

Complaint

75 F.T.C.

IN THE MATTER OF

GIANT TELEVISION COMPANY, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-1512. Complaint, Apr. 3, 1969--Decision, Apr. 3, 1969*

Consent order requiring a Washington, D.C., retailer of TV sets and other small appliances to cease falsely advertising the terms of its credit sales, failing to deliver copies of sales contracts to their customers and failing to disclose that such contracts might be sold to a finance company.

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 Giant Television Company, Inc., a corporation, and James A. Taylor, 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. Giant Television Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the District of Columbia, with its principal office and place of business located at 4019 South Capitol Street, SW., in the city of Washington, District of Columbia.

Respondent James A. Taylor is an individual and an officer of the corporate respondent. He formulates, directs and controls the acts and practices 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 now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of television sets, radios, stereos, radio/television/stereo combinations or other articles of merchandise to the public at retail.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, their said merchandise, when sold, to be shipped from their place

of business in the District of Columbia to purchasers thereof located in various States of the United States and in the District of Columbia, and 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.

PAR. 4. In the conduct of their aforesaid business, and for the purpose of inducing the purchase of their merchandise, the respondents have represented in advertisements inserted in newspapers of general interstate circulation that purchasers of respondents' merchandise can purchase such merchandise by making nominal weekly credit or installment payments, such as, \$1.75 per week.

PAR. 5. In truth and in fact, it is not respondents' practice to permit purchasers of their merchandise to purchase such merchandise by making the aforesaid nominal weekly credit or installment payments.

Therefore, the representation set forth in Paragraph Four above is false, misleading and deceptive.

PAR. 6. In the course and conduct of their business, and in furtherance of a deceptive sales program for inducing the purchase of their merchandise, respondents have engaged in and are now engaging in the following unfair and deceptive acts and practices:

1. Respondents have secured the signatures of purchasers of respondents' merchandise on conditional sale contracts which state only the number of installment payments and the amount to be paid at each installment. Said purchasers are not informed of the total amount of indebtedness incurred by purchasing said merchandise on credit.

2. Respondents have failed to disclose to the purchasers of their merchandise the material fact that the conditional sale contracts executed by said purchasers may, at the option of respondents, be negotiated or assigned to a finance company to which the purchaser will be indebted.

3. Respondents have failed to supply certain purchasers with a copy of the executed conditional sale contract at the time of consummation of the sale.

PAR. 7. In the conduct of their business, at all times mentioned herein, respondents have been, and now are, in substantial competition, in commerce, with corporations, firms and individuals in the sale of television sets, radios, stereos, radio/television/

stereo combinations or other articles of merchandise 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 representations, acts 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 representations were and are true and into the purchase of substantial quantities of respondents' merchandise 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 thereafter 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 respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes

the following jurisdictional findings, and enters the following order:

1. Respondent Giant Television Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the District of Columbia, with its office and principal place of business located at 4019 South Capitol Street, SW., in the city of Washington, District of Columbia.

Respondent James A. Taylor is an officer of said corporation and his 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 Giant Television Company, Inc., a corporation, and its officers, and James A. Taylor, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of television sets, radios, stereos, radio/television/stereo combinations or 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 specific periodic consumer credit amount or installment amount can be arranged unless the respondents usually and customarily arrange credit payments or installments for that period and in that amount.

2. Failing or refusing to disclose the exact amount of the total purchase price of merchandise, including all interest, credit or service charges, at the time the contract for the sale of such merchandise is executed by the purchaser or purchasers.

3. Failing to orally disclose prior to the time of sale, and in writing on any conditional sale contract, or other instrument of indebtedness executed by a purchaser, and with such conspicuousness and clarity as is likely to be observed and read by such purchaser, that:

Any such instrument, at respondents' option and without notice to the purchaser, may be discounted, negotiated or assigned to a finance company or other third party to which the purchaser will thereafter be

indebted and against which the purchaser's claims or defenses may not be available.

4. Failing or refusing to supply purchasers of respondents' merchandise with a copy of the executed conditional sale contract or other agreement at the time of execution by the purchaser.

