

Complaint

70 F.T.C.

IN THE MATTER OF

MIDWEST COLOR STUDIOS, INC., ET AL.

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

*Docket C-1107. Complaint, Sept. 12, 1966—Decision, Sept. 12, 1966*

Consent order requiring a Chicago firm selling color photographs through door-to-door coupon salesmen to cease using false quality claims and other misrepresentations to sell its pictures.

COMPLAINT

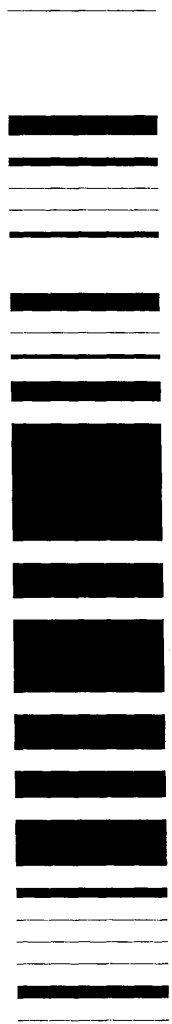
Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Midwest Color Studios, Inc., a corporation, and Frank J. Blum and Morris Projansky, individually and as officers of said 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 Midwest Color Studios, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 4707 North Broadway, in the city of Chicago, State of Illinois.

Respondents Frank J. Blum and Morris Projansky are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the offering for sale, sale and distribution of color photographs to the general 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, when sold, to be shipped from their place of business in the State of Illinois to purchasers thereof located in various other



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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, and for the purpose of inducing the purchase of their color photographs, the respondents and their agents engage in the acts and practices hereinafter set forth.

Most of respondents' sales of color photographs are effected by means of door-to-door solicitations. For this purpose, they employ three types of agents, namely, coupon salesmen, photographers and proof passers. Prospective purchasers are first contacted by a coupon salesman who makes various oral representations and exhibits to the prospect sample photographs and a coupon or certificate which reads in part as follows:

-14.95 VALUE	LICENSED	-14.95 VALUE
MIDWEST COLOR STUDIOS, Inc.	Only one certificate per residence	will be honored.
"Portraits in Natural Living Color"		
4707 N. Broadway	784-6240	PAY AGENT \$3.00-1 Child
Chicago, Ill. 60640		\$4.00-2 or More Children
BRANCH OFFICES THROUGHOUT THE UNITED STATES		\$5.00-Family Group

This Certificate Entitles Bearer to Receive

One Beautiful 8 x 10 Color Portrait

INTRODUCTORY OFFER

DAY _____	DATE _____	Colorful clothing suggested	OUR CAMERAMAN IS PROMPT - PLEASE BE READY.
TIME _____		NO Pastels-Please	AGENT _____

THIS OFFER VALID ON ABOVE DATE ONLY AND IS LIMITED TO ONE CERTIFICATE TO EACH FAMILY. NO REFUND WILL BE MADE. Additional portraits may be purchased at the time proofs are shown

There is no other obligation.

MIDWEST STUDIOS INC. WILL NOT BE BOUND BY ANY REPRESENTATION OR AGREEMENT EXCEPT AS CONTAINED IN THIS CERTIFICATE. MAILING AND HANDLING CHARGE .75¢ ADDITIONAL. THIS AGENT IS SELF-EMPLOYED.

LICENSED LICENSED

If the coupon salesman succeeds in selling the prospect a coupon he generally collects \$3 or a somewhat larger or lesser amount. Thereafter, the customer is contacted by a photographer

who takes a number of different poses of the subject or subjects to be photographed. After the exposed film has been developed into proof slides, the latter are turned over to a proof passer who exhibits them to the customer for selection. At this time, the proof passer attempts to, and often does induce the customer to place an order for additional photographs.

PAR. 5. By and through the use of the aforesaid printed coupon or certificate and by and through oral statements made by their agents, respondents have represented, and are now representing, directly or by implication:

1. That their photographs will portray the true and natural living color of the eyes, hair, complexion and other characteristics of the person or persons photographed.

2. That the purchaser of the photograph incurs no other obligation or charges other than the amounts set forth in large type in the said coupons.

3. That they have a nationwide organization of studios having branch offices located throughout the United States.

4. That their finished photographs will be equal in appearance, quality and workmanship to sample photographs and proof slides exhibited to purchasers and prospective purchasers.

5. That proofs will be shown to customers in approximately two to four weeks from the date the person or persons are photographed.

6. That photographs ordered by customers will be delivered in approximately three to six weeks from the date the proofs are exhibited to them.

PAR. 6. In truth and in fact:

1. Although the photographs are colored in that they are not conventional black and white type, they do not portray the true and natural living color of the eyes, hair, complexion and other characteristics of the person or persons photographed.

