

Complaint

IN THE MATTER OF

REPUBLIC NOVELTY COMPANY, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FLAMMABLE FABRICS ACTS*Docket 6423. Complaint, Sept. 27, 1955—Decision, Jan. 7, 1956*

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

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

Mr. Brockman Horne for the Commission.

Marlin & Sandburg, 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 Republic Novelty Company, Inc., a corporation, and Herman Katz and Samuel R. Cohen, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts, and the rules and regulations promulgated under the Flammable Fabrics 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 Republic Novelty Company, Inc., is a New York corporation. Respondents Herman Katz and Samuel R. Cohen are president and secretary-treasurer, respectively, of respondent Republic Novelty Company, Inc. The individual respondents formulate, direct, and control the acts, practices and policies of said corporate respondent. The business address of all respondents is 39 West 37th Street, New York, New York.

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

Decision

52 F. T. C.

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 and caused to be transported the said articles of wearing apparel, imported as aforesaid, for the purpose of sale and delivery after sale in "commerce" as hereinabove defined.

Among the articles of wearing apparel mentioned hereinabove were silk scarves manufactured in Japan.

PAR. 3. Respondents, in the course and conduct of their business are in competition in commerce with others in the sale and offering for sale of scarves which are not flammable "articles of wearing apparel" under the Flammable Fabrics Act.

PAR. 4. The use by respondents of the acts, practices and policies as herein alleged has resulted in substantial trade in commerce being unfairly diverted to them from their competitors and substantial injury has been done to competition in commerce.

PAR. 5. The acts and practices of respondents herein alleged were and are in violation of the Flammable Fabrics Act and of the rules and regulations promulgated thereunder, and as such 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 JAMES A. PURCELL, HEARING EXAMINER

The complaint in this proceeding, issued September 27, 1955, charges the respondents Republic Novelty Company, Inc., a corporation existing by virtue of the laws of the State of New York, and Herman Katz and Samuel R. Cohen, individually and as officers of the respondent corporation with violation of the Federal Trade Commission Act and of the Flammable Fabrics Act and the Rules and Regulations promulgated thereunder, in connection with the importation, sale, offering for sale and transporting in interstate commerce of articles of wearing apparel which articles were so highly flammable as to be dangerous when worn by individuals.

After the issuance of said complaint respondents entered into an agreement for consent order with counsel in support of complaint, disposing of all the issues in this proceeding, which agreement was duly approved by the Director of the Bureau of Litigation. It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

By the terms of said agreement, the respondents 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 agreement the parties expressly waived 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 respondents may be entitled under the Federal Trade Commission Act or the Rules of Practice of the Commission.

By said agreement, respondents further agreed that the order to cease and desist issued in accordance with said agreement 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 agreement, 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 agreement; and that the said order may be altered, modified or set aside in the manner provided by the statute for the orders of the Commission.

Said agreement recites that respondent Republic Novelty Company, Inc., is a corporation existing under and by virtue of the laws of the State of New York; that respondents Herman Katz and Samuel R. Cohen are individuals and, respectively, are President and Secretary-Treasurer of the corporate respondent, and as such formulate, direct and control the policies of the corporation. The office and principal place of business of all respondents is located at No. 39 West 37th Street, New York, New York.

The hearing examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provides for an appropriate disposition of this proceeding, the same is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice, and in consonance with the terms of said agreement, the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents named herein, and that this proceeding is in the interest of the public, and issues the following order:

Decision

52 F. T. C.

ORDER

It is ordered, That the respondent Republic Novelty Company, Inc., a corporation, and its officers, and respondents Herman Katz and Samuel R. Cohen, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from:

1. (a) Importing into the United States; or
 - (b) Selling, offering for sale, introducing, delivering for introduction, transporting or causing to be transported, in commerce, as "commerce" is defined in the Flammable Fabrics Act; or
 - (c) Transporting or causing to be transported, for the purpose of sale or delivery after sale in commerce;
- any article of wearing apparel, which, under the provisions of Section 4 of the said Flammable Fabrics Act, as amended, is so highly flammable as to be dangerous when worn by individuals.

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 7th day of January, 1956, 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.

Order

IN THE MATTER OF

POSTAL LIFE AND CASUALTY INSURANCE COMPANY

Docket 6276. Order and opinion, Jan. 10, 1956

Interlocutory order denying respondent's appeal from hearing examiner's action in quashing portion of its subpoena duces tecum and granting complaint counsel's appeal from his failure to quash subpoena in entirety; denying respondent's alternative request that the Commission order release and production of documents sought; and denying appeal of complaint counsel from hearing examiner's rulings on testimony.

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

Mr. Donald K. King and *Mr. J. W. Brookfield, Jr.* for the Commission.

Mr. A. Alvis Layne, Jr., of Washington, D. C., *Cobbs, Armstrong, Teasdale & Roos*, of St. Louis, Mo., and *Mr. Harold D. Knight*, of Kansas City, Mo., for respondent.

ORDER DENYING RESPONDENT'S APPEAL AND APPLICATION FOR RELEASE
OF INFORMATION AND GRANTING APPEAL OF COUNSEL SUPPORTING
THE COMPLAINT

This matter having come on to be heard by the Commission upon respondent's appeal from the hearing examiner's ruling quashing certain portions of a subpoena duces tecum directing the Secretary of the Commission to produce certain documents or information from the Commission's files and, in the alternative, application for release of information, and upon the appeal by counsel supporting the complaint from the hearing examiner's ruling refusing to quash the said subpoena duces tecum in its entirety, and from certain other rulings of the hearing examiner; and

The Commission having concluded that the appeals and application for release of information should be disposed of in the manner indicated in the accompanying opinion of the Commission:

It is ordered, That respondent's appeal from the hearing examiner's order limiting the subpoena duces tecum directing the Secretary of the Commission to produce certain documents or information and respondent's application for release of information, as well as respondent's request for oral argument on said appeal and application be, and they hereby are, denied.

It is further ordered, That the appeal of counsel supporting the complaint from the hearing examiner's order denying the motion of counsel supporting the complaint to quash the said subpoena duces