

Complaint

IN THE MATTER OF

GEORGE'S RADIO AND TELEVISION COMPANY, INC.,
ET AL.

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

Docket 6411. Complaint, Sept. 13, 1955—Decision, Dec. 29, 1955

Consent order requiring a retailer in Washington, D.C., to cease advertising falsely in newspapers that used television sets were "floor samples"; that old models, used or repossessed sets, and floor samples were "new"; and that sets were fully guaranteed.

Before *Mr. Abner E. Lipscomb*, hearing examiner.

Mr. Michael J. Vitale for the Commission.

Grossberg, Yochelson & Brill, of Washington, D. C., for respondents.

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 George's Radio and Television Company, Inc., a corporation, and George Wasserman, individually and as an officer of said corporation, hereinafter referred to as respondents, have 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. George's Radio and Television Company, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the District of Columbia, with its principal office and place of business located at 2146 24th Place, N. E., Washington, D. C. Respondent George Wasserman is President and Treasurer of this corporate respondent. This individual formulates, directs and controls the policies of said corporation.

PAR. 2. Respondents are now, and for more than one year last past have been, engaged in the sale and distribution of television sets among other things. In the course and conduct of their business, respondents cause their television sets when sold to be transported from their place of business at the aforesaid address to purchasers thereof located in the District of Columbia and various States of the United States. They maintain, and at all times mentioned herein have maintained, a course of trade in said product in commerce in

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the District of Columbia and various States of the United States. Their volume of trade in said commerce has been and is substantial.

PAR. 3. At all times mentioned herein respondents have been and are now, in direct and substantial competition with corporations, firms and other individuals engaged in the sale and distribution of television sets in commerce.

PAR. 4. In the course and conduct of their business, as aforesaid, and for the purpose of inducing the purchase of their television sets, the respondents made various statements with respect thereto in newspapers of general circulation. Among such statements made in various and different advertisements were the following:

1. That the television sets advertised were floor samples.
2. That they were 1954 models.
3. That certain sets were new.
4. That certain sets were fully guaranteed.

PAR. 5. Said statements were false, misleading and deceptive. In truth and in fact:

1. Many of the television sets represented as floor samples were not floor samples as that term is ordinarily understood, that is, sets that had been used only for demonstration purposes, but were in fact sets that had been previously sold to various persons and used by them.

2. Many of the sets advertised as 1954 models were models of previous years.

3. Many of the sets represented as new were in fact used, repossessed or floor samples.

4. The guarantee, if any, given with many of said sets was a limited one extending only to a guarantee that the sets would operate.

PAR. 6. The use by the respondents of the aforesaid false, deceptive, and misleading statements, representations, and practices had the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements and representations were true, and, because of such statements, representations, and practices, to purchase substantial quantities of respondents' television sets. 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.

PAR. 7. The aforesaid acts and practices as herein alleged, were all to the prejudice and injury of the public and of respondents' competitors and constituted 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 ABNER E. LIPSCOMB, HEARING EXAMINER

On September 13, 1955, the Federal Trade Commission issued its complaint in this proceeding, charging the respondents with the use of false, deceptive, and misleading statements, representations, and practices in commerce in advertising their television sets, in violation of the provisions of the Federal Trade Commission Act.

Thereafter, on November 8, 1955, respondents entered into an agreement with counsel supporting the complaint, and, pursuant thereto, submitted to the hearing examiner an Agreement Containing Consent Order To Cease And Desist, disposing of all the issues involved in this proceeding.

Respondent George's Radio and Television Company, Inc., is identified in the agreement as a District of Columbia corporation, with its office and principal place of business located at 2146 24th Place, N.E., Washington, D. C., and respondent George Wasserman as an individual and officer of the corporate respondent, having his office and principal place of business at the same address as the corporate respondent.

Respondents admit all the jurisdictional facts alleged in the complaint and agree that the record herein may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

Respondents waive any further procedure before the hearing examiner and the Commission; the making of findings of fact or conclusions of law; and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement, and that the agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

The agreement sets forth that the order to cease and desist contained therein shall have the same force and effect as if entered after a full hearing, and may be altered, modified or set aside in the manner provided for other orders; and that the complaint herein may be used in construing the terms of the order.

After consideration of the charges set forth in the complaint and the provisions of the proposed order contained in the agreement, it appears that such order will safeguard the public interest to the same extent as could be accomplished by the issuance of an order after full hearing and all other adjudicative procedure waived in

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said agreement. Accordingly, in consonance with the terms of the aforesaid agreement, the hearing examiner accepts the Agreement Containing Consent Order To Cease And Desist and finds that the Commission has jurisdiction over the respondents and over their acts and practices as alleged in the complaint, and that this proceeding is in the public interest. Therefore,

It is ordered, That respondents, George's Radio and Television Company, Inc., a corporation, and its officers, and George Wasserman, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, or distribution of television sets or other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

1. That television sets, or any other merchandise, are floor samples, unless said television sets and other merchandise have in fact been used only for demonstration purposes;
2. That television sets, or any other merchandise, are models of a certain year, unless such is the fact;
3. That television sets, or any other merchandise, are new when they have been used in any manner;
4. That any merchandise sold or offered for sale by respondents is guaranteed, unless the nature and extent of the guarantee and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

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 29th day of December, 1955, become the decision of the Commission; and, accordingly:

It is ordered, That Respondents George's Radio and Television Company, Inc., a corporation, and George Wasserman, individually and as an officer of said corporation, 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.

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IN THE MATTER OF

HERZMAN SCARVES, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FLAMMABLE FABRICS ACTS

Docket 6373. Complaint, June 27, 1955—Decision, Jan. 5, 1956

Consent order requiring a New York City importer to cease violating the Flammable Fabrics Act through importing into the United States from Japan and selling silk scarves which were so highly inflammable as to be dangerous when worn.

Before *Mr. James A. Purcell*, hearing examiner.

Mr. Brockman Horne for the Commission.

Abrams & Cowan, of New York City, for respondents.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Herzman Scarves, Inc., a corporation, and Stanley Herzman, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts, and the rules and regulations promulgated thereunder, 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 Herzman Scarves, Inc., is a New York corporation. Respondent Stanley Herzman is president and treasurer of said corporation and formulates, directs, and controls the policies of said corporation. The business address of all respondents is 10 East 38th Street, New York, N. Y.

PAR. 2. Respondents, subsequent to July 1, 1954, the effective date of the Flammable Fabrics Act, have imported into the United States articles of wearing apparel, as the term "articles of wearing apparel" is defined in the Flammable Fabrics Act, which, under the provisions of Section 4 of said Act, as amended, were so highly flammable as to be dangerous when worn by individuals. Respondents have sold, offered for sale, introduced, delivered for introduction, and transported and caused to be transported in commerce, as "commerce" is defined in the Flammable Fabrics Act, the said articles of wearing apparel, imported as aforesaid. Respondents have also transported