

IN THE MATTER OF
LOUIS BUCHWALTER ET AL. TRADING AS NATIONAL
FEATHER & DOWN COMPANY

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

Docket 6132. Complaint, Oct. 28, 1953—Decision, June 30, 1955

Order requiring manufacturers in Brooklyn, N. Y., to cease misrepresenting the down and feather content of their pillows on labels affixed thereto or otherwise.

Mr. Ames W. Williams for the Commission.

Davidson, Cohen & Zelkin, of New York City, for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges that the respondents have violated the provisions of the Federal Trade Commission Act by misrepresenting the contents of feather pillows which they manufacture and distribute in commerce, and, further, that they have falsely represented that their pillows have been laboratory-tested by the National Bureau of Standards, an agency of the United States Government.

After the filing of an answer, hearings were held, in which testimony and other evidence was presented, duly recorded and filed in the office of the Commission. By stipulation all the evidence in the companion feather cases was made a part of the record in this case, except so far as such evidence relates exclusively to the identification, contents and analyses of the feather samples in each of those cases.¹ Proposed findings of fact, conclusions and order have been submitted by counsel. On the basis of the entire record, the following findings of fact are made:

1. Respondents Louis Buchwalter and Emanuel Cohen are copartners trading as National Feather & Down Company, with their office and principal place of business at 160-166 Seventh Street, Brooklyn 15, New York.

2. Respondents are now, and for more than one year last past have been engaged in the manufacture of feather pillows, which they sell to dealers for resale to the public.

Respondents have caused and now cause their pillows, when sold

¹ The companion feather cases are: Docket 6132, National Feather & Down Company; Docket 6133, The L. Buchman Co., Inc., et al.; Docket 6134, Burton-Dixie Corp., et al.; Docket 6135, N. Sumergrade & Sons, et al.; Docket 6137, Northern Feather Works, Inc., et al.; Docket 6161, The Salisbury Co., et al.; Docket 6188, Globe Feather & Down Co., et al.; and Docket 6208, Sanitary Feather & Down Co., Inc., et al.

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to be transported from their place of business to purchasers thereof located in various other States of the United States. Respondents maintain and, at all times mentioned herein, have maintained a course of trade in said pillows in commerce among and between the various States of the United States.

3. In the course and conduct of their aforesaid business respondents are now, and have been, in substantial competition in commerce with other partnerships, firms, corporations and individuals engaged in the sale and distribution of feather and down products, including pillows.

4. In the course and conduct of their aforesaid business, respondents have caused labels to be affixed to certain of their pillows purporting to state and set out the kinds or types and proportions of filling materials contained therein, and have made representations with respect to their pillows designated "Gem," as follows:

All new material
consisting of
Goose Down 20%
Goose Feathers 80%,

and with respect to their pillows designated "Grace,"

All new material consisting
of Goose Feathers.

5. Through the use of the aforesaid statements, respondents have represented that the filling material in the pillows designated "Gem" is composed of 20% new goose down and 80% new goose feathers and the filling material in the pillows designated "Grace" is composed of 100% new goose feathers.

6. Two pillows of each of the above-mentioned designations were procured by a representative of the Commission at the same time from the same retail dealer, and were introduced in evidence. The contents of these pillows were analyzed by an expert for the Commission and by an expert for the respondents. The analysis made by the Commission's expert showed as follows:

	Pillow 1 (by weight)	Pillow 2 (by weight)	Computed average
	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>
Down.....	20.0	20.6	20.3
Goose feathers.....	47.9 ¹ (56.8)	56.3 ¹ (65.5)	52.1 ¹ (61.15)
Duck feathers.....	17.2 ¹ (17.6)	8.7 ¹ (9.1)	12.95 ¹ (13.35)
Chicken feathers.....	2.7	1.3	2.0
Damaged feathers.....	9.3	9.6	9.45
Feather fibers.....	1.7	2.1	1.9
Pith and scale.....	1.2	1.4	1.3
	<i>Grams</i>	<i>Grams</i>	
Amount analyzed.....	3.398	3.501	

¹ The figures in parentheses represent the total amounts of feathers of the particular designation, including the proportionate share of damaged feathers.