5. Failing to deliver a copy of this order to cease and desist to all present and future employees engaged in the promotion and sale of respondents' merchandise or services, and failing to secure from each such employee a signed statement acknowledging receipt of said order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

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

GAIETY SPORTSWEAR, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE TEXTILE FIBER PRODUCTS
IDENTIFICATION ACTS

Docket C-1513. Complaint, Apr. 3, 1969—Decision, Apr. 3, 1969

Consent order requiring a New York City manufacturer of ladies' apparel to cease misbranding its textile fiber products and failing to maintain required records.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Textile Fiber Products Identification Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Gaiety Sportswear, Inc., a corporation, and Eugene Zachary, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the

Rules and Regulations promulgated under the Textile Fiber Products Identification Act, and it now 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 Gaiety Sportswear, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 130-29 180th Street, Queens, New York.

Individual respondent Eugene Zachary is an officer of said corporate respondent. He formulates, directs and controls the acts, practices and policies of said corporate respondent, including the acts and practices hereinafter referred to. The office and principal place of business of said individual respondent is 130-29 180th Street, Queens, New York.

Respondents are engaged in the manufacture and sale of ladies' apparel.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the introduction, manufacture for introduction, sale, advertising, and offering for sale, in commerce, and in the transportation or causing to be transported in commerce, and in the importation into the United States, of textile fiber products; and have sold, offered for sale, advertised, delivered, transported and caused to be transported textile fiber products, which have been advertised or offered for sale in commerce; and have sold, offered for sale, advertised, delivered, transported and caused to be transported, after shipment in commerce, textile fiber products, either in their original state or contained in other textile fiber products; as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act.

PAR. 3. Certain of said textile fiber products were misbranded by the respondents within the intent and meaning of Section 4(a) of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, in that they were falsely and deceptively stamped, tagged, labeled, invoiced, advertised, or otherwise identified as to the name or amount of the constituent fibers contained therein.

Among such misbranded textile fiber products, but not limited thereto, were textile fiber products (fabric) with labels which set forth the fiber content as 64% Acetate 29% Cotton 7% Rub-

ber whereas, in truth and in fact, the said fabric contained substantially different fibers and amounts of fibers than represented.

PAR. 4. Certain of such textile fiber products were further misbranded by respondents in that they were not stamped, tagged, labeled, or otherwise identified to show each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act, and in the manner and form prescribed by the Rules and Regulations promulgated under said Act.

Among such misbranded textile fiber products, but not limited thereto, were textile fiber products with labels which failed:

1. To disclose the true generic names of the fibers present; and
2. To disclose the true percentage of such fibers.

PAR. 5. Respondents have failed to maintain proper records showing the fiber content of the textile fiber products manufactured by them, in violation of Section 6(a) of the Textile Fiber Products Identification Act and Rule 39 of the Regulations promulgated thereunder.

PAR. 6. The acts and practices of the respondents as set forth above were and are in violation of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, and constituted and now constitute unfair and deceptive acts and practices, and unfair methods of competition in commerce, within the intent and meaning 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 thereafter with a copy of a draft of complaint which the Bureau of Textiles and Furs 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 Textile Fiber Products Identification 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 respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Gaiety Sportswear, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 130-29 180th Street, Queens, New York.

Respondent Eugene Zachary is an officer of said corporation and his 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 respondent Gaiety Sportswear, Inc., a corporation, and its officers, and Eugene Zachary, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, manufacture for introduction, sale, advertising, or offering for sale in commerce, or the importation into the United States of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported, of any textile fiber product, which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported, after shipment in commerce of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by:

1. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising or otherwise identifying such products as to the name of amount of the constituent fibers contained therein.

2. Failing to affix a stamp, tag, label or other means of identification to each such product showing in a clear, legible and conspicuous manner each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

B. Failing to maintain and preserve for at least three years proper records showing the fiber content of textile fiber products manufactured by them, as required by Section 6(a) of the Textile Fiber Products Identification Act and Rule 39 of the Regulations promulgated thereunder.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

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

GBM CORPORATION TRADING AS U.S. CONSTRUCTION CO.,
ET AL.

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

Docket C-1514. Complaint, Apr. 3, 1969—Decision, Apr. 3, 1969

Consent order requiring a Rockford, Ill., home improvement corporation to cease falsely representing that prospects' homes are specially selected, that they will be used as model homes, that purchasers are granted special reduced prices, and that the firm is affiliated with the United States Steel Company.

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 GBM Corporation, a corporation, trading and doing business as U.S. Construction Co., and Jesse D. Gregg and Del L. Young, 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 GBM Corporation 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 1603 Seventh Street, Rockford, Illinois. The aforesaid company was originally incorporated and did business at the above address as G & M Siding and Roofing Company. In the course and conduct of its business, hereinafter set forth, GBM Corporation has also used the trade name of U.S. Construction Co.

