

Complaint

IN THE MATTER OF

ROBERT L. KNIFFEN TRADING AS NATIONAL SALES
AND SERVICE COMPANY AND AS GRECO MANUFACTURING
COMPANYCONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 6315. Complaint, Mar. 22, 1955—Decision, July 21, 1955

Consent order requiring a seller in Fort Wayne, Ind., to cease use of "bait" advertising in newspapers purportedly seeking employees but actually designed to sell his vending machines and supplies, which made false representations as to qualifications and requirements for prospects, opportunities, possible profits, etc.

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

Mr. William R. Tinch for the Commission.

Mr. Edwin R. Thomas, of Fort Wayne, Ind., 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 Robert L. Kniffen, an individual, trading as National Sales and Service Company, and as Greco Manufacturing Company, 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 Robert L. Kniffen is an individual trading as National Sales and Service Company and as Greco Manufacturing Company. Respondent is now, and for more than one year last past has been, engaged in the promotion, sale and distribution of vending machines, vending machine supplies, greeting card display equipment and greeting cards. Respondent's office and principal place of business is located at 3406 South Monroe Street, Fort Wayne, Indiana. Said products are sold directly to purchasers through the respondent and through salesmen who travel in various States of the United States.

PAR. 2. In the course and conduct of his business, respondent now causes and has caused said products, when sold, to be transported from his place of business in the State of Indiana to purchasers thereof

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located in various other States of the United States. Respondent maintains, and at all times mentioned herein has maintained, a substantial course of trade, in commerce, in said products.

PAR. 3. Respondent at all times mentioned herein has been in substantial competition, in commerce, with other persons and with corporations, firms and partnerships engaged in the sale of similar products.

PAR. 4. In the course and conduct of said business and for the purpose of inducing the purchase of said products, respondent has made various statements and representations concerning his said products and business methods through his salesmen and through advertisements inserted in newspapers, periodicals, letters, and other advertising literature circulated generally among the purchasing public. Typical newspaper advertisements, but not all inclusive, are as follows:

\$400 MONTHLY POSSIBLE, WE WILL SELECT A RELIABLE PERSON FROM THIS AREA TO REFILL AND COLLECT MONEY FROM OUR NEW AUTOMATIC MERCHANDISING MACHINES, NO SELLING. TO QUALIFY APPLICANT MUST HAVE CAR, GOOD REFERENCES, AND \$600 WORKING CAPITAL WHICH IS SECURED BY INVENTORY. DEVOTING 8 TO 10 HOURS PER WEEK MAY NET UP TO \$400 MONTHLY, WITH AN EXCELLENT OPPORTUNITY OF TAKING OVER FULLTIME. WE WILL ALLOW PERSON WE SELECT LIBERAL FINANCIAL ASSISTANCE FOR EXPANSION. FOR INTERVIEW, WRITE, GIVING FULL PARTICULARS, NAME, ADDRESS, AGE AND PHONE NUMBER TO NATIONAL SALES & SERVICE CO., 3436 MONROE ST., FT. WAYNE, IND.

Spare time income. No selling. Up to \$400.00 a month possible. We will select a reliable person from this area to service our new chain of Greeting Card display cases. Applicant selected must have car, good references, 8 hours week spare time, \$619.50 working capital which is secured by inventory. For interview write, giving full particulars, age, name, address, phone number to Greco, Box ---- This paper.

PAR. 5. Through the use of the statements set forth in Paragraph Four and others similar thereto but not specifically set out therein, respondent has represented and does now represent, directly or by implication, to a substantial portion of the purchasing public, that:

1. Respondent offers employment to certain selected persons.
2. Persons selected will operate and service vending machines or display equipment owned by respondent.
3. Persons selected must have a car, good references, and a specified sum of money.
4. Persons selected will invest \$600 or \$619.50, depending on which advertisement is read, which is to be used as working capital and

which will be secured by an inventory of merchandise worth the amount invested.

5. Persons selected will not be required to engage in any selling.

6. Persons selected may receive \$400 a month if they will work eight to ten hours a week.

7. Persons selected may be allowed by respondent to work full time and thus receive even more than \$400 monthly.

8. If the persons selected desire to expand, respondent will give them financial assistance.

9. The persons selected will be given an exclusive territory in which to locate and sell.

PAR. 6. The foregoing representations and implications are grossly exaggerated, false, and misleading. In truth and in fact:

1. Respondent is not offering employment to persons reading his advertisements.

2. Respondent is not seeking employees to operate and service vending machines or display equipment owned by respondent but is seeking purchasers of said machines and equipment and merchandise to be vended therefrom.