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Respondents' expert made but one analysis of the contents of the two pillows, which showed the following:

	<i>Percent by weight</i>
Feathers (predominantly goose).....	74.6
Down.....	24.7
Pith, scales, etc.....	0.7

With respect to respondents' pillows designated "Grace," the analyses were as follows:

	Pillow 1 (by weight)	Pillow 2 (by weight)	Computed average
By Commission's expert:	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>
Down.....	4.8	4.6	4.7
Goose feathers.....	56.2 ¹ (66.3)	64.8 ¹ (74.7)	60.5 ¹ (70.5)
Duck feathers.....	22.0 ¹ (22.7)	11.4 ¹ (13.6) (inc. 2d hand)	16.7 ¹ (18.15)
Chicken feathers.....	2.6	3.9	3.25
Damaged feathers.....	10.8	10.3	10.55
Second-hand feathers.....	None	1.8	None
Feather fibers.....	1.2	1.2	1.2
Pith and scale.....	2.4	2.0	2.2
Amount analyzed.....	<i>Grams</i> 4.837	<i>Grams</i> 4.2366	

¹ The figures in parentheses represent the total amounts of feathers of the particular designation, including the proportionate share of damaged feathers.

	<i>Percent by weight</i>
By respondents' expert:	
Feathers (predominantly goose).....	95.7
Down.....	3.2
Pith, scale, etc.....	1.1

7. Respondents, also, have featured on their tags and on certain price lists, the following statements:

LABORATORY TESTED

APPROVED

NATIONAL BUREAU

OF STANDARDS

C. D. Pomerantz, B.S. M.A.

Chemist

ALL OUR PRODUCTS ARE TESTED

AND GUARANTEED BY NATIONAL'S

BUREAU OF STANDARDS.

8. Through the use of these statements respondents represented that their pillows had been tested and approved by the National Bureau of Standards, Washington, D. C., an agency of the United States Government. The fact is that the National Bureau of Standards to which the respondents referred was a trade name registered in 1946 in the County of Kings, State of New York, under which Charles Pomerantz, Louis Buchwalter and Emanuel Cohen functioned, and the testing to which the respondents referred in the above statements was made by these men operating under this registered designation. The record

shows that this commercial National Bureau of Standards performed no work and no tests for any firms or individuals other than respondents. The representations were discontinued April 9, 1953, prior to the issuance of the complaint in this proceeding, and respondents have stated that they will not be resumed. All labels containing these representations were destroyed.

9. In determining whether or not the representations as to the pillow contents are false within the meaning of the Act, it is helpful to have an understanding of the manufacturing methods used in the feather industry.

(1) In general, three sources of feather supplies are or have been available:

(a) *The American Source*

First, there are the domestic feathers, which ordinarily are properly labeled, but are not available in sufficient quantities to meet the industry's requirements.

(b) *The European Source*

Second, there is the European source of supply from which feathers are procured, but from this source it is impossible to get unadulterated, new stock, because of a common practice of mixing second-hand feathers with new. European feathers are purchased on the basis of samples, and each manufacturer must judge from these samples the quality and type of feathers available to him.

(c) *The Oriental Source*

The third source is the Orient, from which adequate supplies may be had; but in the Orient there is no careful sorting, and a bale of feathers purchased as good feathers may contain substantial quantities of duck or chicken feathers. These feathers are usually purchased through importers and commission merchants who submit offers to manufacturers. A typical offer will show as available for purchase by respondents or other pillow manufacturers 100 bales of 200 pounds each at 90¢ per pound, the feathers being Formosan grey goose feathers, 90% clean, maximum 20% duck feathers, 5% chicken feathers, 3% quills, minimum 30% down. Oriental feathers are purchased on the basis of these representations, without sampling.

