

Complaint

IN THE MATTER OF

ROBBIN PRODUCTS ET AL.

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

Docket C-521. Complaint, June 28, 1963—Decision, June 28, 1963

Consent order requiring Beverly Hills, Calif., distributors of various articles of merchandise to cease representing falsely in advertising materials, matrices, layouts and other printed matter supplied to their retailer-customers, that certain merchandise was "COMPLETELY GUARANTEED", that an electric percolator and 16-piece snack set would be given free with purchase of a cookware set, that lounge chairs were upholstered in a leather product material, that merchandise was offered at special reduced prices, and that certain offers must be accepted at once because the supplies were limited.

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 Robbin Products, a limited partnership, Sales Development Corporation, a corporation, Merchandise Selectors, Inc., a corporation, Richard Bradley Advertising Company, a corporation, and Meyer Robbin, individually, and as sole general partner of Robbin Products, and as an officer of said corporations, 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 Robbin Products is a limited partnership 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 303 South Robertson Boulevard in the city of Beverly Hills, in the State of California.

Respondents Sales Development Corporation, Merchandise Selectors, Inc., and Richard Bradley Advertising Company, are corporations, organized, existing and doing business under and by virtue of the laws of the State of California, with their principal office and place of business located at 303 South Robertson Boulevard in the city of Beverly Hills, State of California.

Respondent Meyer Robbin is the sole general partner of Robbin Products and is president and majority stockholder of each of the

corporate respondents. He formulates, directs and controls the acts and practices of Robbin Products and the corporate respondents, including the acts and practices hereinafter set forth. His address is the same as that of Robbin Products and of the corporate respondents.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the offering for sale, sale and distribution of various articles of merchandise such as furniture, watches, radios, tool sets, appliances and other general merchandise to retailers for resale to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past, have caused, their said products and merchandise, when sold, to be shipped from their place of business in the State of California, and from other sources of supply located in various States of the United States, to purchasers thereof located in various other States of the United States and in the District of Columbia, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products and merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondents, for the purpose of inducing the sale of their merchandise, have engaged in the practice of supplying their customers, who are retail dealers, with advertising materials, matrices, layouts and other printed matter containing various statements and representations.

Typical, but not all inclusive of these statements and representations are the following:

- a. COMPLETELY GUARANTEED LIFETIME GUARANTEE
- b. FREE ELECTRIC PERCOLATOR PLUS 16 PC. 22 K. GOLD DECORATED SNACK SET with purchase of cookware set
- c. LOUNGE CHAIRS, UPHOLSTERED IN "PLYHIDE—" WITH THAT TAILORED LEATHER LOOK
- d. SPECIAL PRICE DURING THIS SALE ONLY SALE PRICED SALE PRICE
- e. WHILE THEY LAST

PAR. 5. Through the use of the aforesaid statements and representations and others similar thereto, not included herein, respondents have represented and have placed in the hands of retailers the means and instrumentalities of representing, directly or by implication that:

- a. Certain merchandise is "completely guaranteed", that is, without limitation, condition or qualification for an unlimited period of time. Other merchandise was offered for sale with a "lifetime guarantee," that is, they were guaranteed for a lifetime without any limitation, condition or qualification, other than that indicated in the advertisement.

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b. The electric percolator and 16-piece snack set will be given free, that is, as a gift or gratuity without cost to the purchaser of the waterless cookware set.

c. The lounge chairs are covered and upholstered in a leather product material, that is the said material is from the hide of an animal.

d. The prices at which certain merchandise is being offered for sale are special prices, which are reductions from or lower than the prices at which said merchandise was sold at retail by the advertiser in the recent regular course of business.

e. Certain offers of merchandise must be accepted at once or within a limited period of time because the supply or quantity of certain merchandise is limited.

PAR. 6. In truth and in fact:

a. The merchandise advertised as guaranteed with a "completely guaranteed" or "Lifetime guarantee" were not so guaranteed, as the guarantees furnished to purchasers thereof were limited in certain respects, which limitations were not disclosed in the advertisement.

b. Purchasers of the waterless cookware set do not receive the electric percolator and the 16-piece snack set free or without cost because the offer is actually a combination offer consisting of the waterless cookware set, an electric percolator and the 16-piece snack set, and the price charged for said waterless cookware set includes the price of the merchandise referred to as free.

c. The lounge chairs are not covered or upholstered in a leather product material; that is, the said material is not from the hide of an animal, but are upholstered in a vinyl plastic.

d. The prices at which certain merchandise is being offered for sale are not special prices, i.e., they are not reductions from or lower than the prices at which said merchandise was sold at retail by the advertiser in the recent regular course of his business.

e. Said offers of merchandise need not be accepted at once or within a limited period of time as adequate quantities are available.

Therefore, the statements and representations referred to in Paragraphs 4 and 5 hereof, were and are false, misleading and deceptive.

