

IN THE MATTER OF
CARL STEPP T/A ACE STEREO AND SEWING MACHINE
COMPANY

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

Docket C-2840. Complaint, Sept. 17, 1976 — Decision, Sept. 17, 1976

Consent order requiring a Decatur, Ga., sewing machine retailer, among other things to cease using deceptive terminology and bait and switch sales tactics; failing to disclose conditions and limitations of warranties; and failing to provide foreign language translations of pertinent information. Further, respondent is required to disclose, at the time of sale, that purchasers have the right to a three-day period in which to cancel their contract, and to honor valid cancellations.

Appearances

For the Commission: *Edward J. Carnot* and *Arnold C. Celnicker*.
For the respondent: *Joseph E. Wilkerson, Esq.*, Tucker, Georgia.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, and by virtue of the authority vested in it by said Act, as amended, the Federal Trade Commission having reason to believe that Carl Stepp, an individual trading and doing business as Ace Stereo and Sewing Machine Company, hereinafter sometimes referred to as respondent, has 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:

COUNT 1

PARAGRAPH 1. Respondent Carl Stepp is an individual trading and doing business as Ace Stereo and Sewing Machine Company with his principal office and place of business located at 1761 Candler Road, Decatur, Georgia. Respondent has previously traded and done business as Columbia Sewing Machine Company, with his principal office and place of business located at 1777 Candler Road, Decatur, Georgia, and as Glenwood Sewing Center with his principal office and place of business located at 1777 Candler Road, Decatur, Georgia.

PAR. 2. Respondent is now and for some time last past has been engaged in the advertising, offering for sale and selling of sewing machines to the public.

PAR. 3. In the course and conduct of his business, respondent has

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disseminated and now disseminates certain advertisements in commerce as "commerce" is defined in the Federal Trade Commission Act, as amended, including but not limited to advertisements for sewing machines inserted in newspapers of general circulation. The purpose and effect of said advertisements is to induce directly or indirectly the purchase of respondent's sewing machines in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, as amended.

PAR. 4. In the course and conduct of his business, and for the purpose of inducing the purchase of sewing machines, respondent has made various statements and representations in classified advertisements in newspapers of general circulation of which the following are typical and illustrative, but not all inclusive thereof:

SEWING MACHINE 1974 SINGER ZIG-ZAG

Unclaimed Layaway

in beautiful walnut cabinet. Repossessed. This machine makes all designs without attachments, makes buttonholes, sews on buttons - blind hems. Will use single or double needle. 20 yr. guarantee. Bal. \$41.00. Cash or terms. Call 288-4708, 289-0774 for free home trial. Or see at 1761 Candler Rd., Decatur. Open daily 9 till 9, Sunday 12 to 6. Off I-20E and 285.

* * * * *

UNCLAIMED LAY-A-WAY LIKE NEW 1974

SINGER ZIG-ZAG

in beautiful Mediterranean cabinet. This machine makes buttonholes, sews on buttons, monograms, does everything and is guaranteed for 20 years. Will use single or double needle. Unpaid balance only \$39.00 cash or easy terms. We honor all charge cards. Call 289-0774 — OR — 284-4708 for free home trial or visit our store and warehouse at 1761 Candler Road, Decatur, Ga., in heart of Candler-Glenwood Shopping Center near I-20 or I-285. Open 9 a.m. till 9 p.m. daily, Sunday 12 to 6 p.m.

PAR. 5. By and through the use of the aforesaid statements and representations and by others of similar import and meaning not specifically set out herein, separately and in connection with the oral statements and representations of his salesmen, respondent has represented directly or by implication:

1. That respondent is making *bona fide* offers to sell the advertised sewing machines on the terms and conditions stated.
2. Through the use of words or abbreviations such as "unclaimed layaway," "repossessed" and "Bal." that the advertised sewing machines were partially paid for by a previous purchaser and are being

offered for the unpaid balance of the purchase price, affording savings in the amount paid on the sewing machine by the previous purchaser.

3. That the advertised sewing machines are unconditionally guaranteed by respondent.

PAR. 6. In truth and in fact:

1. Respondent was not making *bona fide* offers to sell the advertised sewing machines on the terms and conditions stated. Said offers were made for the purpose of obtaining leads as to persons interested in purchasing a sewing machine. After obtaining such leads through response to said advertisements, respondent or his salesmen made no effort to sell the advertised sewing machines. Instead, they exhibited what they represented to be an advertised sewing machine which, because of its poor appearance and condition, was usually rejected on sight by the prospective purchaser. Concurrently, a higher priced machine of superior appearance and condition was presented which, by comparison, disparaged and demeaned the advertised product. By these and other tactics, purchase of the advertised machine was discouraged and respondent, or his salesmen, attempted to and frequently did sell the higher priced machine.

