

IN THE MATTER OF
ACE WINDOW SCREEN CO. OF AMERICA, INC.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 5687. Complaint, Aug. 11, 1949—Decision, Mar. 3, 1950

Where a corporation engaged in the manufacture and interstate sale and distribution of a coated screen wire designated "Aluma-Kote"—

- (a) Represented, directly and by implication, through statements on carton containers, on invoices, and in advertisements in periodicals, circulars, pamphlets and other advertising literature, that said wire was coated with pure aluminum and was therefore long lasting, and that tests had shown it to be one of the finest grades of screen wire on the market; and
- (b) Represented through the use of the words "Aluma-Kote" as a term or trade name applied to its said product, that the screen was coated with pure aluminum, and through the use of the word "Everlast" in connection therewith, that it was a product of special and outstanding durability;

The facts being that said product was not coated with pure aluminum, but was sprayed with a solution of three-fourths varnish or shellac and one-fourth powdered aluminum; such coating, when exposed to the elements, peels off or is otherwise destroyed in a relatively short time and does not significantly increase the durability of the screen wire to which applied; and no reliable tests had been conducted which demonstrated that the product was one of the finest on the market, or that the coating thereon had any significant effect in increasing its durability;

With tendency and capacity to mislead and deceive a substantial number of retailers and a substantial portion of the purchasing public, into the erroneous belief that said representations were true, and of thereby inducing their purchase of said product; and with result of placing in the hands of retailers a means whereby they were enabled to mislead and deceive the purchasing public into the erroneous belief that such claims were true:

Held, That such acts and practices, under the circumstances set forth, were all to the injury and prejudice of the public, and constituted unfair and deceptive acts and practices in commerce.

Mr. George M. Martin for the Commission.

Mr. Paul P. Preston, of Chicago, Ill., for respondent.

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 the Ace Window Screen Co. of America, Inc., a corporation, hereinafter referred to as 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 is a corporation with its principal office and place of business located at 1634 South Pulaski Road, Chicago 23, Ill.

PAR. 2. Respondent is now and for more than one year last past has been engaged in the manufacture, offering for sale, sale and distribution of screen wire designated by it as "Aluma-Kote." Respondent causes its said product, when sold to be transported from its aforesaid place of business in Illinois to purchasers thereof located in various other States of the United States. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in its said product in commerce among and between the various States of the United States.

PAR. 3. In the course and conduct of its aforesaid business, and for the purpose of promoting the sale of its said product in commerce, respondent has made certain statements, representations and claims concerning said product on the cartons in which the product is delivered and on its invoices and by means of advertisements inserted in periodicals and in circulars, pamphlets and other advertising literature. Among and typical of said statements, representations, and claims are the following:

Aluma-Kote Screen Wire

Everlast Aluma-Kote Screen Wire

Everlast Aluma-Kote is a fine mesh screen wire with a long-lasting aluminum coating. This material has been pre-tested and found to be one of the finest grades of screen wire on the market today.

PAR. 4. Through the use of the aforesaid claims and representations, respondent represented, directly or by implication that its said screen wire is coated with pure aluminum and for this reason is long lasting, that tests have shown it to be one of the finest grades of screen wire on the market. Further, respondent through the use of the trade name or term "Aluma-Kote" represented that its said product is coated with pure aluminum and through the use of the word "Everlast," represented that said product has exceptional and outstanding durability.

PAR. 5. The foregoing claims and representations are false, misleading and deceptive. In truth and in fact, said product is not coated with pure aluminum but is coated by spraying with a solution of approximately three-fourths varnish or shellac and one-fourth powdered aluminum. This coating, when exposed to the elements, peels off or is otherwise destroyed in a relatively short period of time and

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the durability or lasting qualities of the screen wire are not significantly increased by said coating. No reliable or authentic tests have been made which demonstrate that this product is one of the finest grades of screen wire on the market and particularly that the coating makes said product durable or long lasting.

PAR. 6. The use by the respondent of the false, misleading and deceptive representations, statements and advertisements herein set forth has a tendency and capacity to mislead and deceive a substantial number of retail dealers and members of the purchasing public into the erroneous and mistaken belief that such statements and representations are true and induces a substantial portion of retail dealers and members of the purchasing public because of such erroneous and mistaken belief to purchase respondent's said screen wire. The use by respondent of these aforesaid representations and statements serves also to place in the hands of retail dealers an instrumentality whereby unscrupulous dealers may be enabled to mislead and deceive the purchasing public into the erroneous and mistaken belief that such representations and statements are true.

PAR. 7. The aforesaid acts and practices of the respondent, as herein alleged, are all to the prejudice and injury to the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on August 11, 1949, issued, and subsequently served, its complaint in this proceeding upon the respondent, Ace Window Screen Co. of America, Inc., a corporation, charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On November 23, 1949, respondent filed its answer admitting all the material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearing as to said facts. Thereafter, this proceeding regularly came on for final hearing before the Commission on said complaint and answer, and the Commission, having duly considered the matter and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Ace Window Screen Co. of America, Inc., is a corporation with its principal office and place of business located at 1634 South Pulaski Road, Chicago, Ill. It is now, and for more than 1 year last past has been, engaged in manufacturing, offering for sale, selling, and distributing a coated screen wire designated "Aluma-Kote."

