

Complaint

60 F.T.C.

IN THE MATTER OF

ADAMS DRUG COMPANY, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-114. Complaint, Apr. 16, 1962—Decision, Apr. 16, 1962*

Consent order requiring the corporate operators of a number of retail drugstores in the New England States and New York to cease representing falsely, in advertisements in newspapers, that excessive amounts were usual retail prices by such statements, among others, as "Steel Construction Caulking Gun usually 1.49 88¢." ". . . Cellulose Sponge Mop Reg. 3.95 2.99", and "Electric Shavers at Discount Prices 28.50 Schick '3-Speed' . . . 18.88."

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 Adams Drug Company, Inc., a corporation, and Leonard Salmanson and Donald Salmanson, 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 as follows:

PARAGRAPH 1. Respondent Adams Drug Company, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Rhode Island, with its office and principal place of business located at 27 Mason Street, Pawtucket, R.I.

Respondents Leonard Salmanson and Donald Salmanson are individuals and are officers of said corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their addresses are the same as that of the corporate respondent.

PAR. 2. Through said corporate respondent and a wholly owned subsidiary corporation, respondents own and operate a number of retail drugstores within the States of Rhode Island, Massachusetts, New Hampshire, Connecticut, and New York.

Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale, and distribution of drugs, appliances, mops, wax, scales, electric razors, and other articles of general merchandise at retail to members of the purchasing public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said merchandise

to be shipped from their place of business in Rhode Island to their several stores in various other States of the United States, for sale to the purchasing public. In such instances shipments are made to respondents' stores in States other than that in which such shipments have originated, and respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in said merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act. In addition to the aforesaid articles of merchandise, respondents also cause advertisements and other promotional material to be transported and shipped from their aforesaid place of business in the State of Rhode Island to the various other States in which their several stores are located.

PAR. 4. In the course and conduct of their business, and for the purpose of inducing the sale of their said articles of merchandise, respondents now make, and have made, numerous statements and representations respecting the retail price of their merchandise in advertisements published in various newspapers of general circulation.

Typical and illustrative of the foregoing, but not all inclusive thereof, are the following:

Steel Construction
Caulking Gun
Usually 1.49 88¢

O'Cedar '99'
Cellulose
Sponge Mop
Reg. 3.95 2.99

Auto Polish Sale!
J-Wax Paste
Turtle Wax
List Price 2.00 each
Choice 88¢

* * *

Made by 'Detecto'
Bathroom Scale
Mfg.'s List Price 5.95
2.99

Electric Shavers at Discount Prices

| | |
|-------------------------------------|-------|
| 28.50 Schick "3-speed"----- | 18.88 |
| 26.95 Remington "Roll-A-Matic"----- | 18.88 |
| 24.95 Sunbeam "Rollmaster"----- | 19.88 |
| 24.95 Norelco "Speedshaver"----- | 16.88 |
| 19.50 Ronson with "Super Trim"----- | 14.88 |
| 18.50 Lady Remington----- | 13.88 |

PAR. 5. Through the use of the aforesaid statements and others similar thereto, but not included herein, respondents have represented, directly or indirectly:

a. That \$1.49 is the respondent's usual and regular retail selling price for the said Caulking Gun in the recent, regular course of their business.

b. That \$3.95 is the respondents' usual and regular retail selling price for the said O'Cedar Cellulose Sponge Mop in the recent, regular course of their business.

c. That the amounts designated as "Mfg.'s List Price" and "List Price" are the prices at which the merchandise so advertised is usually and regularly sold at retail in the trade areas where the representations are made.

d. That the higher stated prices for said electric razors are the prices at which the said merchandise is usually and regularly sold at retail by the respondents in the recent, regular course of their business.

e. That purchasers of the aforesaid articles of merchandise are afforded savings in amounts equal to the differences between the said higher stated prices and the corresponding lower stated price amounts.

PAR. 6. The foregoing representations are false, misleading and deceptive. In truth and in fact:

a. \$1.49 is not respondents' usual and regular retail selling price for the said Caulking Gun in the recent, regular course of their business, but is in excess of the actual retail selling price.

b. \$3.95 is not respondents' usual and regular retail selling price for the said O'Cedar Cellulose Sponge Mop in the recent, regular course of their business, but is in excess of the actual retail selling price.

c. The amounts set out in connection with the terms "Mfg.'s List Price" and "List Price" are not the prices at which the merchandise referred to is usually and regularly sold at retail in their trade area, but are in excess of the actual retail selling prices.

d. The higher stated prices for said electric razors are not the prices for which the said merchandise is usually and regularly sold by respondents in the recent, regular course of their business, but are in excess of the actual retail selling prices.

e. Purchasers of the aforesaid articles are not afforded savings in the amounts equal to the differences between said higher prices and the corresponding lower prices.

