

Order

77 F.T.C.

ORDER ADOPTING FINDINGS AND CONCLUSIONS AND DEFERRING
ENTRY OF FINAL ORDER ¹

CONCLUSIONS

1. The Commission has jurisdiction of the subject matter of this proceeding and of the respondents.
2. Section 5 of the Federal Trade Commission Act prohibits unfair methods of competition and unfair acts and practices in commerce, including agreements, understandings and combinations in restraint of trade.
3. The agreements, understandings and combinations documented by this record, between and among respondents and with others, are unfair methods of competition in commerce and unfair acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

ORDER

It is ordered, That the hearing examiner's initial decision as modified and supplemented by the findings and conclusions embodied in the accompanying opinion be, and it hereby is, adopted as the decision of the Commission.

It is further ordered, That the findings of fact and conclusions of law contained in the accompanying opinion be, and they hereby are, adopted as additional findings and conclusions of the Commission.

It is further ordered, That complaint counsel and counsel for respondents shall each file, within 30 days after the receipt of this order, a proposed form of order and briefs in support thereof, in accordance with the directions contained in the accompanying opinion.

It is further ordered, That entry of the final order in this matter be deferred until further order of the Commission.

By the Commission, with Chairman Weinberger not participating and Commissioner Elman not concurring.

IN THE MATTER OF
ZALE CORPORATIONCONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-1774. Complaint, July 30, 1970—Decision, July 30, 1970

Consent order requiring a Dallas, Texas, retail jeweler operating through 439 retail outlets and 110 additional outlets under other trade names to cease using deceptive pricing practices, savings claims, and false guarantees.

¹ Final order to cease and desist issued February 25, 1971, 78 F.T.C. 446.

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 Zale Corporation, a corporation, hereinafter 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:

PARAGRAPH 1. Respondent Zale Corporation is a corporation 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 512 South Akard Street, in the city of Dallas, State of Texas.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the advertising, offering for sale, sale and distribution of watches, jewelry, diamonds, and other merchandise to the public. Respondent conducts said business through retail jewelry outlets in department and discount stores operated under agreements with the store operators and through approximately 439 retail jewelry outlets operating under the name "Zales" and approximately 110 additional retail jewelry outlets operating under various other trade names. Many of these retail jewelry outlets are operated through subsidiary corporations wholly owned or controlled by respondent.

PAR. 3. In the course and conduct of its business as aforesaid, from its headquarters in Dallas, Texas, respondent ships, and causes to be shipped, watches, jewelry, diamonds and other merchandise to said retail jewelry outlets located in States other than Texas for sale to the purchasing public. Similarly, advertising and promotional material is prepared, or caused to be prepared, by respondent in Dallas, Texas, and transmitted to and used by said retail jewelry outlets and published in newspapers having an interstate circulation. Respondent further engages in commercial intercourse, in commerce, consisting of the transmission and receipt of letters, invoices, reports, contracts and other documents of a commercial nature between headquarters and its retail jewelry outlets in the various States, and maintains, and at all times mentioned herein has maintained, a substantial course of trade in said merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of its aforesaid business and for the purpose of inducing others to purchase its watches, jewelry, dia-

Complaint

77 F.T.C.

monds, and other merchandise, respondent has made, and is now making, directly or by implication, numerous statements and representations on tickets, tags and labels and in advertisements in newspapers and on radio and television and by the use of other promotional material, with respect to the price, savings, and guarantee of said merchandise.

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

WATCHES

. . . BENRUS

REG. 82.50 NOW 41.50

. . . ALL REDUCED UP TO 50%

BULOVA WATCHES

COMPARE SALES PRICES . . .

YOUR MONEY BACK IN 30 DAYS IF

YOU FIND A BETTER VALUE

BULOVA

WATCHES

-AT-

LOWEST

DISCOUNTS

COMPARE ZALE'S PRICES . . .
YOUR MONEY BACK IN 60 DAYS
IF YOU FIND A BETTER VALUE!