PAR. 2. In the course and conduct of its aforesaid business, respondent causes, and has caused, its said coated screen wire, when sold, to be shipped and transported from its place of business in the State of Illinois to purchasers thereof at their respective points of location in other states of the United States; and maintains, and at all times mentioned herein has maintained, a course of trade in said coated screen wire in commerce among and between the various States of the United States.

PAR. 3. (a) In carrying on its business as aforesaid, and for the purpose of promoting the sale of its coated screen wire in commerce, respondent has made, and caused to be made, certain statements, representations, and claims concerning said product. Such statements, representations, and claims have appeared, and now appear, on cartons in which said product is delivered, on invoices of respondent, and in advertisements inserted in periodicals, circulars, pamphlets, and other advertising literature. Among and typical of said statements, representations, and claims are the following:

Aluma-Kote Screen Wire

Everlast Aluma-Kote Screen Wire

Everlast Aluma-Kote is a fine mesh screen wire with a long lasting aluminum coating. This material has been pre-tested and found to be one of the finest grades of screen wire on the market today.

(b) By and through the use of the aforesaid statements, representations, and claims, respondent represents, and has represented, directly and by implication, that its said screen wire is coated with pure aluminum and that for this reason it is long-lasting, and that tests have shown it to be one of the finest grades of screen wire on the market. By and through the use of the word "Aluma-Kote" as a term or trade name applied to its coated screen wire, respondent represents, and has represented, directly and by implication, that its said product is coated with pure aluminum, and through the use of the word "Everlast" in connection therewith has represented that it is a product of exceptional and outstanding durability.

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PAR. 4. The foregoing statements, representations, and claims are false, misleading, and deceptive. In truth and in fact, respondent's coated screen wire is not coated with pure aluminum. A solution composed of approximately three-fourths varnish or shellac and one-fourth powdered aluminum is sprayed on as a coating. Such a coating, when exposed to the elements, peels off or is otherwise destroyed in a relatively short period of time and does not significantly increase the durability or lasting qualities of the screen wire to which it is applied. No reliable or authentic tests have been conducted which prove or demonstrate that respondent's coated screen wire is one of the finest grades of screen wire on the market or that the coating thereon has any significant effect in increasing the durability or lasting qualities of said product.

PAR. 5. The use by respondent of the aforesaid false, misleading, and deceptive statements, representations, and claims has had, and now has, the tendency and capacity to mislead and deceive a substantial number of retail dealers purchasing respondent's product for resale and a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements, representations, and claims are true, and causes a substantial portion of said dealers and of said purchasing public, because of such erroneous and mistaken belief, to purchase respondent's coated screen wire. By said acts and practices respondent also places in the hands of retail dealers a means and instrumentality whereby they are enabled to mislead and deceive the purchasing public into the erroneous and mistaken belief that said statements, representations, and claims are true.

CONCLUSION

The acts and practices of respondent as herein found are all to the injury and prejudice of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, Ace Window Screen Co. of America, Inc., a corporation, in which answer said respondent admits all the material allegations of fact set forth in the complaint and waives all intervening procedure and further hearing as to said facts; and the Commission having made

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its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That respondent, Ace Window Screen Co. of America, Inc., a corporation, its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of its coated screen wire designated "Everlast Aluma-Kote" or any other product of substantially similar composition or possessing substantially similar properties, whether sold under the same name or any other name or names, do forthwith cease and desist from directly or indirectly:

1. Representing that said screen wire is coated with aluminum.
2. Representing that the coating on said screen wire materially increases its durability or lasting qualities.
3. Representing that any tests have been conducted to prove or demonstrate that said screen wire is one of the finest grades of screen wire on the market or that the coating thereon has any significant effect in increasing the durability or lasting qualities thereof.
4. Using the word "Aluma-Kote" or any other word or words of similar import or meaning, either alone or in combination with any other word or words, to designate, describe, or refer to screen wire or any other similar product which is not, in fact, coated with aluminum.

It is further ordered that the respondent shall, within 60 days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

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IN THE MATTER OF
ELIZABETH Y. COUNCILL DOING BUSINESS AS BAKER
POTTERY COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 5706. Complaint, Oct. 26, 1949—Decision, Mar. 3, 1950

Where an individual with place of business in Salisbury, N. C., engaged in the interstate sale and distribution of chinaware, earthenware, and other kinds of pottery through traveling salesmen whose orders were forwarded by her to one of several Ohio pottery factories, and filled by shipment to the purchaser under her trade name—

Represented that she owned, controlled, or operated factories in which her products were made, and maintained offices at locations elsewhere than in Salisbury, through letterheads on which were printed, in connection with her said trade name, the words "Southern Office: Salisbury, North Carolina," and through use of a printed invoice form bearing same legend, and the words "Factories: Sebring, Ohio; Scio, Ohio; Minerva, Ohio; Salem, Ohio;

When in fact she was a jobber only, had always purchased her products from others and resold them, and maintained no office other than that in Salisbury;

With tendency and capacity to mislead and deceive a substantial number of retail dealers—among whom a substantial portion prefers to deal directly with manufacturers in the belief that better prices and service and other advantages may thus be obtained—and thereby to cause them to purchase substantial quantities of her products;

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice of the public and constituted unfair and deceptive acts and practices in commerce.

Mr. Edward F. Downs for the Commission.

Linn & Shuford, of Salisbury, N. C., for respondent.

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 Elizabeth Y. Councill, doing business as Baker Pottery Co., hereinafter referred to as 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: