

Complaint

87 F.T.C.

IN THE MATTER OF

WEIL & CO., INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket C-2804. Complaint, Mar. 8, 1976—Decision, Mar. 8, 1976*

Consent order requiring a New York City seller and distributor of furniture and home appliances, among other things where sales presentations have been made in whole or in part in Spanish, to cease failing to furnish buyers with Spanish language translations of contracts, agreements or other documents used in connection with retail credit sales. Further, respondents are required to prominently display in-store notices of customers' right to receive all necessary documents in both Spanish and English.

*Appearances*For the Commission: *Sandra L. Bird.*For the respondent: *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 Weil & Co., Inc. has violated Section 5 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 Weil & Co., Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 39 West 14th St., New York, New York.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the advertising, offering for sale, sale and distribution to the public of furniture and home appliances.

PAR. 3. In the course and conduct of its business, respondent has engaged in and is now engaged in commerce, or its practices affect commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended. Respondent purchases for resale furniture and home appliances from suppliers located in various States of the United States. Respondent causes these products, when purchased by it, to be transported from the place of manufacture or purchase to its business establishment located in New York.

In addition, respondent has disseminated and has caused to be

disseminated advertisements concerning said products in radio and television broadcasts of interstate circulation. Said advertisements have been disseminated for the purpose of inducing the purchase of respondent's merchandise.

PAR. 4. In the course and conduct of its business as aforesaid, and for the purpose of inducing consumers who only speak, read, write or understand Spanish or whose predominant language is Spanish to purchase its products, respondent has disseminated and has caused to be disseminated, in commerce, advertisements in the Spanish language and has caused, in a substantial number of instances, its sales personnel to conduct oral sales presentations to such consumers in the Spanish language.

PAR. 5. In the further course and conduct of its business as aforesaid, and for the purpose of facilitating the purchase of its merchandise, respondent regularly extends credit or arranges for credit to be extended to retail purchasers.

PAR. 6. In the further course and conduct of its business as aforesaid, respondent fails to provide customers who can only speak, read, write or understand Spanish or whose predominant language is Spanish, with a complete and accurate translation in Spanish of the documents normally executed and provided to customers in connection with credit sales, or which are required by law to be provided to customers in connection with such sales at the time of the transaction.

PAR. 7. Respondent's failure to provide customers who only speak, read, write or understand Spanish or whose predominant language is Spanish, with a full and complete translation in Spanish of all documents described in Paragraph Six hereof, deprives a substantial number of Spanish-speaking consumers, many of whom have been induced to deal with respondent as a result of respondent's advertisements or sales presentations in Spanish, of the opportunity to receive full and adequate disclosure of the terms and conditions of any agreements they have entered into, of their rights and obligations under such agreements, and of other information or notices provided at the time of the transaction.

PAR. 8. The aforesaid acts and practices of the respondent, as herein alleged, were and are all to the prejudice and injury of the public and of respondent's competitors and constituted and now constitute unfair methods of competition in or affecting commerce and unfair and deceptive acts and practices in or affecting commerce, in violation of Section 5 of the Federal Trade Commission Act, as amended.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of

certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the New York Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent 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 respondent 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 respondent has 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, and having duly considered the comments filed thereafter pursuant to Section 2.34 of its Rules, now in further conformity with the procedure prescribed in Section 2.34 of its Rules; the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Weil & Co., Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 39 West 14th St., New York, New York.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent Weil & Co., Inc., a corporation, its successors and assigns, and its officers, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale, and distribution of furniture, home appliances or of any other products and services in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist, in connection with credit sales in which the sales presentation has been conducted in whole or in part in Spanish, from:

1. Failing to furnish consumers executing any contracts, agreements or other documents in connection with such sales, a complete and accurate translation in Spanish of each such writing, prior to the execution of the same.

2. Failing to furnish consumers with complete and accurate translations in Spanish of any other documents, notices or disclosures normally provided to consumers in connection with respondent's credit sales at the time of the transaction.

Provided, however, That nothing in this order shall be understood to apply to sales receipts or other documents which serve merely as a memorandum of sale and do not, in themselves, contain covenants, disclaimers or other provisions defining the rights and responsibilities of the parties.

