

Complaint

IN THE MATTER OF
JOHN HULL CUTLERS CORPORATION ET AL.

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

Docket 6398. Complaint, Aug. 23, 1955—Decision, Mar. 14, 1956

Consent order requiring two associated corporations in New York City to cease affixing to cutlery and flatware before shipment to retailer purchasers, tickets or tags printed with fictitious prices greatly in excess of prices at which the items were usually sold at retail, and furnishing such customers with advertising mats reading "Save \$10 * * * Regularly 19.98—9.98", when \$9.98 did not afford purchasers a saving of \$10.

Before *Mr. Robert L. Piper*, hearing examiner.

Mr. Charles S. Cox for the Commission.

Goldman & Frier, of New York City, 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 John Hull Cutlers Corporation, a corporation, and John Hull Silversmiths, Inc., a corporation, and William B. Berger and Max E. Landau, individually and as officers of said corporations, 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. Respondents John Hull Cutlers Corporation, and John Hull Silversmiths, Inc., are corporations organized, existing and doing business under and by virtue of the laws of the State of New York with their office and principal place of business at 1239 Broadway, New York, New York. They are now, and have for several years last past been, engaged in the sale and distribution of cutlery and flatware under such corporate names. Said cutlery and flatware are sold to retailers for resale to the purchasing public.

Respondents William B. Berger and Max E. Landau are President and Secretary-Treasurer, respectively, of said corporations. These individuals formulate, direct and control the policies, acts and practices of said corporate respondents, including those here-

Complaint

52 F. T. C.

inafter specified. Their address is the same as the corporate respondents.

PAR. 2. In the course and conduct of their business, respondents now cause, and for several years last past have caused, the cutlery and flatware, when sold, to be transported from their place of business in the State of New York to purchasers thereof located in other 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 cutlery and flatware in commerce between and among the various States of the United States and the District of Columbia.

PAR. 3. Respondents at all times mentioned herein have been in substantial competition with other corporations and persons, firms and partnerships engaged in the sale of cutlery and flatware in commerce between and among the various States of the United States and the District of Columbia.

PAR. 4. Respondents before shipping their cutlery and flatware to the purchasers thereof, affix tickets or tags thereto upon which are printed various prices.

By means of the prices appearing on said tickets or tags respondents represent that such amounts are the usual and regular retail prices for such cutlery and flatware. Such representations are false, misleading and deceptive. In truth and in fact, such amounts are fictitious and greatly in excess of the price at which said items are usually and regularly sold at retail.

PAR. 5. Respondents also furnish advertising mats to their retail customers for their use and which they do use, in advertising respondents' products to the public. A portion of a typical mat contains this statement:

Save \$10. on this attractive, durable Stainless Steel Flatware
Regularly 19.98-9.98

PAR. 6. By means of the statements appearing on said mats, it is represented that the usual and regular retail selling price for the product advertised is \$19.98 and that by paying the price of \$9.98, a saving of \$10.00 is afforded the purchaser.

PAR. 7. The amount of \$19.98 is not the price at which said product is usually and regularly sold at retail but is a fictitious price greatly in excess of the usual and regular retail price and a saving of \$10.00 is not afforded to purchasers at the price of \$9.98.

PAR. 8. By means of the aforesaid practices respondents place in the hands of retailers a design, device or instrumentality whereby such retailers may mislead and deceive members of the purchasing

1003

Decision

public as to the usual and regular retail price of their cutlery and flatware and the savings afforded to retail purchasers.

PAR. 9. The aforesaid acts and practices of respondents have had and now have the tendency and capacity to mislead and deceive members of the purchasing public as to the usual and regular retail selling prices of said cutlery and flatware and to induce the purchase of substantial quantities thereof because of such erroneous and mistaken belief. As a result thereof substantial trade in commerce has been and is being unfairly diverted to the respondents from their competitors and substantial injury has been and is being done to competition in commerce.

PAR. 10. The acts and practices of the respondents, as herein alleged, are all to the prejudice and injury of the public and of their competitors and constitute unfair methods of competition and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

INITIAL DECISION BY ROBERT L. PIPER, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on August 23, 1955, charging them with having violated the Federal Trade Commission Act. After being served with said complaint, respondents appeared by counsel and entered into an agreement, dated December 29, 1955, containing a consent order to cease and desist, disposing of all the issues in this proceeding without hearing. Said agreement has been submitted to the undersigned, heretofore duly designated to act as hearing examiner herein, for his consideration in accordance with Section 3.25 of the Rules of Practice of the Commission.

Respondents, pursuant to the aforesaid agreement, have admitted all of the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. Said agreement further provides that respondents waive all further procedural steps before the hearing examiner or the Commission, including the making of findings of fact or conclusions of law and the right to challenge or contest the validity of the order to cease and desist entered in accordance with such agreement. It has also been agreed that the record herein shall consist solely of the complaint and said agreement, that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission, that said agreement is for settle-

Order

52 F. T. C.

ment purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint, that said order to cease and desist 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 may be used in construing the terms of the order.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing the consent order, and it appearing that the order and agreement cover all of the allegations of the complaint and provide for appropriate disposition of this proceeding, the same are hereby accepted and ordered filed upon becoming part of the Commission's decision pursuant to Sections 3.21 and 3.25 of the Rules of Practice, and the hearing examiner accordingly makes the following findings, for jurisdictional purposes, and order:

1. Respondents John Hull Cutlers Corporation and John Hull Silversmiths, Inc. are corporations existing and doing business under and by virtue of the laws of the State of New York, and respondents William Berger¹ and Max E. Landau are president and secretary-treasurer, respectively, of said corporations. All of said respondents have their office and principal place of business located at 1239 Broadway, in the City of New York, State of New York.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named. The complaint states a cause of action against said respondents under the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That respondents John Hull Cutlers Corporation, a corporation, and John Hull Silversmiths, Inc., a corporation, and their officers, and respondents William Berger and Max E. Landau, individually and as officers of John Hull Cutlers Corporation and John Hull Silversmiths, Inc., and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Representing in any manner that certain amounts are the regular and usual retail prices of merchandise when such amounts are in

¹ Incorrectly referred to as William B. Berger in the caption of the complaint and other documents.

1003

Decision

excess of the prices at which such merchandise is usually and regularly sold at retail.

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 14th day of March, 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.

Complaint

52 F. T. C.

IN THE MATTER OF

S. A. BARKER COMPANY ET AL.

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

Docket 6433. Complaint, Oct. 27, 1955—Decision, Mar. 14, 1956

Consent order requiring a furrier in Springfield, Ill., to cease violating the Fur Products Labeling Act through advertising in newspapers which did not give the correct name of the animal producing certain furs, did not disclose the country of origin of imported furs or that certain products were made of artificially colored fur, or named animals other than those producing the fur; and through failing to comply with labeling and invoicing requirements of the Act.

Before *Mr. Robert L. Piper*, hearing examiner.

Mr. William A. Somers for the Commission.

Stevens, Herndon & Nafziger, of Springfield, Ill., for respondents.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that S. A. Barker Company, a corporation, and S. A. Barker and Louis Friedman, 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 Fur Products Labeling 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. The corporate respondent, S. A. Barker Company, is a corporation organized and existing under and by virtue of the laws of the State of Illinois.

Individual respondent, S. A. Barker, is President and individual respondent, Louis Friedman, is Vice-President of the corporate respondent. These individual respondents formulate, direct, and control the acts, practices and policies of the corporate respondent. The office and principal place of business of all of said respondents is located at 603 East Adams Street, Springfield, Illinois.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, the respondents have introduced, sold, advertised, offered for sale, transported, and distributed fur