

IN THE MATTER OF
COMFORTE, INC., ET AL.

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

Docket 6547. Complaint, Apr. 30, 1956—Decision, Nov. 24, 1956

Consent order requiring a Chicago manufacturer to cease violating the Wool Products Labeling Act by labeling bed comforters which contained substantial amounts of other fibers than wool as "All new material consisting of Tanners Wool" and failing to label certain other comforters as required; and to cease violating the Federal Trade Commission Act by representing falsely on advertising inserts enclosed in the individual containers, that certain bed comforters were guaranteed moth proof for five years, carried the Good Housekeeping guarantee and "Seal of Approval," were filled with new and virgin wool and that exaggerated amounts were the usual retail prices. Excepted from the consent agreement was a charge of fictitious pricing.

Mr. William R. Kearney for the Commission.

Mr. Mandel L. Anixter, of Chicago, Ill., for respondents.

INITIAL DECISION AS TO CERTAIN ISSUES BY WILLIAM L. PACK,
HEARING EXAMINER

The complaint in this matter charges the respondents with certain violations of the Wool Products Labeling Act and the Rules and Regulations promulgated thereunder, and the Federal Trade Commission Act, in connection with the sale of bed comforters. An agreement with respect to some of the issues raised in the complaint has now been entered into by counsel supporting the complaint and all of the respondents, except Earl Chapman, which provides, among other things, that said respondents admit all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of said issues is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of said issues, such order to have the same force and effect as if entered after a full hearing, said respondents specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified or set aside in the manner provided for other orders of the Commission; and that the agreement is for set-

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tlement purposes only and does not constitute an admission by said respondents that they have violated the law as alleged in the complaint.

With respect to respondent Earl Chapman, the agreement recites that this respondent is not now, nor has he ever been, the general manager of the corporate respondent as charged in the complaint; that he has not in any manner formulated, controlled or directed the acts and practices of the corporation; and that he has never been an employee of the corporation nor connected with it in any capacity whatsoever. For these reasons the agreement provides for the dismissal of the complaint in its entirety as to respondent Earl Chapman. The recitals referred to above are supported by affidavits executed by respondents Nathan E. Chapman and Jesse Parmacek and also by an affidavit executed by respondent Earl Chapman, all of which are attached to and made a part of the agreement.

The agreement is for the purpose of disposing of all issues raised in the complaint except that relating to the prices of respondents' products. The hearing examiner, having considered the agreement and proposed order, is of the opinion that they provide an adequate basis for an appropriate disposition of the issues in question, and that the complaint should be dismissed in its entirety as to respondent Earl Chapman. The agreement is therefore accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Comforte, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business at 2511-51 West 18th Street, Chicago, Illinois. Respondents Nathan E. Chapman and Jesse Parmacek are individuals and officers of the corporate respondent, their address being the same as that of the corporation.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents, Comforte, Inc., a corporation, and its officers, and Nathan E. Chapman and Jesse Parmacek, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the offering for sale, sale, transportation or distribution in commerce, as "commerce" is

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defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, of bed comforters or other "wool products," as such products are defined in and subject to said Wool Products Labeling Act, which products contain, purport to contain, or in any way are represented as containing, "wool," "reprocessed wool," or "reused wool" as those terms are defined in said Act, do forthwith cease and desist from misbranding such products by:

1. Falsely or deceptively stamping, tagging, labeling or otherwise identifying such products as to the character or amount of the constituent fibers contained therein;

2. Failing to securely affix to or place on each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner:

- (a) The percentage of the total fiber weight of such wool product, exclusive of ornamentation not exceeding five percentum of said total fiber weight of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber is five percentum or more, and (5) the aggregate of all other fibers;

- (b) The maximum percentage of the total weight of such wool product of any non-fibrous loading, filling, or adulterating matter;

- (c) The name or the registered identification number of the manufacturer of such wool product or of one or more persons engaged in introducing such wool product into commerce, or in the offering for sale, sale, transportation, distribution or delivery for shipment thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939, and

Provided, That the foregoing provisions concerning misbranding shall not be construed to prohibit acts permitted by paragraphs (a) and (b) of Section 3 of the Wool Products Labeling Act of 1939, and

Provided further, That nothing contained in this order shall be construed as limiting any applicable provisions of said Act or the Rules and Regulations promulgated thereunder.

It is further ordered, That Comforte, Inc., a corporation, and Nathan E. Chapman and Jesse Parmacek, individually and as officers 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 bed comforters or any other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from directly or indirectly:

1. Representing in any manner that bed comforters or other products are guaranteed moth proof for any length of time when such is not the fact.

2. Representing in any manner that bed comforters or other products have been moth proofed through a Westinghouse or other moth proofing process when such is not the fact.

3. Representing in any manner that bed comforters or other products have been guaranteed by and carry the Good Housekeeping "Seal of Approval" when such is not the fact.

4. Misrepresenting in any way the constituent fiber or material used in its merchandise or the respective percentages thereof.

It is further ordered, That the complaint be, and it is hereby, dismissed as to respondent Earl Chapman.

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 24th day of November, 1956, become the decision of the Commission; and, accordingly:

It is ordered, That Comforte, Inc., a corporation, and Nathan E. Chapman and Jesse Parmacek, individually and as officers 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.

IN THE MATTER OF

O. J. McCLURE TRADING AS
O. J. McCLURE TALKING PICTURESORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 6607. Complaint, July 31, 1956—Decision, Nov. 24, 1956*

Consent order requiring a Chicago manufacturer of manually operated sound slidefilm projectors to cease disparaging his competitors' automatic sound slidefilm projectors by false representations, made orally and in advertising, that the competitive projectors did not actually operate automatically, were worthless and considered a failure by users, and were misrepresented and sold by firms operating a racket.

Mr. Donald K. King and Mr. S. F. House for the Commission.
Respondent appearing for himself.

INITIAL DECISION BY ROBERT L. PIPER, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondent on July 31, 1956, charging him with having violated the Federal Trade Commission Act by making false and misleading representations disparaging and defaming his competitors' products. In lieu of submitting answer to the complaint, respondent entered into an agreement, dated September 20, 1956, containing a consent order to cease and desist, disposing of all the issues in this proceeding without hearing, which agreement has been duly approved by the Director of the Bureau of Litigation. 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.

Respondent, pursuant to the aforesaid agreement, has 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 respondent 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