PAR. 7. The respondents by and through the use of the aforesaid acts and practices place in the hands of retailers the means and instrumentalities whereby said retailers may mislead and deceive the public in the manner herein alleged.

PAR. 8. In the course and conduct of their business, and at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals likewise engaged in the sale of like and similar merchandise.

PAR. 9. The use by respondents of the aforesaid false, misleading

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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 respondents' products by reason of said erroneous and mistaken belief.

PAR. 10. 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 and deceptive acts and 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 hereof 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 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 set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Robbin Products is a limited partnership 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 303 South Robertson Boulevard, in the city of Beverly Hills, State of California.

Respondents Sales Development Corporation, Merchandise Selectors, Inc., and Richard Bradley Advertising Company, are corporations organized, existing and doing business under and by virtue of the laws of the State of California, with their office and principal place of business located at 303 South Robertson Boulevard, in the city of Beverly Hills, State of California.

Respondent Meyer Robbin is the sole general partner of Robbin Products and is an officer of each of the said corporations. His address is the same as that of Robbin Products and of the said corporations.

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 Robbin Products, a limited partnership, Sales Development Corporation, a corporation, and its officers, Merchandise Selectors, Inc., a corporation, and its officers, Richard Bradley Advertising Company, a corporation, and its officers, and Meyer Robbin, individually, and as sole general partner of Robbin Products, and as an officer of said corporations, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of furniture, watches, radios, tool sets, appliances or any other merchandise, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that any of respondents' products or merchandise are guaranteed unless the nature and extent of the guarantee, the identity of the guarantor, and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

2. Representing directly or by implication that merchandise is given free or without charge in connection with the purchase of other merchandise when the so-called free merchandise is received only after payment therefor is included in the price charged for the other merchandise.

3. Using the term "Plyhide" or any other term, word or description of similar import or meaning to describe or designate any product or material which is not made of leather without clearly and conspicuously disclosing in immediate conjunction with said term, word or description the true nature or origin of said product or material; or representing in any other manner that any non-leather product or material is made of or composed of or contains leather.

4. Using the words "SPECIAL PRICE DURING THIS SALE ONLY", "SALE PRICED", "SALE PRICE", or any other words or terms of similar meaning or import, in conjunction with any article of merchandise or merchandise, unless the price at which said merchandise or articles of merchandise are offered for sale constitutes a reduction from the price at which said merchandise or articles of merchandise were sold at retail by the ad-

vertiser in the recent regular course of his business or a reduction from the generally prevailing price of said merchandise or articles of merchandise in the trade area where the representation is made.

5. Representing, directly or by implication, that certain offers of merchandise must be accepted at once, or within a limited time, when there are, in fact, no specific time limitations, or representing that the supply or quantity of any merchandise or articles of merchandise is limited, when adequate supplies are available.

6. Misrepresenting in any manner the composition, price or availability of any item of merchandise or product.

7. Furnishing or otherwise placing in the hands of others the means and instrumentalities by and through which they may mislead or deceive the public in the manner or as to the things hereinabove prohibited.

It is further ordered, That each of 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.

INTERLOCUTORY, VACATING, AND
MISCELLANEOUS ORDERS

THE MEAD CORPORATION

File Number 571 0656. Order and Opinion, Jan. 3, 1963

Order, in a non-public investigational hearing, granting subpoenaed officers and employees the right of full representation by counsel and issuing rules relating to the rights of witnesses in such proceedings.

ORDER GRANTING IN PART MOTION FOR REPRESENTATION BY COUNCIL

Upon consideration of the respondent's motion filed November 13, 1962, for an order directing that its president, D. F. Morris, and any other employees and officers of The Mead Corporation who may be subpoenaed in connection with a pending investigation (FTC File No. 571 0656), be given the right of "full representation" by counsel of their choice,

It is ordered, That respondent's motion be, and it hereby is, granted to the extent set forth in the accompanying opinion.

By the Commission, Commissioners Anderson and MacIntyre dissenting.

UPON MOTION OF RESPONDENT FOR "FULL REPRESENTATION" BY
COUNSEL IN INVESTIGATIONAL HEARING

OPINION OF THE COMMISSION

BY THE COMMISSION:

This matter is before the Commission upon the motion of The Mead Corporation for an order directing that its president, D. F. Morris, and any other employees and officers of The Mead Corporation who may be subpoenaed in connection with a pending investigation (FTC File No. 571 0656), be given the right of "full representation" by counsel of their choice.

A subpoena *duces tecum*, dated March 29, 1962, was served on Mr. Morris, commanding his presence before an attorney of the Federal Trade Commission in Dayton, Ohio, in connection with a non-public "investigation being conducted to determine whether there is reason to believe that Section 7 of the Clayton Act, as amended, has been violated by The Mead Corporation * * *." According to the papers submitted in support of the motion, counsel for D. F. Morris and The

