

Decision

IN THE MATTER OF
PLATINOID METALS COMPANY, INC., ET AL.ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL
TRADE COMMISSION ACT*Docket 6292. Complaint, Feb. 18, 1955—Decision, July 14, 1955*

Order requiring a manufacturer in New York City to cease representing falsely that its finger rings contained platinum through stamping the rings with the word "Platinoid".

Mr. Terral A. Jordan for the Commission.

Mr. Abraham M. Jukovsky, of Queens, N. Y., for respondents.

INITIAL DECISION BY JOHN LEWIS, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on February 18, 1955, issued and subsequently served its complaint in this proceeding upon the respondents named in the caption hereof, charging them with the use of unfair and deceptive acts and practices and unfair methods of competition in commerce in violation of the provisions of said Act. The said respondents failed to file answer to the complaint and failed to appear at the time and place fixed for hearing. At said hearing before the above-named hearing examiner, theretofore duly designated by the Commission, the attorney in support of the complaint moved that the hearing be closed without the taking of testimony and that the hearing examiner proceed, in due course, to find the facts to be as alleged in the complaint and issue an order to cease and desist in the form set forth in the "Notice" portion of said complaint. It appearing that the aforesaid "Notice" provided that the failure of respondents to file timely answer and to appear at the time and place fixed for hearing would be deemed to authorize the Commission and the hearing examiner to find the facts to be as alleged in the complaint and to issue an order in the form therein set forth, the hearing examiner granted said motion and the hearing was thereupon closed. Thereafter, the proceeding regularly came on for final consideration by the said hearing examiner upon the complaint and said motion of the attorney in support of the complaint; and said hearing examiner having duly considered the record herein, finds that this proceeding is in the interest of the public and, pursuant to Rules V and VIII of the Rules of Practice of the Commission, makes the following findings as to the facts, conclusion drawn therefrom, and order.

Findings

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FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Platinoid Metals Company, 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 31 West 47th Street, New York, New York. Respondents, David Benoliel, Ferdinand Ferri, and David Edelman, are respectively President, Treasurer and Secretary of the corporate respondent. The individual respondents, acting in cooperation with each other, formulate, direct and control all of the policies, acts and practices of said corporation. The address of said individual respondents is the same as that of said corporate respondent.

PAR. 2. Respondents are now, and have been for more than one year last past, engaged in the manufacture, sale and distribution of jewelry, including finger rings, in commerce, among and between the various States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in said jewelry and finger rings, in commerce, among and between the various States of the United States.

PAR. 3. Among the finger rings manufactured, sold and distributed by respondents in the course and conduct of their business as aforesaid, are those rings stamped with the word "Platinoid" on the inner circumference thereof.

PAR. 4. Through the use of the said word "Platinoid," as hereinabove described, respondents have represented and implied and do represent and imply that said rings sold and distributed by them in commerce are made up in substantial part of platinum.

PAR. 5. Said representations are false, misleading and deceptive. In truth and in fact, respondents' said rings contain no platinum.

PAR. 6. By selling and distributing to wholesalers and retailers said rings manufactured as aforesaid and having stamped thereon the word "Platinoid" respondents furnish to such wholesalers and retailers the means and instrumentality through and by which they may mislead and deceive the purchasing public as to the constituent components of said rings.

PAR. 7. In the course and conduct of their business, respondents are in direct and substantial competition with other corporations and firms and individuals engaged in the sale in commerce of jewelry, including finger rings.

PAR. 8. The sale and distribution in commerce of respondents' said rings marked as hereinabove found has had and now has the tendency and capacity to and does mislead a substantial portion of the purchasing public into the erroneous and mistaken belief that the said

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rings are made up in substantial part of platinum and into the purchase of substantial quantities of such rings because of such erroneous and mistaken belief. As a result thereof, substantial trade in commerce has been unfairly diverted to respondents from their competitors and substantial injury has been done to competition in commerce.

CONCLUSION

The aforesaid acts and practices of the respondents, as herein found, are all to the prejudice and injury of the public and of respondents' competitors and 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.

ORDER

It is ordered, That respondents, Platinoid Metals Company, Inc., a corporation, and its officers, and David Benoliel, Ferdinand Ferri, and David Edelman, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in the offering for sale, sale or distribution of jewelry, including finger rings, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from the use of the word "Platinoid," or any other word or term of the same or similar import, in describing jewelry, including finger rings, which does not contain any platinum.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Sec. 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 14th day of July 1955, become the decision of the Commission; and, accordingly:

It is 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 the order to cease and desist.

IN THE MATTER OF
SUPERIOR WOOL BATTING CORPORATION ET AL.

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

Docket 6321. Complaint, Apr. 1, 1955—Decision, July 15, 1955

Consent order requiring a manufacturer in Bronx, N. Y., to cease violating the Wool Products Labeling Act through misbranding wool batts or battings as "80% Reused Wool, 20% Other Fibers", and through failing to conform to requirements of the Act in labeling such batts.

Before *Mr. Earl J. Kolb*, hearing examiner.

Mr. Roslyn D. Young, Jr. for the Commission.

Mayersohn & Dompf, of New York City, for respondents.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Superior Wool Batting Corporation, a corporation, and Mark Burney, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts, 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, Superior Wool Batting Corporation, is a corporation organized and existing under and by virtue of the laws of the State of New York, with its principal place of business located at 1000 Washington Street, Bronx, New York.

The individual respondent, Mark Burney, is President of said corporate respondent. He formulates, directs and controls the acts, policies and practices of said corporate respondent.

PAR. 2. Subsequent to the effective date of the said Wool Products Labeling Act of 1939 and more especially since February, 1954, respondents have manufactured for introduction into commerce, introduced into commerce, sold, transported, distributed, delivered for shipment and offered for sale in commerce as "commerce" is defined by the Wool Products Labeling Act, wool products, as "wool products" are defined therein.