Respondents Jesse D. Gregg and Del L. Young 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 advertising, offering for sale, sale and distribution of residential aluminum and steel siding products to the general public and in the installation thereof.

PAR. 3. In the course and conduct of their business as aforesaid, 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 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 aforesaid business and for the purpose of inducing the purchase of their products, respondents and their salesmen or representatives have represented, and now represent, directly or by implication, in advertising and promotional material and in oral solicitations to prospective purchasers, that:

1. Homes of prospective purchasers have been specially selected as model homes for the installation of the respondents'

products; that after installation such homes will be used for demonstration and advertising purposes by respondents; and, that as a result of allowing their homes to be used as models, purchasers will be granted reduced prices or will receive allowances, discounts or commissions.

2. Respondents' products are being offered for sale at special or reduced prices, and that savings are thereby afforded purchasers from respondents' regular selling prices.

3. Respondents or their salesmen are connected or affiliated with the United States Steel Company.

4. Respondents' siding materials and installations are "guaranteed" thereby representing that said products are unconditionally guaranteed in every respect for an unlimited period of time.

PAR. 5. In truth and in fact:

1. Homes of prospective purchasers are not specially selected as model homes for the installation of respondents' products; after installations such homes are not used for demonstration and advertising purposes by respondents; and purchasers as a result of allowing or agreeing to allow their homes to be used as models are not granted reduced prices nor do they receive allowances, discounts or commissions.

2. Respondents' products are not being offered for sale at special or reduced prices, and savings are not thereby afforded respondents' customers because of a reduction from respondents' regular selling prices. In fact, respondents do not have a regular selling price but the prices at which respondents' said products are sold vary from customer to customer depending on the resistance of the prospective purchasers.

3. Neither respondents nor their salesmen are connected or affiliated with the United States Steel Company.

4. Respondents' siding materials and installations are not unconditionally guaranteed in every respect without condition or limitation for an unlimited period of time or for any other period of time. Such guarantee as may be provided is subject to numerous terms, conditions and limitations, and fails to set forth the nature and extent of the guarantee, the identity of the guarantor and the manner in which the guarantor will perform thereunder. Furthermore, in a substantial number of cases, respondents or their salesmen fail to furnish any written guarantee to the customer.

Therefore, the statements and representations as set forth in

Paragraph Four hereof were and are false, misleading and deceptive.

PAR. 6. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and now are, in substantial competition, in commerce, with corporations, firms and individuals in the sale of steel and aluminum residential siding and other products of the same general kind and nature as that sold by respondents.

PAR. 7. The use by the 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 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. 8. 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 thereafter 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 respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue

stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent GBM Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 1603 Seventh Street, Rockford, Illinois.

Respondents Jesse D. Gregg and Del L. Young 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 GBM Corporation, a corporation, trading and doing business as U.S. Construction Co., or under any other name or names, and its officers, and Jesse D. Gregg and Del L. Young, 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 advertising, offering for sale, sale, distribution or installation of residential aluminum or steel siding or other home improvement products or services, or any other products, 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 the home of any of respondents' customers or prospective customers has been selected to be used or will be used as a model home, or otherwise, for advertising purposes.

2. Representing, directly or by implication, that any reduced price, allowance, discount, commission or other compensation is granted by respondents to purchasers in return for permitting or agreeing to allow the premises on which respondents' products are installed to be used for model homes or demonstration purposes.

3. Representing, directly or by implication, that any price for respondents' products is a special or reduced price, unless

such price constitutes a significant reduction from an established selling price at which such products have been sold in substantial quantities by respondents in the recent regular course of their business; or misrepresenting, in any manner, the savings available to purchasers.

4. Representing, directly or by implication, that respondents or their salesmen are connected or affiliated with the United States Steel Company; or misrepresenting in any manner, the identity of the manufacturer or the source of any of respondents' products or the business connections or affiliations of respondents or their salesmen.

5. Representing, directly or by implication, that any of respondents' 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; or making any direct or implied representation that any of respondents' products are guaranteed unless in each instance a written guarantee is given to the purchaser containing provisions fully equivalent to those contained in such representations.

6. Failing to deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of respondents' products or services, and failing to secure from each such salesman or other person a signed statement acknowledging receipt of said order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

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

MONIQUE FUR CORP., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS

Docket C-1515. Complaint, Apr. 3, 1969—Decision, Apr. 3, 1969

Consent order requiring a New York City manufacturing furrier to cease