Also Hamilton and Elgin
Watches

SAVE NOW AT LOW DISCOUNT PRICES! . . .

Factory list		Our new low price
\$24.75	Zale's has never sold this watch at list price. Now Zale's price is even lower than usual.	\$19.05
\$35.75	Zale's has never sold this watch at list price. Now Zale's price is even lower than usual.	\$21.61
\$45.00	Zale's has never sold this watch at list price. Now Zale's price is even lower than usual.	\$25.15
\$59.50	Zale's has never sold this watch at list price. Now Zale's price is even lower than usual.	\$32.50
\$75.00	Zale's has never sold this watch at list price. Now Zale's price is even lower than usual.	\$40.81
\$115	Zale's has never sold this watch at list price. Now Zale's price is even lower than usual.	\$58.64

ZALE'S
JEWELERS

1098

Complaint

ZALE'S
JEWELERS

Lowest Prices on
BULOVA WATCHES
40% OFF AND MORE

<i>Was</i>	<i>Now</i>
\$24.75 -----	\$19.05
\$35.75 -----	\$21.61
\$45.00 -----	\$25.15
\$59.50 -----	\$32.50
\$75.00 -----	\$40.81
\$115.00 -----	\$58.64

Prices Plus Tax

Zale's Prices Are Always Lower Than
Manufacturers' List—Now They're Even Lower!

HEAD START ON SAVINGS!

ZALES

CLEARANCE '70!

Reg. \$375 (Illustration of Ring) NOW \$281.25	Reg. \$725 (Illustration of Ring) NOW \$543.75	Reg. \$395 (Illustration of Ring) NOW \$286.25
Reg. \$150 (Illustration of Ring) NOW \$112.50		Reg. \$225 (Illustration of Ring) NOW \$168.75

SAVE
25%

off regular prices

Reg. \$295 (Illustration of Ring) NOW \$236.00	Reg. \$150 (Illustration of Ring) NOW \$120.00	Reg. \$395 (Illustration of Ring) NOW \$316.00
Reg. \$275 (Illustration of Ring) NOW \$220.00		Reg. \$100 (Illustration of Ring) NOW \$80.00

SAVE
20%

off regular prices

CHOOSE FROM OUR LARGE SELECTIONS!

ZALES
JEWELERS

Complaint

77 F.T.C.

HEAD START ON SAVINGS!

ZALES

CLEARANCE '70!

GENUINE STONE DIAL WATCHES	21-JEWELS 14K GOLD CASE
Reg. \$19.88	Reg. \$25.88
(Illustration of Watches)	(Illustration of Watch)
NOW \$15.88 ea.	NOW \$19.88
21-JEWELS DAY AND DATE	21-JEWELS DRESS WATCH
Reg. \$22.88	Reg. \$15.88
(Illustration of Watch)	(Illustration of Watch)
NOW \$17.88	NOW \$11.88

JANUARY WATCH SALE!

FROM 20% TO 33%

OFF REGULAR PRICE

ON FAMOUS

BRAND WATCHES

CHOOSE FROM OUR LARGE SELECTIONS!

ZALES

JEWELERS

OUR GREATEST WATCH BUY EVER!

SAVE UP TO 40%

17-JEWELS

Water-resistant

Mfg. List \$45.00

SALE \$34.88

17-Jewels

Automatic

Mfg. List \$75.00

SALE \$49.88

25-Jewels

Automatic

Mfg. List \$89.95

SALE \$64.88

MEN: ZALES CAN SAVE YOU UP TO 40% ON AMERICA'S MOST FAMOUS BRAND WATCHES. Because this is a special purchase, we can't advertise the brand name. But come to Zales and see for yourself—These are from America's most famous watchmaker.

ZALES BANG-UP

JULY CLEARANCE!

Great Values! Shop Today!