3. The only qualification necessary to participate in respondent's proposal is to possess \$600 or \$619.50, depending on which advertisement is answered. Respondent does not require that persons answering the advertisements possess a car and good references.

4. The amount required is a purchase price for said machines or display equipment and is not used as working capital and is not secured by an inventory of merchandise worth a major or reasonable portion of that amount.

5. Purchasers of respondent's products are required to engage in extensive canvassing and selling.

6. Purchasers of respondent's products do not earn \$400 a month or even a major or reasonable portion of that amount. The quoted figure is a theoretical possibility under perfect conditions. Actually, earnings are very small and, in many cases, non-existent. This is true irrespective of the number of hours per week devoted to the work.

7. Respondent merely sells his products and has no control over or interest in how many hours the purchasers thereof work. Said purchasers do not earn more than \$400 a month by working full time.

8. Respondent does not give financial assistance to purchasers of his products desiring to expand their operations. Such persons can expand only by purchasing more merchandise from respondent.

9. Respondent does not give purchasers of his products an exclusive territory in which to locate and sell.

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PAR. 7. In the course and conduct of his said business, respondent employs salesmen who conduct and solicit business for respondent in various States of the United States other than Indiana. Respondent supplies these salesmen with sales aids and literature and directs them to call upon those members of the general public who request an interview as a result of reading respondent's aforesaid advertisements. When making such calls, respondent's salesmen orally make many statements, among and typical of which are the following:

1. No selling will be required for purchasers of respondent's products.
2. Persons purchasing respondent's products may earn up to \$400 a month for part time work and much larger amounts by working full time.
3. No difficulty will be encountered in discovering and obtaining locations for the vending machines or display equipment purchased from respondent.
4. Respondent or his representatives will obtain or assist in obtaining locations for vending machines or display equipment purchased from respondent.
5. Respondent or his representatives will dispose of or assist in the disposal of vending machines or display equipment purchased from respondent in the event the venture is not profitable.
6. Respondent will refund the purchase money, less only a very nominal discount, to any dissatisfied purchaser of respondent's products.
7. Purchasers of respondent's products will be given an exclusive territory in which to locate and sell.
8. Respondent is a manufacturer or a producer of the products he offers for sale and sells.
9. Purchasers of respondent's products will be protected by respondent with a \$50,000 liability insurance policy in the event any person is injured by said products.

PAR. 8. The statements and representations set out in Paragraph 7 are false, misleading, and deceptive. In truth and in fact:

1. Extensive selling is required to conduct the intended business.
2. Monthly earnings are not \$400 and in most cases are very small or, in many cases, nonexistent. This is true irrespective of the number of hours worked, and persons working full time do not receive over \$400 monthly.
3. A great deal of difficulty is encountered in discovering and obtaining locations for the purchased vending machines or display equipment.

4. Respondent, or his representatives does not obtain or assist in obtaining locations but, on the contrary, the purchasers must obtain such locations.

5. Respondent, or his representatives, does not dispose of or aid the purchaser in the disposal of the vending machines or display equipment if the venture is not profitable.

6. Respondent does not return the purchase price or any major portion thereof to a dissatisfied purchaser.

7. Respondent does not grant to purchasers an exclusive territory in which to locate and sell.

8. Respondent, with exception of the greeting card display equipment, is not a manufacturer or a producer of the products he offers for sale and sells.

9. Purchasers of respondent's products are not protected by respondent with liability insurance in the amount of \$50,000 or in any other amount.

PAR. 9. The use by the respondent of the foregoing false, deceptive, and misleading statements, representations and practices, disseminated as aforesaid, in connection with the sale and distribution in commerce of said products has had and now has the tendency and capacity to and does mislead and deceive a substantial portion of the purchasers and prospective purchasers of said products into the erroneous and mistaken belief that such statements and representations are true and to the purchase of substantial quantities of the products offered for sale in commerce by respondent.

PAR. 10. The aforesaid acts and practices of respondent, as herein alleged, are all to the prejudice and injury of the public and of respondent's 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.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this proceeding charges the respondent Robert L. Kniffen, an individual trading as National Sales and Service Company and as Greco Manufacturing Company, located at 3406 South Monroe Street, Fort Wayne, Indiana, with the use of unfair and deceptive acts and practices and unfair methods of competition in commerce in violation of the provisions of the Federal Trade Commission Act, in connection with the sale and distribution of vending machines, vending machine supplies, greeting card display equipment and greeting cards.

After the issuance of the said complaint and the filing of answer thereto, the respondent entered into a stipulation for a consent order with counsel for the complaint disposing of all the issues in this proceeding, which stipulation was duly approved by the Director and Assistant Director of the Bureau of Litigation. It was expressly provided in said stipulation that the signing thereof is for settlement purposes only and does not constitute an admission by respondent that he has violated the law as alleged in the complaint.