Further provided, That respondent must comply with subparagraphs 1 and 2 of this order by providing consumers either with:

a. bilingual documents containing all the provisions and disclosures in both English and Spanish, or

b. separate documents containing complete and accurate translations in Spanish of each English language document, and which shall contain in a clear and conspicuous manner in the Spanish language, the following heading in boldface 10 point type:

READ THIS FIRST

THIS IS A TRANSLATION OF THE DOCUMENT OR DOCUMENTS
YOU HAVE RECEIVED OR ARE ABOUT TO SIGN.

It is further ordered, That respondent prominently display, in at least two different locations on their premises, one of them being the locations on their premises, one of them being the location where customers usually execute consumer credit instruments or other legally binding documents, the following notice in Spanish:

NOTICE TO SPANISH SPEAKING CUSTOMERS

IF YOU ARE A SPANISH-SPEAKING CUSTOMER AND THE SALES PRESENTATION WAS MADE, IN WHOLE OR IN PART IN SPANISH, YOU ARE ENTITLED TO RECEIVE A SPANISH TRANSLATION OF THE CREDIT CONTRACT AND OF THE OTHER DOCUMENTS RELATED TO THE FINANCING OF YOUR PURCHASE BEFORE YOU SIGN ANYTHING. DO NOT SIGN ANY DOCUMENTS UNTIL YOU HAVE RECEIVED AND READ THE SPANISH TRANSLATIONS.

It is further ordered, With respect to each account in which translations in Spanish are provided, as required herein, that respondent shall maintain in its files, for a period of two years, statements

signed by respondent's customers acknowledging receipt of such translations.

It is further ordered, That respondent deliver a copy of this order to cease and desist to all operating divisions and to all present and future personnel of respondent engaged in making sales presentations and in the consummation of any consumer credit transactions.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the 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 no provision of this order shall be construed in any way to annul, invalidate, repeal, terminate, modify or exempt respondent from complying with agreements, orders or directives of any kind obtained by any other agency, or act as a defense to actions instituted by municipal or State regulatory agencies. No provision of this order shall be construed to imply that any past or future conduct of respondent complies with the rules and regulations of, or the statutes administered by the Federal Trade Commission.

It is further ordered, That the respondent 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

BIRD & SON, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT AND SEC. 7 OF THE
CLAYTON ACT

Docket C-2805. Complaint, Mar. 8, 1976—Decision, Mar. 8, 1976

Consent order requiring an East Walpole, Mass., manufacturer of building materials, among other things to divest itself of the Tuscaloosa, Ala., Logan-Long asphalt roofing manufacturing facility within 18 months, while permitting respondent to retain the two remaining Logan-Long plants in Chicago, Ill., and Franklin, Ohio. Further, respondent is prohibited for 10 years from acquiring any manufacturer of asphalt roofing products without prior approval of the Commission.

Appearances

For the Commission: *Peter W. Kitson.*

For the respondent: *Arnold Manthorne, Warner & Stackpole,*
Boston, Mass. and *Miles Kirkpatrick and Coswell Hobbs, Morgan,*
Lewis & Bockius, Washington, D.C.

COMPLAINT

In the exercise of authority vested in it by the Federal Trade Commission Act, the Federal Trade Commission, having reason to believe that respondent, Bird & Son, Inc., a corporation, has violated Section 7 of the Clayton Act, as amended (15 U.S.C. §18) and/or Section 5 of the Federal Trade Commission Act, as amended (15 U.S.C. §45) and that a proceeding in respect thereof would be in the public interest, issues this complaint charging as follows:

I. DEFINITIONS

For the purpose of construing this complaint the following definitions shall be controlling:

(a) "Asphalt and tar roofing" includes asphalt or tar saturated felts and roll roofing, and asphalt shingles made from an organic felt, asbestos felt or fiberglass base, saturated and/or coated with asphalt or coal tar pitch.

(b) "Saturated felts" include both organic and inorganic mats saturated or impregnated, but not coated, with asphalt or tar.

(c) "Roll roofing" is made from a saturated or impregnated felt by applying an additional coating of more viscous weather-resistant asphalt and fine surfacings or mineral granules.