

Complaint

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(c) Transporting or causing to be transported, for the purpose of sale or delivery after sale in commerce;

any article of wearing apparel which, under the provisions of Section 4 of the Flammable Fabrics Act, as amended, is so highly flammable as to be dangerous when worn by individuals.

2. Manufacturing for sale, selling, or offering for sale any article of wearing apparel made of fabric, which fabric has been shipped or received in commerce, and which, under Section 4 of the Flammable Fabrics Act, as amended, is so highly flammable as to be dangerous when worn by individuals.

*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.

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IN THE MATTER OF

WALTHAM WATCH COMPANY ET AL.

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

*Docket 7997. Complaint, June 24, 1960—Decision, June 15, 1962*

Order requiring a Chicago importer of clocks from West Germany—actually a successor by a “spin-off” in reorganization of the original Waltham Watch Company of Massachusetts to certain rights to use the “Waltham” trade name—and the sole distributor of the clocks, to cease using the word “Waltham” without clear notice that their products were not manufactured by the well-known Waltham Watch Co. of Waltham, Mass. (presently in business under another name); and requiring said distributor to cease making numerous false claims in connection with its franchise distributor plan whereby it sold “Waltham” clocks, together with display cases, to operators for resale to the public, including claims of exaggerated profits and misrepresentations of refund and return policies and guarantees, as in the order below more specifically set forth.

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 Waltham Watch Company, a corporation, and Harry Aronson and Lawrence Aronson, individually and as officers of said corporation, and David Singer, an individual, trading as Time Industries, and Muriel Singer, indi-

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\* As amended July 10, 1961.

vidually, 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 Waltham Watch Company is a corporation organized under the laws of the State of Delaware, with its office and principal place of business located at 231 South Jefferson Street, in the city of Chicago, State of Illinois.

Respondents Harry Aronson and Lawrence Aronson are officers of said corporate respondent. They formulate, direct and control the practices of said corporation. Their address is the same as that of the corporate respondent.

Respondent David Singer is an individual trading and doing business as Time Industries, with his office and principal place of business located at 170 West 74th Street, in the city of New York, State of New York.

Respondent Muriel Singer is an individual and acts as General Manager of Time Industries with her office and principal place of business the same as that of respondent David Singer.

Respondents David Singer and Muriel Singer cooperate in the performance of the acts and practices of Time Industries, hereinafter set forth.

PAR. 2. Respondent Waltham Watch Company, prior to the spring of 1959, imported clocks from West Germany into the United States and sold said clocks to respondent David Singer: since early 1959 respondent Singer has imported the clocks bearing the Waltham name and has paid the Waltham Watch Company a royalty on all such clocks imported.

PAR. 3. Respondent David Singer, trading as Time Industries, was, and is, the sole distributor of clocks imported into the United States by Waltham Watch Company and of clocks imported directly by said David Singer, which bear the name "Waltham", under a license agreement with Waltham Watch Company, and he is now, and for some time last past has been, engaged in the sale and distribution of said clocks to distributors for resale to the public. Said clocks are sold with display cases for use by the purchasers in various locations to display the clocks for sale to the public.

In the course and conduct of its business, respondent Waltham Watch Company, for some time last past has imported said clocks from West Germany into the United States and respondent David Singer has caused said clocks, when sold, to be shipped from the State of New York to the purchasers located in various states of the United

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States. Both of said respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in said clocks, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business as aforesaid, respondents have been, and are now, in direct and substantial competition, in commerce, with corporations, firms and individuals in the sale of clocks.

PAR. 5. Respondent David Singer, with the cooperation of respondent Muriel Singer, inserts advertisements of their products in newspapers and periodicals. Persons responding to said advertisements are contacted by respondents or their agents or representatives. Said respondents or their agents or representatives then display to the prospective purchasers a variety of promotional literature and make various oral representations concerning said articles of merchandise in an effort to induce the prospective purchasers to buy said articles of merchandise. Among and typical, but not all inclusive, of the statements made in said advertisements and in circulars and other printed matter distributed to prospective purchasers are the following:

FAMOUS 109-YEAR FIRM  
ANNOUNCES NEW EXPANSION FRANCHISE PLAN

World Renowned  
WALTHAM CLOCKS

Millions buy this great brand.

You know WALTHAM is one of the four great names in watchmaking. Your grandfather did, too. WALTHAM, a great American name, backed by old world craftsmanship, for the design and styling of its clocks. WALTHAM has spent tens of millions of dollars conditioning hundreds of millions of people, over the years, to accept the WALTHAM guaranteed line of clocks.