PAR. 7. In the course and conduct of their business, at all times mentioned herein, respondents have been in substantial competition

in commerce with corporations, firms, and individuals engaged in the sale of merchandise of the same general kind and nature as that sold by respondents.

PAR. 8. The use by respondents of the aforesaid false, misleading, and deceptive statements, representations, and practices has had, and now has, the capacity and tendency to mislead members of the general 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' articles of merchandise by reasons of said erroneous and mistaken belief.

PAR. 9. The aforesaid acts and practices of the 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 and deceptive acts and practices in commerce, in violation of Section 5(a)(1) 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, Adams Drug Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Rhode Island, with its office and principal place of business located at 27 Mason Street in the city of Pawtucket, State of Rhode Island.

Respondents Leonard Salmanson and Donald Salmanson are officers of said corporation and their address is the same as that of said corporation.

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, Adams Drug Co., Inc., a corporation, and its officers, and Leonard Salmanson and Donald Salmanson, individually and as officers of said corporation, 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 drugs, appliances, mops, wax, scales, electric razors, or any other articles of merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or indirectly:

(a) That any amount is respondents' usual and regular retail price for said merchandise when such amount is in excess of the price at which said merchandise is usually and regularly sold by respondents in the recent regular course of business.

(b) That any amount is the usual and customary retail price for said merchandise in the trade area or areas where such representation is made, when such amount is in excess of the price at which said merchandise is usually and customarily sold at retail in said trade area or areas.

(c) That any savings are afforded in the purchase of said merchandise from the respondents' selling price or from the selling price in respondents' trade area unless the price at which the merchandise is offered constitutes a reduction from the price at which said merchandise is usually and regularly sold at retail by the respondents or at which said merchandise is usually and regularly sold at retail in said trade area.

2. (a) Using the words "usually", "reg.", or any other words of similar import or meaning in connection with a stated amount higher than that at which merchandise is being offered for sale by respondents when such stated higher amount is in excess of the price at which said merchandise has been sold at retail by respondents in the recent regular course of business.

(b) Using the words "Mfg.'s List Price", "List Price", or any other words of similar import or meaning in connection with a stated

amount higher than that at which merchandise is being offered for sale by respondents when such stated higher amount is in excess of the usual and customary retail price of said merchandise in the trade area or areas where the representation is made.

3. Misrepresenting, in any manner, the amount of savings available to purchasers of respondents' merchandise or the amount by which the price of said merchandise has been reduced from the price at which it is usually and regularly sold at retail by the respondents, or in the trade area or areas where the representations are made.

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

KORMA TEXTILE MILLS, INC., ET AL.

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

Docket C-115. Complaint, Apr. 16, 1962—Decision, Apr. 16, 1962

Consent order requiring New York City jobbers of textile fabrics to cease representing falsely, through use of the word "Mills" in their corporate and trade names, that they manufactured their fabrics in their own factories.

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 Korma Textile Mills, Inc., a corporation, and Julius Mauler, individually and as an officer 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 Korma Textile Mills, Inc., is a corporation, organized, existing and doing business under the laws of the State of New York, with its principal office and place of business located at 457 Broadway, New York 13, N.Y.

Respondent Julius Mauler is an officer of the corporate respondent. He formulates the policies and directs and controls the acts and prac-

tices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are jobbers of textile fabrics and are now, and for some time last past, have been engaged in the advertising, offering for sale, sale and distribution of said fabrics.

PAR. 3. In the course and conduct of their business, respondents now cause, and for sometime last past have caused, their said products, when sold, to be shipped from their place of business in the State of New York to purchasers thereof 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 business in soliciting the sale of and in selling textile fabrics, respondents do business under the name of Korma Textile Mills, Inc., and Korma Textile Mills, and use said names on letterheads, labels and in various advertisements of their products.

PAR. 5. Through the use of the word "Mills" as part of the respondents' corporate and trade names, respondents represent that they own or operate mills or factories in which the textile fabrics sold by them are manufactured.

PAR. 6. Said representation is false, misleading and deceptive. In truth and in fact, respondents do not own or operate the mills or factories in which the textile fabrics sold by them are manufactured, but they buy said fabrics from others.

PAR. 7. There is a preference on the part of many manufacturers, retailers and dealers to buy products, including textile fabrics, direct from factories or mills, believing that by so doing lower prices and other advantages thereby accrue to them.

PAR. 8. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms, and individuals in the sale of textile fabrics of the same general kind and nature as those sold by respondents.

PAR. 9. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead retailers and other purchasers 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.

