

Order

48 F. T. C.

IN THE MATTER OF

THE MASONITE CORP.

MODIFIED ORDER TO CEASE AND DESIST

Docket 2614. Order, Aug. 3, 1951

Order modifying original order of November 6, 1937, 25 F. T. C. 1320, so as to require respondent, in connection with the offer, etc. of its wall board and wall covering in commerce, to cease and desist from the use of the words "Temprtile" or "tile" as below set forth and subject to the qualifications therein stated.

Before *Mr. Charles F. Diggs*, *Mr. John J. Keenan*, and *Mr. John L. Hornor*, trial examiners.

Mr. Morton Nesmith and *Mr. George M. Martin* for the Commission.
Dyke & Schaines, of New York City, and *Mr. David W. Knight*, of Chicago, Ill., for respondents.

Hines, Rearick, Door & Hammond, of New York City, for Tile Manufacturers' Association, Inc., amicus curiae.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence in support of the allegations of the complaint and in opposition thereto, taken before a trial examiner of the Commission theretofore duly designated by it, no briefs being filed and oral argument not having been requested, and the Commission, having made its findings as to the facts and its conclusion that said respondent had violated the provisions of the Federal Trade Commission Act, on November 6, 1937, issued and subsequently served upon the respondent said findings as to the facts, conclusion, and its order to cease and desist.

Thereafter, pursuant to a motion filed by counsel in support of the complaint and agreed to by respondent, the Commission reconsidered the matter, and being of the opinion that its order to cease and desist issued on November 6, 1937, should be modified in certain respects:

It is ordered, That the respondent, The Masonite Corp., a corporation, its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of its wallboard and wall covering in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing:

Directly or indirectly, by the use of the words "Temprtile" or "tile" that its products are "tile," unless either the true composition of said products or the fact that they are not ceramic products is plainly disclosed.

It is further ordered, That the respondent named above shall, within sixty (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.

NOTE.—In the original order, respondent, its officers, etc., were required to cease and desist from representing in connection with the offer, etc., of its said products (made from wood chips and other substances, through a process which resulted in a hard, durable sheeting upon which were scored or stamped squares, which, when painted or lacquered by others, resembled the mortar lines upon completely installed ceramic surface)—

"1. Directly or indirectly, by the use of the words, 'Temprtile' or 'tile' that its products are 'tile' unless in immediate conjunction with the words 'Temprtile' or 'tile' wherever used, in the same conspicuous type, there appear a word or words designating the material or substance of which the products are made, such as wood tile, glass tile, rubber tile, asbestos tile, copper tile, cork tile, or metal tile."

IN THE MATTER OF

QUAKER DISTRIBUTORS, INC., ET AL.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 5673. Complaint, July 1, 1949—Decision, Aug. 6, 1951*

Where a corporation and its five officers, engaged in the intersale and distribution of "Honor-Craft Aluminum Cookware" and "American Healthcraft Aluminum Ware" through house-to-house canvassers—usually under a crew manager, working on a commission basis; in delivering products ordered, through deliverymen whom it paid on a straight salary basis; and in carrying on their business, under a procedure and in accordance with a practice whereby the initial deposit—refunded in most cases, with cancellation of the order, in the event misrepresentation was claimed and the deliveryman was unable to induce the customer to accept the ware on its merits—was in most cases not refunded after delivery, and irrespective of whether there was misrepresentation in effecting the sale—

- (a) Represented falsely through their salesmen, in order to obtain an interview and an opportunity to sell the merchandise concerned, that they were conducting surveys or polls for the Philadelphia Inquirer or some other newspaper, or in connection with the sale of nationally advertised merchandise on behalf of Procter & Gamble, Lever Bros., and the Campbell Soup Co.;
- (b) Represented falsely that the prospective purchaser could obtain a set of their said ware at a greatly reduced price by clipping coupons from newspapers or by sending in box tops or wrappers taken from designated merchandise such as Ivory soap; and
- (c) Represented falsely to prospective purchasers that the price charged for their said ware was a substantial reduction from the retail price and made for the purpose of saving income taxes;

With the result that a substantial number of purchasers were thereby induced to purchase their said aluminum ware in the belief that they were participating in a survey or poll and were obtaining it at a substantial reduction in price;

- (d) Represented that their aluminum ware could be used for the preparation of food without the addition of water and that it, therefore, was of substantial value in protecting health by saving vitamins and minerals;

The facts being that while less water is needed in cooking vegetables with their products than when cooking in an open pot or lighter weight pot, and there was some saving in vitamins and minerals, it is necessary, with some exceptions, to add water to obtain satisfactory results; and

- (e) Made use of the address "Veterans Administrative Mgr." etc., in an advertisement placed in the Philadelphia Inquirer in connection with the obtaining of salesmen to sell their said ware;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public and thereby induce its purchase of substantial quantities of their said 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.