When you become the WALTHAM Franchise Man in your town you've got a world famous name working for you, day and night, seven days a week.

WALTHAM WATCH COMPANY

invites you to participate in one of the most gigantic expansion programs ever launched . . . to share the steadily growing profits as this world renowned firm goes all out to increase distribution of its nationally advertised products.

WALTHAM CLOCKS  
Product of WALTHAM WATCH COMPANY since 1850

For the first time in the history of direct selling a famous 150-year-old company with established brand products offers you this opportunity.

YOU DO NO SELLING

Our own experienced Placement Expert contacts leading jewelry, drug, variety, food, hardware, appliance and department stores in your area.

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All the selling is done FOR YOU by our Placement Expert and Area Director in your territory.

. . . all you do is service the WALTHAM CLOCK DISPLAY Route which we have already established for you.

Absolutely no selling. We do all the work.

TO MEN INTERESTED IN LIFETIME SECURITY ASSURING EXTRA INCOME . . . *WITHOUT SELLING*

We contact leading jewelry, drug, variety, food, hardware, appliance and department stores in your area and place the handsome WALTHAM CLOCK in the most profitable locations.

You never have to place a display—you do absolutely NO SELLING.

There is no selling involved. Our experienced location directors train you fully, provide you with all the help and information you need to get started at once—so YOUR CASH INCOME STARTS IMMEDIATELY.

1959's soundest BE-YOUR-OWN-BOSS FRANCHISE.

This is the only certified money making proposition in this magazine or any other magazine which requires no selling. All you do is collect profits.

Earn 25%, 50% and even 100% on your money without interfering with your regular time of work. This extra profit will make you a rich man.

WE PROTECT YOUR MODEST INVESTMENT

Further, should you decide to retire, or for any reason whatsoever, decide to sell your valuable WALTHAM CLOCK DISPLAY FRANCHISE, you are fully protected by our combined REPURCHASE OF INVENTORY AND BONUS PLAN. In fact many times we get urgent requests from opportunity seekers begging us to buy franchises. Your WALTHAM CLOCK FRANCHISE gets more valuable every day.

Because of our Guaranteed Investment Plan, the distributor can earn the equivalent of his investment through our re-order plan, therefore we feel that it is at our discretion to exercise the approval or disapproval of an applicant. This can only be done through a personal interview with an applicant by an account executive of our company. If you are accepted you may be assured that you will be a member of a very successful field of merchandising with an excellent return derived from the sale of Waltham clocks.

If you wish to reserve your territory while you investigate our proposition further a deposit of \$50.00 will hold it \* \* \*

Guaranteed unconditionally.

PAR. 6. By and through the use of the statements in the aforesaid advertisements and others of similar import, not specifically set out herein, respondents David Singer, trading as Time Industries, and Muriel Singer, represent and have represented, directly or by implication, that:

1. Their business is a part of or connected with the old and well-known Waltham Watch Company, of Waltham, Massachusetts.
2. The clocks sold by them are manufactured by the old and well-known Waltham Watch Company, of Waltham, Massachusetts.
3. Their display cases will be located in leading drug stores, chain stores, markets and other profitable locations by respondents' repre-

sentatives, and that the purchasers themselves never have to locate these cases.

4. That no selling is required on the part of the purchaser.

5. The initial investment of the purchaser of their products is protected and guaranteed and purchasers will earn from 25% to 100% on their investments.

6. Respondents will sell their products only to a limited number of selected and qualified persons.

7. Respondents guarantee that their proposition is money making.

8. Their clocks are unconditionally guaranteed.

9. Respondents will reserve territory in which the purchasers of their products may operate.

10. Their representatives who will call upon prospective customers are account executives or executives of respondent Time Industries.

11. Respondents will train purchasers of their products in the operation of their businesses.

PAR. 7. Respondent David Singer, trading as Time Industries, and respondent Muriel Singer, and salesmen and representatives employed by them, in the course of their solicitation for the sale of said clocks have repeated the statements set out in paragraph 5 and have made additional oral statements to prospective purchasers of their said products, of which the following are typical:

1. That respondents' salesmen are executives, representatives or long time employees of the old and well-known Waltham Watch Company, of Waltham, Massachusetts.

2. That purchasers of respondents' products are granted exclusive territories within which to operate their businesses.

3. That merchandise unsold at the end of one year from date of purchase may be returned to respondents and full refund of the purchase price will be made.

4. That profits of \$30.00, \$50.00, \$80.00 or \$100.00 a week would be assured purchasers of respondents' products and that the average weekly profit of the purchasers of respondents' products is \$85.00.

5. That respondents' employees will relocate display cases if original locations are not profitable.

6. That respondents' salesmen and their wives have made large sums of money selling clocks at retail through respondents' sales plan.

7. That two to four clocks per week will be sold from each display case and that the national average is three to four clocks weekly.

8. Purchasers of respondents' products will be able to liquidate their investments within a short time through their profits, with no risk of losing their money.

PAR. 8. The aforesaid statements and representations made in the advertising matter and orally by respondents David Singer, trading as Time Industries, and Muriel Singer, and their salesmen were, and are, false, misleading and deceptive. In truth and in fact:

1. Respondents' business is not a part of or connected in any way with the old and well-known Waltham Watch Company, of Waltham, Massachusetts.

2. The Waltham clocks sold by respondents are not manufactured by the old and well-known Waltham Watch Company, of Waltham, Massachusetts.

3. The display cases are not located in leading drug stores, chain stores, markets and other profitable locations but, on the contrary, are placed in any locations which respondents' representatives can secure, and in many cases must be relocated by the purchasers if sales are to be expected.

4. Selling is required on the part of purchasers in that in relocating display cases it is necessary to sell the merchants and others to the extent that they will permit the display cases to be placed in their establishments.

5. The initial investment of purchasers is neither protected nor guaranteed and many purchasers do not earn 25% to 100% on their investments.

6. Respondents do not sell their products to a limited number of selected and qualified persons. On the contrary and as a general rule, said products will be sold to any person who will contract to purchase and has the necessary funds to pay the purchase price.

7. Respondents do not guarantee that their proposition is money making.

8. Respondents' clocks are not unconditionally guaranteed. On the contrary, the guarantee extends for only ninety days and in case repairs are necessary a service charge of \$1.25 is made, neither of which said conditions are disclosed.

9. Respondents do not reserve territory in which the purchasers of their products may operate.

10. Respondents' representatives are not account executives or executives of Time Industries, but are only salesmen.

11. Respondents provide little or no training in the operation of the business to the purchasers of their products.

12. None of respondents' salesmen are executives, representatives or employees of the old and well-known Waltham Watch Company, of Waltham, Massachusetts, nor do they have any connection with said company.

13. Purchasers of respondents' products are not granted exclusive territories within which to operate their businesses.

14. The full refund of the purchase price of unsold merchandise which is returned to respondents at the end of a year from date of purchase is not made at that time or at any other time.

15. Profits of from \$30.00 to \$100.00 a week are seldom if ever made by purchasers of respondents' products and \$85.00 is greatly in excess of the average weekly profit of the purchasers of respondents' products.

16. Respondents' employees do not relocate display cases under any circumstances.

17. Neither respondents' salesmen nor their wives engage in the sale of respondents' products at retail through respondents' plan.

18. In a great majority of cases, two to four clocks are not sold weekly from each display case and the national average of such sales is much less than three to four clocks weekly.

19. Many purchasers of respondents' products do not liquidate their investments through profits in a short time or in the period of time commensurate with the representations respecting earnings, and many persons lose substantial portions of their investments.

PAR. 9. The name "Waltham" has long been known to the public and time-keeping products bearing this name have been and are held in high esteem by the purchasing public. The name "Waltham" is clearly and distinctly printed or stamped on the dials or faces of the clocks imported by respondent Waltham Watch Company and sold to the public by purchasers from Time Industries.

The use by respondent of the name "Waltham" in connection with said clocks, unless accompanied by a clear disclosure that said clocks are made in West Germany and are not the product of Waltham Watch Company of Waltham, Massachusetts, has the tendency and capacity to lead the public into the erroneous and mistaken belief that said clocks are the product of Waltham Watch Company of Waltham, Massachusetts.

Respondent Waltham Watch Company thus places means and instrumentalities in the hands of respondents David Singer, trading as Time Industries, and Muriel Singer, whereby distributors and the public may be misled as to the origin and manufacturer of said clocks.

PAR. 10. The use by the respondents of the foregoing false, misleading and deceptive statements and representations has had, and now has, the tendency and capacity to mislead and deceive the purchasing public into the erroneous and mistaken belief that such statements were, and are, true, and the failure of respondents to disclose that

their products are not those of the old and well-known Waltham Watch Company, all have the tendency and capacity to cause substantial number of the purchasing public to purchase substantial quantities of respondents' products. As a result thereof, trade has been, and is now being, unfairly diverted to respondents from their competitors and injury has been, and is now being, done to competition in commerce.

