

Complaint

61 F.T.C.

IN THE MATTER OF

SYLVIA ABRAMS TRADING AS BARCLAY DISTRIBUTORS

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-198. Complaint, July 26, 1962—Decision, July 26, 1962*

Consent order requiring a New York City distributor of men's wallets, calendar banks, self-illuminating power magnifiers, travel irons, immersion heaters and other merchandise, to cease making false price and savings claims and misleading guarantees such as those she made in newspaper advertising and catalogs.

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 Sylvia Abrams, hereinafter referred to as the 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 Sylvia Abrams is an individual trading as Barclay Distributors, with her principal office and place of business located at 170-30 Jamaica Avenue, Jamaica 32, Borough of Queens, in the city of New York, State of 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 of men's wallets, calendar banks, self illuminating magnifiers, travel irons, travel immersion heater kits, wrist watches, cigarette lighters, and other items of general merchandise to the public.

PAR. 3. In the course and conduct of her business, respondent now causes, and for some time last past has caused, her said merchandise, when sold, to be shipped from her place of business in the State of New York to purchasers thereof located in various other States of the United 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 her business the respondent has placed or caused to be placed advertisements in newspapers of general circulation and in nationally distributed magazines, and has distributed catalogues through the United States mail to prospective

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purchasers located in various States other than the State of New York. The following statements from the catalogues are typical but not all inclusive:

#LM 40 Men's genuine leather wallet at \$4.00 (this price being lightly crossed out) \$2.19 each.

#B 551 Calendar Bank reg. \$3.50 our price \$1.98.

#M 401 Self-illuminating 10 power magnifier \$9.95 (this price being lightly crossed out) special sale price only \$2.24.

#401 Self-illuminating 7 power magnifier special sale price only \$2.24 reg. \$9.95 value.

Self-illuminating 10 power magnifier special sale price only \$2.24 reg. 9.95 value.

#79-T Featherweight deluxe travel iron reg. \$5.95 special low price \$3.59.

#915 Travel immersion heater kit \$2.19 reg. \$5.95 value.

SL Famous Sovereign Jeweled SM watches * * *. Now at the lowest price in history \$7.95 * * *. Reg. 14.95 value.

In each instance the statement is set forth in close conjunction with an illustration of the article.

Terrific Discounts

Save up to 70%

Save up to 71%

PAR. 5. Through the use of the aforesaid statements the respondent has represented, directly or indirectly, that the higher stated prices quoted in paragraph 4 in juxtaposition with the lower stated prices were the prices at which the men's wallets, the calendar bank, the self-illuminating power magnifier, the deluxe travel iron, and the travel immersion heater kit were usually and customarily sold by the respondent in the recent regular course of her business and that a saving would be made of the difference between the two prices, and further that this saving would amount to a definite percentage of the higher stated prices, sometimes ranging as high as 70% or 71% of the higher stated prices.

PAR. 6. In truth and in fact the respondent has never sold the men's wallets, the calendar bank, the self-illuminating power magnifier, the deluxe travel iron and the travel immersion heater kit at the higher stated prices, and for these items no saving will be made amounting to the difference between the two prices or to any percentage of the higher stated prices. Therefore the statements and representations referred to in paragraphs 4 and 5 are false, misleading, and deceptive.

PAR. 7. Through the use of such statements as, "Wholesale prices and less", "Buy at wholesale and less", appearing on the front covers

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of her catalogues the respondent has represented directly or indirectly that she sells all of her merchandise at wholesale prices or less.

PAR. 8. In truth and in fact the respondent does not sell, nor does she offer to sell, all of her articles of merchandise at wholesale prices or less but, to the contrary, the prices of some of her merchandise are in excess of wholesale prices. Therefore the statements and representations referred to in paragraph 7 are false, misleading and deceptive.

PAR. 9. In her catalogue advertisements of cigarette lighters the respondent has used such statements as, "Unconditionally guaranteed", and, "Fully guaranteed".

PAR. 10. In truth and in fact the advertised guarantees for cigarette lighters fail to set forth the nature and extent of the guarantee, the manner in which the guarantor will perform and the identity of the guarantor. Therefore the quoted statements in paragraph 9 are false, misleading and deceptive.

PAR. 11. In her catalogue advertisements for the Sovereign watches the respondent has stated that they are "Made and guaranteed by Benrus Watch Company."

PAR. 12. In truth and in fact the Sovereign watches are manufactured and guaranteed by the Sovereign Watch Company and not Benrus Watch Co., Inc. Therefore, the quoted statement in paragraph 11 is false, misleading and deceptive.

PAR. 13. In the course and conduct of her business and at all times mentioned herein, the respondent has been in substantial competition, in commerce, with corporations, firms, and individuals engaged in the sale of articles of merchandise of the same general kind and nature as those sold by the respondent.

PAR. 14. The use by respondent 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 purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondent's merchandise by reason of said erroneous and mistaken belief.