(2) After raw feathers are procured by the manufacturer they are thoroughly washed, dried and fluffed up. Then they are sorted by means of a machine which separates the various constituents of

the feather bulk by a blowing or suction process. The feathers are put through the sorting machine in lots of fifty pounds. The down, being lighter, is more readily blown over the baffle in the sorting machine, and passes into its particular bin or container. Then follow the downy-type feathers, and the various other feathers, in appropriate classifications according to weight or specific gravity, each into a specially prepared container. By this process it is reasonably practical to segregate a high percentage of down, but in down, as in the other classifications, there are always some feathers which are inappropriate to the particular classification. In the downy-type feather receptacle will be some pure down and some heavier-type feathers. Similar discrepancies will occur in each of the other classifications. It is impossible to separate feathers according to type of fowl or to remove inferior or second-hand feathers. The only possible separations are those which can be obtained by the application of the principles of specific gravity. Feathers of the same degree of lightness will go over the baffle at the same time, irrespective of the kind of fowl from which they may have been plucked, or whether they are new or used.

(3) The down and feathers thus sorted and placed in separate containers have no uniformity or homogeneity; the heavier feathers will be at the bottom, the down at the top of each container. Although there be a vigorous agitation of the feathers and down in a storage bin, the resulting mixture will at no time be of uniform content throughout, and no mixture of feathers and down is or will remain uniform or constant throughout its bulk. When a pillow order is to be made up, the manufacturer puts into the filling bin the number of bags of each type of feather requisite to obtain the desired mixture. The filling bins usually are approximately 5 x 10 x 12 feet in size, and hold up to 350 or 400 pounds of feathers. Two or three hundred pairs of pillows may be filled out of one mixture, and it is not unusual for a manufacturer to fill from twelve to fourteen hundred pairs of pillows during a day.

(4) During the filling process, the feathers are agitated by means of wooden forks, and the pillows are filled by suction. The proportion of down and feathers that go into each pillow depends partly, of course, upon the filling-bin mixture, but also to a large extent upon what part of the bin the filling suction reaches. Even with the exercise of the greatest care, pillows filled from the same bin will vary in content. Those being filled from the bottom of the bin will contain the heavier feathers, and the greater amounts of pith, scale, and other extraneous matter. The exact amount or proportion of down and feathers going into any particular pillow cannot be controlled by

mechanical means. The expert whose testimony was presented in support of the complaint stated that the contents of pillows filled from the same bin will vary as much as 30%; that the same percentage will not be found in any two pillows; and that the mixture in each pillow will vary from the mixture in the filling bin. If any one pillow should contain exactly the same percentage of feathers and down as that originally placed in the filling bin, it would be pure accident. The closest practical indication of the contents of a pillow product of a manufacturer and the correctness of its labeling will result if several different pillows are sampled, preferably pillows obtained at different times and places.

(5) The same difficulties arise in analyzing the contents of a single pillow. Except by pure accident, no two samples will have the same content; so there is no sure or positive method of measuring the contents of feather pillows with scientific accuracy, other than by taking all of the content out of the pillow and separating it into its component elements, then weighing each element. Such a process is so completely impractical that, usually, a test is made by opening the pillow-ticking and taking samples from three different portions of the pillow. These samples are thoroughly mixed and a smaller testing sample, of which the analysis is to be made, is taken from this mixture. The expert who testified in support of the complaint selected three samples from the opening by inserting his hand and reaching to different portions of the pillow. Samples selected by the respondents were obtained by taking a small quantity of feathers from each of three openings in each pillow. The hearing examiner was present when respondents' samples were taken. As each opening was made in the pillow ticking, some down escaped, and as each withdrawal was made, more down escaped before the sample could be enclosed in a container; while the feathers, being heavier and bulkier, were easier to retain. No sample can be exactly representative of the original content of the pillow, just as the content of no one pillow can be exactly representative of the original mixture in the filling bin. The average sample for analysis weighed approximately 3 grams, representing between $\frac{1}{4}$ and $\frac{1}{2}$ of 1% of the contents of a pillow, and the appearance of a single heavy feather in a sample of this size would make as much as 4% difference in the final result. This method is far from satisfactory, and the resulting percentages are not conclusive.