2. Most, if not all, of said advertised sewing machines were not partially paid for by a previous purchaser were not being offered for the unpaid balance of the purchase price, and the represented savings were not afforded to purchasers.

3. Most, if not all, of said sewing machines were not unconditionally guaranteed by respondent. Such guarantees were subject to numerous conditions and limitations which were not disclosed in the advertisements.

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

PAR. 7. In the course and conduct of his aforesaid business and at all times mentioned herein respondent has been and is now in substantial competition in or affecting commerce with corporations, firms and individuals engaged in the sale and distribution of sewing machines of the same general kind and nature as those sold by respondent.

PAR. 8. The use by respondent of the aforesaid false, misleading and deceptive statements, representations, acts and practices has had and now has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and to induce a substantial number thereof to purchase respondent's sewing machines at higher prices than said members of the purchasing public had intended to pay.

PAR. 9. The aforesaid acts and practices of respondent as herein alleged were and are all to the prejudice and injury of the public and of respondent's competitors, constitute unfair methods of competition in or affecting commerce and unfair or deceptive acts or practices in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act, as amended.

COUNT II

Alleging violations of the Federal Trade Commission Trade Regulation Rule Concerning a Cooling-Off Period for Door-to-Door Sales, 16 C.F.R. §429 (1974), duly promulgated by the Federal Trade Commission, and Section 5 of the Federal Trade Commission Act, as amended, the allegations of Paragraphs One, Two, Three, Four and Seven, hereof, are incorporated by reference in Count II as if fully set forth verbatim.

PAR. 10. In the ordinary course and conduct of his business, as aforesaid, respondent engages in door-to-door sales of consumer goods, as the terms "door-to-door sales" and "consumer goods" are defined in the Federal Trade Commission Trade Regulation Rule Concerning a Cooling-Off Period for Door-to-Door Sales, 16 C.F.R. §429 (1974) (hereinafter referred to as the "Commission Rule").

PAR. 11. Subsequent to June 7, 1974, respondent in the ordinary course and conduct of his business, as aforesaid, and in connection with its door-to-door sales of consumer goods, has failed to comply with subsections (a), (b), (c), (e), (f) and (h) of the Commission Rule.

PAR. 12. Respondent's aforesaid failure to comply with subsections (a), (b), (c), (e), (f) and (h) of the Commission Rule constitutes unfair and deceptive acts or practices in violation 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 with a copy of a draft of complaint which the Atlanta 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, as amended; 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, 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:

A. Respondent Carl Stepp is an individual trading and doing business as Ace Stereo and Sewing Machine Company with his principal office and place of business located at 1761 Candler Road, Decatur, Georgia.

B. 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 Carl Stepp, an individual trading and doing business as Ace Stereo and Sewing Machine Company and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or any other device in connection with the advertising, offering for sale, selling or distributing of sewing machines or any other article of merchandise in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

1. Using in any manner a sales plan, scheme or device wherein false, misleading or deceptive statements or representations are made in order to obtain leads or prospects for the sale of sewing machines or other merchandise.
2. Making representations orally, or in writing, directly or by implication purporting to offer sewing machines or other merchandise for sale where the purpose of the representation is not to sell the offered merchandise, but to obtain leads or prospects for the sale of other sewing machines or other merchandise at higher prices.
3. Disparaging in any manner or discouraging the purchase of any sewing machine or other merchandise which is advertised or offered for sale.
4. Representing orally, or in writing, directly or by implication that

any sewing machine or other merchandise is offered for sale when such offer is not a *bona fide* offer to sell such sewing machines or other merchandise.

5. Using words or abbreviations such as "Bal." unless such words or abbreviations correctly describe the advertised sewing machine or other merchandise as partially paid for by a previous purchaser and offered for sale for the unpaid balance of the purchase price.

6. Using words such as "unclaimed layaway" or "repossessed" unless such words correctly describe the sewing machine or other merchandise referred to.

7. Representing orally, or in writing, directly or by implication that any sewing machine or other merchandise is guaranteed unless the nature and extent of the guarantee, the manner in which the guarantor will perform, and the identity of the guarantor are clearly and conspicuously disclosed.

Nothing in this order shall be construed to relieve respondent of his duty to comply with present and future laws, regulations and rules dealing with warranties or guarantees.

It is further ordered, That respondent Carl Stepp, an individual trading and doing business as Ace Stereo and Sewing Machine Company and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or any other device in connection with the door-to-door sale of sewing machines or any other article of merchandise in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

1. Failing to furnish the buyer with a fully completed receipt or copy of any contract pertaining to such sale at the time of its execution, which is in the same language, *e.g.*, Spanish, as that principally used in the oral sales presentation and which shows the date of the transaction and contains the name and address of the seller, and in immediate proximity to the space reserved in the contract for the signature of the buyer or on the front page of the receipt if a contract is not used and in boldface type of a minimum size of 10 points, a statement in substantially the following form:

"You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right."

2. Failing to furnish each buyer, at the time he signs the door-to-door sales contract or otherwise agrees to buy consumer goods or services from the seller, a completed form in duplicate, captioned,

“NOTICE OF CANCELLATION,” which shall be attached to the contract or receipt and easily detachable, and which shall contain in 10-point boldface type the following information and statements in the same language, *e.g.*, Spanish, as that used in the contract:

NOTICE OF CANCELLATION

(Enter date of transaction)

You may cancel this transaction, without any penalty or obligation within three (3) business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within ten (10) business days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale; or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within twenty (20) days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice, or send a telegram to

(name of seller)

at *(address of seller's place of business)*

not later than midnight of *(date)*.

I hereby cancel this transaction.

(date)

(buyer's signature)

3. Failing, before furnishing copies of the “Notice of Cancellation” to the buyer, to complete both copies by entering the name of the seller, the address of the seller's place of business, the date of the transaction, and the date, not earlier than the third business day following the date of the transaction, by which the buyer may give notice of cancellation.

4. Failing to inform each buyer orally, at the time he signs the contract or purchases the goods or services, of his right to cancel.

5. Misrepresenting in any manner the buyer's right to cancel.

6. Failing or refusing to honor any valid notice of cancellation by a buyer and within ten (10) business days after the receipt of such notice, to (i) refund all payments made under the contract or sale; (ii) return any goods or property traded in, in substantially as good condition as when received by the seller; and (iii) cancel and return any negotiable instrument executed by the buyer in connection with the contract or sale and take any action necessary or appropriate to terminate promptly any security interest created in the transaction.

7. Negotiating, transferring, selling, or assigning any note or other evidence of indebtedness to a finance company or other third party prior to midnight of the fifth business day following the day the contract was signed or the goods or services were purchased.

8. Failing, within ten (10) business days of receipt of the buyer's notice of cancellation, to notify him whether the seller intends to repossess or to abandon any shipped or delivered goods.

It is further ordered, That the respondent shall distribute a copy of this order to all present and future employees, salesmen and agents.

It is further ordered, That the respondent promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That the respondent herein shall within sixty (60) days after service upon him of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which he has complied with this order.

Commissioner Dole did not participate by reason of absence.

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IN THE MATTER OF

TRI-STATE DRIVER TRAINING, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-2839. Complaint, Sept. 20, 1976 — Decision, Sept. 20, 1976*

Consent order requiring a Middletown, Ohio, truck driver training school, among other things to cease misrepresenting the role of salespersons, industry affiliations, job demand, earnings, placement services, and financing arrangements; failing to disclose, prior to sale, names of firms currently hiring graduates; the placement rate and salary range for graduates; failing to disclose purchaser's right to cancellation and refund within ten days; and failing to honor valid cancellations. Additionally, respondents are required to institute and enforce a monitoring program and maintain pertinent records.

*Appearances*For the Commission: *William M. Rice.*For the respondents: *Daft, Stettinius & Hollister, Cincinnati, Ohio.*

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 Tri-State Driver Training, Inc., a corporation, and Robert L. Wise and Robert J. Kuhn, 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 Tri-State Driver Training, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its principal office and place of business located at 1130 First Ave., Middletown, Ohio.

Respondent Robert L. Wise is an individual and an officer of respondent corporation. His business address is the same as that of said corporate respondent.

Respondent Robert J. Kuhn is an individual and an officer of respondent corporation. His business address is the same as that of said corporate respondent.

The said individual respondents together formulate, direct and control the acts and practices hereinafter set forth.

PAR. 2. Respondents are now, and have been for some time last past,