PAR. 15. 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 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

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereof with violation of the Federal Trade Commission Act, and the respondent 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 respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondent 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 respondent 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, Sylvia Abrams is an individual trading as Barclay Distributors with her principal office and place of business located at 170-30 Jamaica Avenue, Jamaica 32, Borough of Queens, in the city of New York, State of 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, Sylvia Abrams, trading and doing business as Barclay Distributors, or under any other name or names, and her agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of men's wallets, calendar banks, self-illuminating magnifiers, travel irons, travel immersion heater kits, wrist watches, cigarette lighters and 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 by implication, that:

(a) Any amount is the usual and customary retail price of respondent's merchandise when it is in excess of the price at which said merchandise is usually and customarily sold at retail by respondent.

(b) Any saving is afforded in the purchase of merchandise from respondent's retail price unless the price at which it is offered is lower than the price at which said merchandise is usually and customarily sold at retail by the respondent.

2. Misrepresenting, in any manner, the savings available to purchasers of respondent's merchandise or the amount by which the price of said merchandise has been reduced from the price at which it is customarily sold by respondent in the usual course of business.

3. Using the word "wholesale" or any other word or term of similar import or meaning, in connection with the direct or indirect solicitation of sales to individual members of the public or other consumers, to describe a price which is higher than the generally prevailing price at which the merchandise is sold by wholesalers to retailers in the trade area or areas where the representation is made.

4. Representing, directly or by implication, that Sovereign watches are manufactured and guaranteed by the Benrus Watch Company, or in any other manner misrepresenting, directly or by implication, the identity of the manufacturer or the guarantor of any of the respondent's merchandise.

5. Representing, directly or by implication, that any of respondent's products 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.

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

IN THE MATTER OF

REMCO INDUSTRIES, INC.

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

Docket C-199. Complaint, July 26, 1962—Decision, July 26, 1962

Consent order requiring a Newark, N.J., distributor to cease misrepresenting toys by such practices as representing falsely in television commercials that a transistor radio could be constructed from the components contained in its

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"Radiocraft Kit" and radio broadcasts transmitted, and that its "Electro Chemistry Science Kit" contained a battery and a glass beaker.

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 Remco Industries, Inc., a corporation, hereinafter referred to as respondents, 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 Remco Industries, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its principal office and place of business located at 113 North 13th Street, in the city of Newark, State of New Jersey.

PAR. 2. Respondent Remco Industries, Inc., is now, and for some time last past has been, engaged in the advertising, offering for sale, sale and distribution of toys and related products, including toys designated "Radiocraft Kit" and "Electro Chemistry Science Kit", to distributors and retailers for resale to the public.

PAR. 3. In the course and conduct of its business, respondent now causes, and for some time last past has caused, its said "Radiocraft Kit" and "Electro Chemistry Science Kit", when sold, to be shipped from its place of business in the State of New Jersey to purchasers thereof located in various other states of the United States and in the District of Columbia, and maintains, and at all times mentioned herein has 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 conduct of its business, at all times mentioned herein, respondent has been in substantial competition, in commerce, with other corporations, firms and individuals in the sale of radio kits, science kits, and other toys and related products.

PAR. 5. In the course and conduct of its business and for the purpose of inducing the purchase in commerce of the said "Radiocraft Kit", respondent made certain statements, representations and pictorial presentations with respect thereto, by means of commercials transmitted by television stations located in various states of the United States and in the District of Columbia having sufficient power to carry such broadcasts across state lines.

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PAR. 6. Among and typical of the statements and representations made and appearing in said advertisements disseminated as hereinabove set forth are the following:

This REMCO Transistor Radio I made myself.

* * * * *

All you have to do is put together all the parts that come in the Remco Kit. The transistor, the tuner, and the separate loud speaker for broadcasting.

* * * * *

* * * get your REMCO Radio at your favorite toy store—from \$3.95 * * *

* * * * *

Can you do your own broadcasting too? Yeah, sure. I'll do the announcing with this microphone * * *

PAR. 7. Through the use of the aforesaid advertisements, and others containing statements and representations of the same import not specifically set forth herein, respondent has represented, directly and by implication:

(1) That it is possible to transmit broadcasts by radio through use of the components contained in each "Radiocraft Kit".

(2) That a transistor radio can be constructed from the components contained in each "Radiocraft Kit".

PAR. 8. An enlargement of a frame extracted from said television commercials, illustrating typical representations with respect to the component parts of the said "Radiocraft Kit" and the manner in which the said toy purports to perform, as alleged in paragraphs 6 and 7 above, is marked Exhibit "A" and incorporated herein by reference.¹

PAR. 9. Said statements, representations and depictions are false, misleading and deceptive. In truth and in fact:

(1) Radio broadcasts cannot be transmitted through use of the components contained in any "Radiocraft Kit".

(2) A transistor radio cannot be constructed from the components contained in one of the advertised "Radiocraft Kits".

PAR. 10. In the course and conduct of its business and for the purpose of inducing the purchase in commerce of the said "Electro Chemistry Science Kit", respondent made certain statements, representations and pictorial presentations with respect thereto, by means of commercials transmitted by television stations located in various states of the United States and in the District of Columbia having sufficient power to carry such broadcasts across state lines.

PAR. 11. Among and typical of the statements and representations made and appearing in said advertisements disseminated as herein-

¹ Pictorial exhibit "A" not published.