By the terms of said stipulation, the respondent admitted all the jurisdictional allegations of the complaint and agreed that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with such allegations. By said stipulation all parties expressly waived the filing of answer, a hearing before the hearing examiner or the Commission, the making of findings of fact or conclusions of law by the hearing examiner or the Commission, the filing of exceptions and oral argument before the Commission, and all further and other procedure before the hearing examiner and the Commission to which the respondent may be entitled under the Federal Trade Commission Act or the Rules of Practice of the Commission.

By said stipulation, respondent further agreed that the order to cease and desist, issued in accordance with said stipulation, shall have the same force and effect as if made after a full hearing, presentation of evidence, and findings and conclusions thereon, and specifically waived any and all right, power or privilege to challenge or contest the validity of such order.

It was further provided that said stipulation, together with the complaint, shall constitute the entire record herein, that the complaint herein may be used in construing the terms of the order issued pursuant to said stipulation, and that said order may be altered, modified or set aside in the manner prescribed by the statute for orders of the Commission.

The hearing examiner has considered such stipulation and the order therein contained, and, it appearing that said stipulation and order provides for appropriate disposition of this proceeding, the same is hereby accepted and made a part of the record and in consonance with the terms of said stipulation, the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent named herein, and that this proceeding is in the interest of the public, and issues the following order:

ORDER

It is ordered, That respondent, Robert L. Kniffen, an individual, trading as National Sales and Service Company or Greco Manufacturing Company, or trading under any other name, and his agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of vending machines, vending machine supplies, greeting card display equipment, greeting cards, or other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using advertisements which represent directly or by implication that employment is offered by respondent to selected persons when in fact the real purpose of the advertisement is to obtain purchasers for respondent's products.
2. Representing that the cash investment required to purchase respondent's products is secured, either by an inventory of merchandise or otherwise or is for use as working capital.
3. Representing as customary or regular earnings or profits to be derived from the operation of respondent's vending machines or greeting card display equipment any amount in excess of that which has in fact been customarily and regularly earned by operators of such machines and display equipment.
4. Representing that no selling will be required of persons purchasing respondent's products.
5. Representing that respondent will obtain satisfactory locations for said vending machines and greeting card display equipment, unless such locations are in fact obtained by respondent.
6. Representing that the territory allotted purchasers of such machines or display equipment is exclusive, unless respondent does in fact refrain from selling said merchandise and display equipment to other purchasers for operation in such designated territory.
7. Representing that respondent will refund the purchase money, less only a very nominal discount, to any dissatisfied purchaser of respondent's products, or will dispose of or assist in disposing of such products in the event the venture is not profitable.
8. Representing that respondent is a manufacturer or producer of the products he offers for sale if such is not the fact.
9. Representing that purchasers of respondent's products are protected by a liability insurance policy in the event any of such products causes injuries to any person.
10. Representing that respondent will give financial assistance to purchasers for expansion purposes.

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DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 21st day of July, 1955, become the decision of the Commission; and, accordingly:

It is ordered, That the respondent herein shall within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist.

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IN THE MATTER OF
ISIDOR KOPELMAN ET AL. DOING BUSINESS AS
MUTUAL HAT AND CAP CO.

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

Docket 6324. Complaint, Apr. 4, 1955—Decision, July 22, 1955

Consent order requiring a manufacturer in New York City to cease violating the Wool Products Labeling Act and the Federal Trade Commission Act through labeling as "100% wool", caps which contained a large percentage of reprocessed or reused wool, and failing to identify on tags or labels the manufacturer, etc., of certain caps.

Before *Mr. John Lewis*, hearing examiner.
Mr. Roslyn D. Young, Jr. for the Commission.

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 Isidor Kopelman, and Charles Kopelman, individually and as copartners trading and doing business as Mutual Hat and Cap Co., hereinafter referred to as respondents, have violated the provisions of said Acts, and the Rules and Regulations promulgated under the Wool Products Labeling Act of 1939, 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. Respondents, Isidor Kopelman and Charles Kopelman, are individuals and copartners, trading and doing business under the name and style of Mutual Hat and Cap Co. with their offices and principal place of business located at 25 East 4th Street, New York, New York.

PAR. 2. Subsequent to the effective date of the Wool Products Labeling Act of 1939, and more especially during 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 in said Act, wool products, as "wool products" are defined therein.

PAR. 3. Certain of said wool products were misbranded within the intent and meaning of Section 4 (a) (1) of said Wool Products