2. The purchasers of the photograph do have other obligations than the payment of the amounts set forth in large type in that they are required to pay an additional mailing and handling charge of 50¢ or 75¢ which is set forth in inconspicuous small print at the bottom of the said coupons.

3. Respondents are not a nationwide organization having studios or branch offices located throughout the United States.

4. The photographs offered for sale and sold by respondents are inferior to those which purchasers and prospective purchasers are led to believe they will receive as a result of

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viewing the sample photographs and proof slides exhibited by agents of respondents. In all instances the finished prints are far less brilliant and colorful than the samples and slides viewed by purchasers, and in many instances, there is a distortion of features or colors, or both.

5. Respondents do not show the proofs to customers within two to four weeks from the date the person or persons were photographed. In many instances, customers are forced to wait several months for the proofs, in spite of the promises of the agents of respondents.

6. Respondents do not deliver the photographs ordered by the customers within three to six weeks from the date the proofs were exhibited to them. In many instances, customers are forced to wait several months for delivery of photographs which have been fully or partially paid for.

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 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 color photographs and portraits of the same general kind and nature as those 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 purchasing public into the erroneous and mistaken belief that the 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.

PAR. 9. 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 Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished there-

after with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents 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 the respondents that the law has been violated as alleged in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having reason to believe that the respondents have violated the Federal Trade Commission Act, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings, and enters the following order:

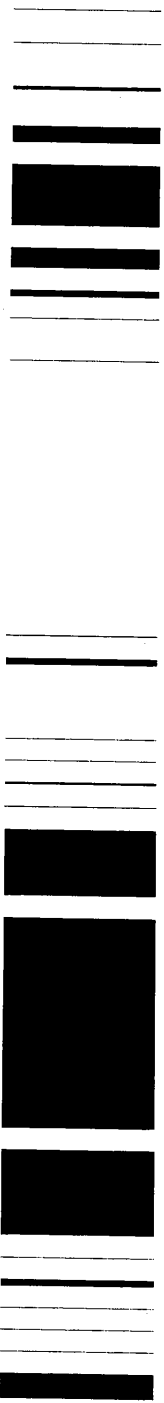
1. Respondent Midwest Color Studios, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 4707 North Broadway, Chicago, Illinois.

Respondents Frank J. Blum and Morris Projansky are officers of the said corporation and their address is the same as that of the 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 Midwest Color Studios, Inc., a corporation, and its officers, and Frank J. Blum and Morris Projansky, 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 photographs, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:



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1. That respondents' photographs are natural color portraits or photographs.

2. That the purchaser of the photograph incurs no obligations or charges other than the purchase price specified on the certificate or otherwise represented by the respondents during the sale of said photographs: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the specified purchase price included all payment obligations incurred by the purchaser.

3. That respondents operate studios or branch offices throughout the United States, or otherwise misrepresenting in any manner the size of respondents' business.

4. That respondents' finished portraits or photographs will be equal in quality and workmanship to sample photographs or proof slides which have been exhibited to purchasers and prospective purchasers: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the photographs furnished by them to purchasers are in every instance of the represented quality and workmanship.

5. That proofs will be shown to the customers or that photographs ordered by customers will be delivered within a specified period of time or upon a particular date: *Provided, however,* That it shall be a defense in any enforcement proceeding hereunder for respondents to establish that said proofs were shown and that said photographs were delivered within such time or upon such date; or misrepresenting, in any manner, the period of time within which the proofs will be exhibited or the photographs will be delivered.

*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

SHINYEI COMPANY, INC.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE COMMISSION AND THE FLAMMABLE FABRICS ACTS

Docket C-1108. Complaint, Sept. 12, 1966—Decision, Sept. 12, 1966

Consent order requiring a New York City importer and distributor of fabrics to cease importing and selling fabrics which are so highly flammable as to be dangerous when worn by individuals, in violation of the Flammable Fabrics Act.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Shinyei Company, Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of said Acts, and the Rules and Regulations promulgated under the Flammable Fabrics 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 Shinyei Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

The respondent is engaged in the sale and distribution of fabrics, with its office and principal place of business located at 171 Madison Avenue, New York, New York.

PAR. 2. Respondent, subsequent to July 1, 1954, the effective date of the Flammable Fabrics Act, has sold and offered for sale, in commerce; has imported into the United States; and has introduced, delivered for introduction, transported, and caused to be transported, in commerce; and has transported and caused to be transported for the purpose of sale or delivery after sale, in commerce; as "commerce" is defined in the Flammable Fabrics Act, fabric, as that term is defined therein, which fabric was, under Section 4 of the Flammable Fabrics Act, as amended, so highly flammable as to be dangerous when worn by individuals.