SAVE 20%

off our regular low prices

FANTASTIC WATCH VALUES:

Regular Price \$24.95	-----	Sale Price NOW \$19.96
Regular Price 29.95	-----	Sale Price NOW 23.96
Regular Price 39.95	-----	Sale Price NOW 31.96
Regular Price 49.95	-----	Sale Price NOW 39.96
Regular Price 59.95	-----	Sale Price NOW 47.96

PRE-CHRISTMAS
SALE

FAMOUS HAMILTON WATCHES

BUY NOW AND SAVE

It's the early bird savings scoop you just can't pass up if you appreciate quality at a price. Not ordinary watches—but fine, dependable HAMILTON watches—reduced—just before Christmas when you appreciate savings most!

17-Jewels	Not \$49.95	At Zales \$34.88
17-Jewels	Not \$49.95	At Zales \$34.88
17-Jewels	Not \$59.95	At Zales \$39.98
Dress Watch	Not \$59.95	At Zales \$39.88
17-Jewels	Not \$69.95	At Zales \$44.88.

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, respondent has represented, and is now representing, directly or by implication:

1. That the higher stated prices set out in said advertisements in connection with the term "was" and "Regular" were the prices at which the advertised merchandise was sold or offered for sale in good faith by respondent or its subsidiary corporations in the trade area or areas where the representations were made in the recent, regular course of its business, and that purchasers saved the difference between respondent's advertised selling prices and the corresponding higher prices.

2. That the higher stated prices set out in said advertisements in connection with the terms "Factory List," "Mfg. List" and "NOT . . . AT ZALES. . ." were not appreciably in excess of the highest price at which substantial sales of such merchandise had been made in the recent, regular course of business in the trade area or areas where such representations appeared, and that purchasers saved the difference between respondent's advertised selling prices and the corresponding higher prices.

3. Through the use of the terms "Save 20%" and "Save 25%" and the terms, "From 20% to 33% off regular price," set out in said advertisements, that all of respondent's watches and rings in the stores

Complaint

77 F.T.C.

covered by said advertisements were reduced in price by the stated savings from respondent's regular prices.

PAR. 6. In truth and in fact:

1. The higher prices set out in said advertisements in connection with the terms "was" and "Regular" were not the prices at which the advertised merchandise was sold or offered for sale in good faith by respondent or its subsidiary corporations in the trade area or areas where the representations were made for a reasonably substantial period of time in the recent, regular course of its business, and purchasers did not save the difference between respondent's advertised selling prices and the corresponding higher prices.

2. The higher prices set out in said advertisements in connection with the terms "Factory List," "Mfg. List" and "NOT . . . AT ZALES . . ." were appreciably in excess of the highest price at which substantial sales of such merchandise had been made in the recent, regular course of business in the trade area or areas where such representations appeared, and purchasers did not save the difference between respondent's advertised selling prices and the corresponding higher prices. Further, with respect to some of these watches, the original watch movement placed in the watchcase by the manufacturer has been subsequently removed therefrom by the respondent and placed in a case of another manufacturer. As a result of such acts and practices, these watches did not have a represented trade area price.

3. All of respondent's watches and rings in the stores covered by said advertisements were not reduced in price and the stated savings of "20%" and "25%" and "20% to 33%" from respondent's regular prices. Respondent's retail stores are instructed that the entire stock of diamond rings are not to be sold at the stated savings. Some diamond rings are not to be reduced at all. Further, respondent's retail stores are instructed that only a portion of the entire stock of watches are to be placed on sale and that certain designated manufacturers' watches are not to be sold at reduced prices.

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

PAR. 7. Respondent, for the purpose of inducing the purchase of its watches, used fictitious manufacturers' suggested retail prices by attaching tickets or tags on which said suggested prices are printed to watch containers, thereby representing that the manufacturer of said watches had attached said tickets or tags and had specified or fixed the price shown thereon as its suggested retail price. *et al.*

