manner, that any price is reduced from respondents' former price unless respondents' business records establish and show that such price is not an inconsequential reduction from the price at which such merchandise has been sold or offered for sale in good faith for a reasonably substantial period of time, by respondents in the recent, regular course of their business.

9. Failing to maintain adequate records for at least two years from the date of the publication of the advertisement (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, 7,

and 8 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, 7 and 8 of this order can be determined.

It is further ordered, That the individual respondents named herein promptly notify the Commission in the event of both (1) the discontinuance of their present business or employment and (2) 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 respondent corporation, its successors and assigns, deliver a copy of this order to cease and desist to all present and future employees of respondents engaged in the preparation, creation or placing of advertising for the offering for sale, sale or distribution of suede and leather wearing apparel and other merchandise, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

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, assignment or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other substantive 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

ANTELOPE SHORES, INCORPORATED, ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION AND TRUTH IN LENDING
ACTS

Docket C-2738. Complaint, Oct. 14, 1975—Decision, Oct. 14, 1975

Consent order requiring six Denison, Tex., sellers of undeveloped real estate, among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.