(6) The crushing or curling process is a manner of giving a twist or curl to landfowl feathers, such as chicken and turkey, to increase their resiliency and tend to prevent their matting, and thus improve their quality for use as pillow-filling material. The same process is

applied to waterfowl quill feathers (that is, feathers from the wings and tails of ducks and geese), which otherwise would not be suitable for pillow-filling material. A considerable amount of fiber, pith and scale result from the crushing, and are carried over into the filling mixture. As to utility, crushed landfowl feathers are better than crushed waterfowl feathers, and crushed turkey feathers are better than crushed chicken feathers. The mixture of crushed feathers is made by weighing out the proper proportions of the various kinds of crushed feathers that are to be mixed, and taking alternate handfuls of feathers from the separate containers and throwing these into the hopper of the curling or crushing machine. Because of the nature of these larger feathers, they frequently go through the hopper in lumps, so that it is impossible to get a mixture with any degree of homogeneity. Despite agitation in mixing, slugs of chicken or turkey feathers and slugs of quill feathers will get into the pillows without ever being separated or mixed. The label "Crushed Feathers," showing the types of feathers used, can indicate no more than that the mixture was made from the types or kinds of feathers stated on the label. It is impossible to separate and analyze crushed feathers accurately. A pillow filled with crushed feathers is the cheapest product of the industry, and in the minds of the general public, there is very little distinction among the various kinds of crushed feathers, whether goose, duck, chicken or turkey. The expert who testified in support of the complaint indicated that pillows filled with crushed feathers are the least desirable of all pillows, and are the lowest class of pillows on the market. In his opinion, it is impractical to attempt to distinguish between the various types of crushed feathers in any batch of such pillows, and he suggested during the course of his tests for the Commission that no further pillows filled with crushed feathers be sent to him for analysis.

(7) On the basis of the foregoing, the conclusion is inescapable that as a practical matter, the contents of feather pillows cannot be accurately labeled. In fact, to require accurate labeling as to content, of a product such as feather pillows, which, by nature, vary constantly and at random in content, is to require an impossibility. No manufacturer of feather pillows could comply with such a requirement except by analyzing the filling of each pillow individually. Obviously that is an impossible task. Incidentally, it points up the dangers involved in attempting to reach a conclusion as to pillow content on the basis of testing two pillows out of a batch that may have included one hundred or two hundred pairs of pillows.

(8) Despite these facts, however, some 28 States have labeling requirements with which pillow manufacturers must comply; and the

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Federal Trade Commission, on April 26, 1951, promulgated Trade Practice Rules for the Feather and Down Products Industry, which undertake to interpret the Act and express the Commission's policy with respect to the practices complained of in this proceeding. Although these Rules are not binding upon the hearing examiner, they should be given careful consideration in applying the law to the facts of this proceeding. The pertinent parts of those Rules applicable thereto are as follows:

RULE 3—IDENTIFICATION AND DISCLOSURE OF KIND AND TYPE OF FILLING
MATERIAL IN INDUSTRY PRODUCTS

I. In the sale, offering for sale, or distribution of industry products, it is an unfair trade practice to misrepresent or deceptively conceal the identity of the kind or type of filling material contained in any of such products, or of the kinds or types, and proportions of each, when the filling material is a mixture of more than one kind or type. Such identification and disclosure shall be made by tag or label securely affixed to the outside covering of each product and in invoices and all advertising and trade promotional literature relating to the product; and when the filling material is a mixture of more than one kind or type, each kind and type shall either be listed in the order of its predominance by weight, or be listed with an accompanying disclosure of the fraction or percentage by weight of the entire mixture which it represents.

II. Identification of the kind and type of feather and down stock by use of any of the terms listed and defined below will be considered proper when in accord with the definition set forth for such term:

Definitions:

(a) *Down*: The undercoating of waterfowl, consisting of clusters of the light, fluffy filaments growing from one quill point but without any quill shaft.

(b) *Down fiber*: The barbs of down plumes separated from the quill points.

(c) *Waterfowl feathers*: Goose feathers, duck feathers, or any mixture of goose and duck feathers.

(d) *Feathers* (or *Natural Feathers*): Bird or fowl plumage having quill shafts and barbs and which has not been processed in any manner other than by washing, dusting, and sterilizing.

(e) *Quill feathers* (or *Quills*): Wing feathers or tail feathers or any mixture of wing and tail feathers.

(f) *Crushed feathers*: Feathers which have been processed by a crushing or curling machine which has changed the original form of the feathers without removing the quill.

* * * * *

(h) *Feather fiber*: The barbs of feathers which have been completely separated from the quill shaft and any aftershaft and which are in no wise joined or attached to each other.

* * * * *

(j) *Damaged feathers*: Feathers, other than crushed, chopped, or stripped, which are broken, damaged by insects, or otherwise materially injured.

III. *Tolerance:* (a) Subject to the restrictions and limitations hereinafter set forth, the filling material of an industry product may be represented as being of but one kind or type when 85% of the weight of all filling material contained in the product is of the represented kind or type; or may be represented as being of a mixture of two or more kinds or types with accompanying disclosure of a fraction or percentage of the weight of the entire mixture represented by each if the fraction or percentage shown is not at variance with the actual proportion of the weight of the entire mixture represented by each such kind or type by more than 15% of the stated fraction or percentage. The tolerance provided for in this paragraph III is to be understood as being an allowance for error and as not embracing any intentional adulteration.)

Limitations and Restrictions

(b) When the filling material of an industry product is represented, directly or indirectly, as being wholly of down, any proportion within the tolerance percentage provided for in (a) above which is not down shall consist principally of down fiber and/or small, light, and fluffy waterfowl feathers, shall contain no quill feathers, crushed feathers, or chopped feathers, and shall not contain damaged feathers, quill pith, quill fragments, trash, or any matter foreign to feather and down stock in excess of 2% by weight of the filling material contained in the product, or which in the aggregate exceeds 5% of such weight.

* * * * *

(c) When the filling material of an industry product is represented, directly or indirectly, as being wholly of a mixture of down and feathers, or of down and more than one kind or type of feathers, or of feathers of more than one kind or type, any proportion, or the aggregate of any proportions, of the filling material of the product at variance with the representation, but within the tolerance percentage provided for in (a) above, shall not contain quill pith, quill fragments, trash, or any matter foreign to feather and down stock in excess of 2% by weight of the filling material in the product or which in the aggregate exceeds 5% of such weight; and, unless nondeceptively disclosed in the representation, not in excess of 5% by weight of the filling material of the product shall consist of crushed feathers, chopped feathers, quill feathers, or damaged feathers.

Note: It is the consensus of the industry that determination as to whether any representation is violative of the provisions of this Rule should be based on an average of the results of tests of at least two products of the same type when same are readily available for testing, * * *.

The Rules further provide that samples of equal weight and size be drawn from at least three different locations in the product; that such samples be thoroughly mixed; and that a test be made of not less than 3 grams of the mixture. Application of the law and a reasonable interpretation of these Rules to the facts of this proceeding results in the following:

Conclusions:

I. The test procedures adopted and followed by the experts who made the analyses of the pillow contents in this proceeding comply with the Trade Practice Rules.

II. Respondents' "Gem" pillows contain more than the 20% goose down which their label shows, but they do not contain 80% (or 68%, as would be required even with full tolerance) goose feathers as represented, and to this extent the labeling is faulty and the representation false.

If duck feathers and damaged feathers are added to and considered part of the goose feather content, the goose feather content would come within the 15% tolerance. Respondents contend that the damaged feathers should be included in the allowable content because the expert testifying in support of the complaint stated that he did not consider the presence of damaged feathers as adulteration, since the source of the damage is usually unknown and might have occurred after the feathers had been placed in the pillows; and further, that the damaged feathers were not in sufficient quantities to affect the utility or value of the pillows. This contention cannot be accepted. Respondents further contend that duck feathers should be considered the same as goose feathers, because duck feathers are difficult to distinguish from goose feathers, and are, in fact, worth one and one-half times more than China goose feathers. The addition of the duck feathers, it is contended, is an improvement of the product. This contention, likewise, is rejected. Neither the Rules nor the law provide that mislabeling shall become acceptable if the added, unlabeled content is of higher grade material than that stated on the label. The public is entitled to accurate labeling, and is not called upon to determine whether the added or substituted ingredients increase or decrease the value of the product in which they appear.

The respondents' test analysis shows 74.6% of the feathers "predominantly goose" in the "Gem" pillows, but since "predominantly" is not defined and there is no further breakdown of the content, this test result can be given no weight.

III. Respondents' "Grace" pillows contain less than the 85% of goose feathers allowable under the Rule, with tolerance. If duck feathers and damaged feathers be included as goose feathers, the result would be different; but, as explained under conclusion II, above, this cannot be done. Likewise, for the same reasons stated above, respondents' test report cannot be accepted.

IV. The respondents' discontinuance of the label bearing the legends "Laboratory Tested, Approved, National Bureau of Standards, C. D. Pomerantz, B. S., M. A., Chemist" and "All our products are tested and guaranteed by National's Bureau of Standards" was in good faith, and there is no reason to believe that there will ever be a resumption by the respondents of the use of this or any similar label.

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Hence the issuance of an order covering this phase of the proceeding is not required.

V. The labeling and representations hereinabove found to be false (conclusions II and III, above) constitute unfair trade practices; are to the prejudice and injury of the public; and constitute unfair and deceptive acts and practices and unfair methods of competition in commerce.

VI. The use by respondents of the false and misleading statements on the labels affixed to their pillows has had and now has the tendency **and capacity to mislead and deceive dealers and the purchasing public** into the erroneous and mistaken belief that such statements are true, and to induce the purchase of substantial quantities of their said pillows because of such erroneous and mistaken belief.

VII. This proceeding is found to be in the public interest, and the following order is found to be justified:

It is ordered, That Louis Buchwalter and Enamuel Cohen, trading as National Feather & Down Company, or under any other name, and their representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of feather pillows or other feather and down products, do forthwith cease and desist from misrepresenting in any manner, or by any means, directly or by implication, the identity of the kind or type of filling material contained in any such products, or of the kinds or types, and proportions of each, when the filling material is a mixture of more than one kind or type.

ON APPEAL FROM INITIAL DECISION

By SECREST, Commissioner:

This is one of a group of ten cases, all tried and considered together, involving the use on labels of allegedly false and deceptive representations with respect to the filling materials contained in feather and down pillows. The hearing examiner having filed his initial decision in which he found that the respondents have in fact mislabeled certain of their pillows and in which he included an order directing them to forthwith cease and desist from such practices, the respondents appealed. The case was heard on the appeal brief and opposing brief filed by counsel supporting the complaint and oral arguments of counsel.

On the labels affixed to the pillows manufactured and sold in commerce by the respondents under the product name "Gem," the filling material was identified as "goose down" 20% and "goose feathers"

80%. While the down content appears to have been correctly described on the labels, analyses of samples of the filling materials withdrawn from two of such pillows revealed 56.8% goose feathers in one and 65.5% in the other and included in those percentages in each instance were substantial amounts of goose feathers which had been broken or suffered damage from insects, or had been either materially or slightly injured through other means. One of the tested samples contained 17.6% duck feathers and the other 9.1% and these amounts also included small percentages of similarly damaged or injured duck feathers. While not identical in amounts, the presence of duck feathers and injured or damaged goose and duck feathers likewise was revealed by analyses of samples of the filling materials from two of respondents' "Grace" pillows, the filling materials of which were identified on their labels as consisting of "goose feathers." The hearing examiner concluded that the respondents' pillows did not contain goose feathers in the quantities stated on their labels or in lesser amounts reflecting the tolerances recognized in certain circumstances under the trade practice rules, and the respondents except to the hearing examiner's refusal to include in the goose feather category the proportions actually represented by the duck feathers and the allegedly damaged feathers.

Since duck feathers are generically a separate and distinct kind of filling material from goose feathers, we think the hearing examiner correctly held that the filling material comprising duck feathers could not be properly classified as goose feathers. Inasmuch as the hearing examiner properly distinguished between the duck feather and goose feather filling materials in his computations, inclusion in the latter category of the allegedly damaged feathers would not serve to bring the goose feather content within the amounts claimed under the labels for the "Gem" and "Grace" pillows or those derived through application of the tolerances referred to in the trade practice rules. The hearing examiner's refusal to recognize the damaged and injured feathers as goose feathers accordingly did not constitute prejudicial error and no determination is required as to whether the record would adequately support conclusions that the content of broken and injured feathers designated by an aggregate percentage figure in each of the analyses has constituted damaged feathers as that term is understood in the feather and down industry.

The remaining issues presented under the appeal are essentially similar to those considered in the matter of Bernard H. Sumergrade, et al., Docket No. 6135, in which the Commission has written an opinion setting forth in some detail its views on the issues there in-

volved. The similarity between the cases renders the opinion in that case equally applicable here and the Commission is of the view that the hearing examiner correctly concluded that the respondents have misrepresented the contents of certain of their pillows in violation of the Federal Trade Commission Act and that the order to cease and desist contained in the initial decision is appropriate.

The appeal accordingly is denied and the initial decision is affirmed.

FINAL ORDER

The respondents having filed an appeal from the hearing examiner's initial decision in this proceeding; and the matter having been heard on briefs and oral argument, and the Commission having rendered its decision denying the appeal and affirming the initial decision:

It is ordered, That the respondents 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 the order to cease and desist contained in the aforesaid initial decision.

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IN THE MATTER OF

THE L. BUCHMAN CO., INCORPORATED, ET AL.

ORDER, OPINION, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT*Docket 6133. Complaint, Oct. 28, 1953—Decision, June 30, 1955*

Order requiring a manufacturer in Brooklyn, N. Y., to cease misrepresenting the feather and down content of its pillows on labels affixed thereto or otherwise.

Mr. Ames W. Williams for the Commission.

Davidson, Cohen & Zelkin, of New York City, for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges that the respondents have violated the provisions of the Federal Trade Commission Act by misrepresenting the contents of feather pillows which they manufacture and distribute in commerce.

After the filing of an answer, hearings were held, in which testimony and other evidence was presented, duly recorded and filed in the office of the Commission. By stipulation all the evidence in the companion feather cases was made a part of the record in this case, except so far as such evidence relates exclusively to the identification, contents and analyses of the feather samples in each of those cases.¹ Proposed findings of fact, conclusions and order have been submitted by counsel. On the basis of the entire record, the following findings of fact are made:

1. Respondent, the L. Buchman Co., Incorporated, is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 100 Sutton Street, Brooklyn 22, New York.

Respondents Irving Buchman, Sylvan Buchman and Tillie Buchman are the officers of the corporate respondent. Irving Buchman and Sylvan Buchman, father and son, are active in the business and direct and control the policies and practices of the corporate respondent. Tillie Buchman is inactive in the business, and does not partici-

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