PAR. 11. The acts and practices, 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 unfair and deceptive acts and practices, in commerce, within the intent and meaning of the Federal Trade Commission Act.

*Mr. John W. Brookfield, Jr.*, supporting the complaint.

*Mr. Ben Paul Noble*, of Washington, D.C., for respondents.

INITIAL DECISION \* BY WALTER K. BENNETT, HEARING EXAMINER

This proceeding was brought to prevent misrepresentation in the sale of West German-made clocks in commerce. One of the alleged misrepresentations involves the use of the well-known trade name Waltham.

The complaint, issued June 24, 1960, sets forth the type of advertising and other representations made by respondents David and Muriel Singer (the former trading as Time Industries), and charges that they were false and constituted unfair methods of competition and unfair and deceptive acts and practices, in commerce, in violation of Section 5 of the Federal Trade Commission Act. Waltham Watch Company, and its officers, are charged with placing the means of misrepresentation in the hands of the Singers.

By answer, respondents David and Muriel Singer denied that the representations were false and misleading but admitted that they were engaged in commerce and that there is competition. Respondents Waltham Watch Company, Harry Aronson, and Lawrence Aronson (officers of Waltham), in their answer, deny either directly or on information and belief, all of the material allegations of the complaint except purely formal allegations.

At a pre-hearing conference, which has been incorporated in the public record, counsel agreed to a number of pre-trial procedures. These procedures materially shortened the time for the hearings. Counsel for both parties are to be commended for the manner in which these procedures were agreed to and carried out. Among other matters, almost all of the advertising copy was admitted. Contractual

\*As corrected by hearing examiner's orders of December 11, 1961 and April 20, 1962.



arrangements between Waltham and Singer and also between Singer and Time Industries' distributors and salesmen were admitted. In addition, an arrangement was made to disclose the names of witnesses to the opposite party sufficiently in advance of the hearings at which they were to be called to permit opposing counsel to prepare cross-examination. Counsel agreed not to make contact with witnesses (other than respondents) called by opposing party until after they had been discharged from subpoena. Issues of commerce were also largely disposed of during pre-trial. It was conceded that Time Industries (which will hereafter sometimes be used interchangeably with David Singer) is engaged in commerce, and it is clear that Waltham Watch Company is also so engaged. (This concern will sometimes be described as Waltham.)

The written advertising so authenticated when read as a whole generally supports the allegations of the complaint.

Ten hearings were held at the instance of the Commission in New York, New York, Washington, D.C., Mobile, Alabama, and Atlanta, Georgia, commencing January 9, 1961, and concluding March 24, 1961. After considerable interval four hearings were held on behalf of respondents in Washington, D.C., and Chicago, Illinois, commencing April 28, 1961, and concluding August 24, 1961. On September 19, 1961, a hearing was held to permit counsel for respondent to record proof described in a proffer of proof which had been ruled inadmissible. No testimony was taken at that hearing, but counsel's time to file proposed findings and conclusions was extended to October 9, 1961.

Two requests for stays of proceedings were made by respondent.

The first request was made by motion filed July 3, 1961, to stay proceedings, pending an appeal from an order of the hearing examiner refusing to consolidate this proceeding with others pending against Waltham. The order was made orally at a hearing held June 30, 1961, and later formalized by order dated July 5, 1961. The Commission denied the stay by order dated July 10, 1961, and no further action was taken to appeal from the order on the motion. The second request was made by motion filed September 28, 1961, to stay all proceedings and to take an interlocutory appeal from the hearing examiner's order refusing to grant continuance of the hearing on September 19, 1961. The Commission denied permission to file an interlocutory appeal by order issued October 12, 1961.

The complaint was dismissed as against Lawrence Aronson at the conclusion of the Commission's case, there being no evidence to link him with any of the activities charged and affirmative testimony that

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he had no connection with any of them. (1056)<sup>1</sup> The complaint was also amended to conform to the proof which varied in certain unimportant particulars relating to the person responsible for importation of clocks. (1055) Decision was reserved on a motion to dismiss as to other respondents which was made at the conclusion of the Commission's case. (1061) It is now denied. Proposed Findings of Fact and Conclusions of Law were submitted on October 9, 1961. Argument thereon was held October 23, 1961, at respondents' request and all have been carefully considered.

To the extent deemed necessary to this decision, the Findings of Fact and Conclusions of Law incorporated herein in substance or in terms are accepted. Those not so incorporated are rejected as either immaterial or erroneous.

Upon consideration of the entire record herein, the hearing examiner makes the following Findings of Fact and Conclusions therefrom and Order.

## FINDINGS OF FACT

As a frame of reference for the alleged false representations, we consider first the relationship among respondents and the character of the business transacted.

*Identity and Relationship Among Defendants*

Respondent Waltham Watch Company (Waltham), is a Delaware corporation having its principal place of business at 231 So. Jefferson Street, Chicago, Illinois, which was formed in July 1957, after Waltham Watch Company of Massachusetts ceased the manufacture of watches and clocks. The owners of Waltham, during the reorganization, became entitled to the Waltham name for use with watches and clocks. From 1957 to 1959, Waltham imported clocks from West Germany bearing the Waltham name; thereafter, Singer did the importing. The Aronsons are officers of that corporation. Waltham licensed (CX-33A) respondent Singer (Time Industries) to utilize the name Waltham in the sale of clocks for a royalty fee.

Respondent Time Industries is an unincorporated business located at 170 West 74th Street, New York, New York, which was formed to merchandise "Waltham" clocks. Respondents David and Muriel Singer are man and wife. David Singer is the owner of Time Industries, while Muriel acts for him and signs much of the correspondence emanating from Time Industries as "Office and Field Manager."

*The Merchandising Operation*

Singer undertook a relatively new method of merchandising. Instead of using professional wholesalers to make contact with the retail

<sup>1</sup> References are to typewritten transcript pages unless preceded by CX or RX which refer respectively to Commission's and Respondents' exhibits.

trade, Time Industries advertised in various periodicals and newspapers for persons who would become "franchised distributors." Those who answered the advertisement were visited by a salesman from Time Industries and after some discussion were asked to sign a contract and to make a down payment. Thereafter, when full payment under the contract was made by the distributor, Time Industries placed display cases containing clocks in selected retail stores and secured an agreement from the distributor that the locations were satisfactory. The stores selected executed a consignment agreement whereby the clocks remained the property of the distributor until sold by the store. The distributor, under his contract, "serviced" the "route" by collecting from the retailer the purchase price of the clocks which the retailer sold less  $33\frac{1}{3}$  percent, and by replacing the clocks sold by the retail store in display cases which were provided for the retailers. This necessitated maintaining an inventory or reordering clocks. A bonus of clocks was provided for distributors who reordered over \$500 wholesale value of clocks in a year, and the clocks were guaranteed originally by Waltham but later by Time Industries.

#### *The Representations*

As charged in the complaint, Time Industries (i.e., David Singer assisted by his wife Muriel) was responsible for the issuance of false representations both by means of advertisements and through salesmen and representatives. Waltham and its officers were charged with aiding the Singers by placing in their hands the instrumentality to commit the fraud on the public, i.e., importing until 1959 the clocks with the Waltham imprint and then authorizing the Singers to import clocks with the Waltham imprint and to represent themselves as selling Waltham clocks.

Many of the false representations were made both in the advertising for which the Singers admittedly bear full responsibility and also by various salesmen for whose statements the Singers sought to avoid responsibility. The scheme to avoid responsibility was the execution of a contract making the salesmen "independent contractors." The contract provides that salesmen should not obligate Singer "by representation, promise, act or in any manner except as herein specifically authorized." However, the Singers clothed their salesmen with apparent authority by advertising—"for details of our dynamic plan a representative of our firm will contact you and explain in detail all necessary information,"—(CX-64) and the contract was not disclosed to the distributors who bought the franchises. Hence, the unilateral action within Time Industries, coupled with the acceptance

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of the benefits of the salesmen's efforts, completely thwarted the Singers' attempt to avoid responsibility. Moreover, the representations by the salesmen closely meshed with the advertising material supplied by Time Industries so as to create in the minds of the victims a single consistent rosy picture of prospects for profit from the sale of a well-known product without effort, and, further to indicate that the operation was guaranteed by a well-known manufacturer. These representations were not true and some of them could not have been realized. Typical of statements made in the written advertisements are the following:

FAMOUS 109-YEAR FIRM  
ANNOUNCES NEW EXPANSION FRANCHISE PLAN  
World Renowned  
WALTHAM CLOCKS

Millions buy this great brand (CX-6)

You know WALTHAM is one of the four great names in watchmaking. Your grandfather did, too. WALTHAM, a great American name, backed by old world craftsmanship, for the design and styling of its clocks. WALTHAM has spent tens of millions of dollars *conditioning* hundreds of millions of people, over the years, to accept the WALTHAM guaranteed line of clocks. (CX-6)

When you become the WALTHAM Franchise Man in your town you've got a world famous name working for you, day and night, seven days a week.

(CX-6)

WALTHAM WATCH COMPANY

invites you to participate in one of the most gigantic expansion programs ever launched . . . to share the steadily growing profits as this world renowned firm goes all out to increase distribution of its nationally advertised products in local areas throughout the country. (CX-2)

WALTHAM CLOCKS

Product of WALTHAM WATCH COMPANY since 1850 (CX-2)

For the first time in the history of direct selling a famous 150-year-old company with established national brand products offers you this opportunity.

(CX-21)

YOU DO NO SELLING

Our own experienced Placement Expert contacts leading jewelry, drug, variety, food, hardware, appliance and department stores in your area. (CX-6)

All the selling is done FOR YOU by our Placement Expert and Area Director in your territory. (CX-6)

. . . all you do is service the WALTHAM CLOCK DISPLAY Route which we have already established for you. (CX-6)

Absolutely no selling. We do all the work. (CX-21)

TO MEN INTERESTED IN LIFETIME SECURITY ASSURING EXTRA INCOME . . . *WITHOUT SELLING* (CX-6)

We contact leading jewelry, drug, variety, food, hardware, appliance and department stores in your area and place THIS HANDSOME WALTHAM CLOCK DISPLAY (See illus.) in the most profitable locations. (CX12)

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You never have to place a display—you do absolutely NO SELLING (CX-2)  
 There's no selling involved. Our experienced location directors train you fully, provide you with all the help and information you need to get started at once—so YOUR CASH INCOME STARTS IMMEDIATELY. (CX-2)

1959's soundest BE-YOUR-OWN-BOSS FRANCHISE (CX-2)  
 This is the only certified money making proposition in this magazine or any other magazine which requires no selling. All you do is collect profits. (CX-2)

Earn 25%, 50% and even 100% on your money without interfering with your regular line of work. This extra profit without work will make you a rich man. (CX-2)

WE PROTECT YOUR MODEST INVESTMENT (CX-6)

Further, should you decide to retire, or for any reason whatsoever, decide to sell your valuable WALTHAM CLOCK DISPLAY FRANCHISE, you are fully protected by our combined REPURCHASE OF INVENTORY AND BONUS PLAN. In fact many times we get urgent requests from opportunity seekers begging us to buy franchises. Your WALTHAM CLOCK FRANCHISE *gets more valuable everyday.* (CX-6)

Applicants who can qualify are being appointed as Local Distributors. Must be responsible, permanent resident, have use of a car, devote at least 6 hours weekly to this dynamic merchandising plan. References and a minimum investment of \$1190.00 to \$4780.00 cash available immediately which is protected by our Combined Bonus & Repurchase Plan. Applicants will be accepted after a local personal interview with a company executive. Write today giving name, address, phone number and background. Kindly do not apply unless you can meet all requirements. (CX-17)<sup>2</sup>

If you wish to reserve your territory while you investigate our proposition further a deposit of \$50.00 will hold it \* \* \* (CX-1b)

Unconditionally Guaranteed. (CX-14)

From reading of the advertisements<sup>3</sup> as well as from the testimony of the purchasers of the franchises, it is clear that respondents have represented directly or by implication that:

1. Their business is a part of or connected with the old and well-known Waltham Watch Company, of Waltham, Massachusetts.
2. The clocks sold by them are manufactured by the old and well-known Waltham Watch Company, of Waltham, Massachusetts.
3. Their display cases will be located in leading drug stores, chain stores, markets and other profitable locations by respondents' representatives, and that the purchasers themselves never have to locate these cases.

<sup>2</sup>The third from the last quotation in Paragraph Five of the Complaint was not contained in the advertising received in evidence. A similar representation is quoted from an advertisement in the June 29, 1959 issue of *Financial World* (CX-17).

<sup>3</sup>Advertisements in addition to those cited by Exhibit Number contained one or more representations in a similar vein. The following Exhibits have been examined for a cross-section of the advertising program: (CX-1a, 1b, CX-2, CX-4, CX-6, CX-7, CX-8, CX-9, CX-12, CX-13, CX-14, CX-15, CX-19, CX-21, CX-22, CX-24, CX-25a, b, CX-26, CX-50, CX-57, CX-59 and CX-64).

