

IN THE MATTER OF
MICHAEL CAMPAIOLA ET AL. DOING BUSINESS AS
L. B. C. WATCH CASE CO.

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

Docket 6620. Complaint, Aug. 28, 1956—Decision, Dec. 20, 1956

Consent order requiring manufacturers in New York City to cease misbranding watch cases of 13½ karat fineness by marking them on the back with the phrase "14 K."

Mr. Donald K. King and Mr. S. F. House for the Commission.
Mr. Herbert S. Greenberg, of New York City, for respondents.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on August 28, 1956, issued and subsequently served its complaint in this proceeding against respondents Michael Campaiola and Morris Lamm, individually and as copartners, trading and doing business as L. B. C. Watch Case Co., with their office and principal place of business located at 88 West Broadway, New York, New York.

On October 25, 1956, there was submitted to the undersigned hearing examiner an agreement between respondents and counsel supporting the complaint providing for the entry of a consent order. By the terms of said agreement, respondents admit all the jurisdictional facts alleged in the complaint and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. By such agreement, respondents waive any further procedural steps before the hearing examiner and the Commission; waive the making of findings of fact and conclusions of law; and waive all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement. Such agreement further provides that it disposes of all of this proceeding as to all parties; that the record on which this initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement; that the latter shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; 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; and that the following order to cease and desist may be entered in this proceeding by the:

Commission without further notice to respondents, and, when so entered, it 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.

The hearing examiner having considered the agreement and proposed order, and being of the opinion that they provide an appropriate basis for settlement and disposition of this proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued.

1. Respondents Michael Campaiola and Morris Lamm are individuals and copartners trading and doing business as L. B. C. Watch Case Co., with their office and principal place of business located at 88 West Broadway, New York, New York.

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 Michael Campaiola and Morris Lamm, individually and as copartners, trading and doing business as L. B. C. Watch Case Co., or under any other name, and their agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of any articles composed in whole or in part of gold or an alloy of gold in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Stamping, branding, engraving, or marking any article with any phrase or mark such as 14 K, or otherwise representing, directly or by implication, that the whole or a part of any article is composed of gold or an alloy of gold of a designated fineness, unless the article or part thereof so marked or represented is composed of gold of the designated fineness within the permissible tolerances established by the National Stamping Act (15 U.S. Code, Sections 294, et seq.).

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 20th day of December, 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.

IN THE MATTER OF
THE BLANTON COMPANY

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

*Docket 6197. Complaint, Mar. 18, 1954—Decision, Dec. 26, 1956**

Order requiring a manufacturer of margarine in St. Louis, Mo., to cease violating the Oleomargarine Amendment to the Federal Trade Commission Act by disseminating advertisements in newspapers and periodicals, and by radio and television, which suggested, by use of the word "Creamo" in the brand or trade name and the words "cream," "sweet fresh cream," etc., that said oleomargarine was a dairy product.

Mr. Morton Nesmith for the Commission.

Coburn & Croft, by *Mr. Thomas L. Croft*, of St. Louis, Mo., for respondent.

INITIAL DECISION (THIRD) BY EVERETT F. HAYCRAFT,
HEARING EXAMINER

HISTORY OF THE CASE

The Federal Trade Commission on March 18, 1954, issued its complaint in this proceeding against the above-named respondent, which is engaged in the business of manufacturing oleomargarine and in the interstate sale and distribution thereof under the trade or brand name "Creamo," charging said respondent with violation of Section 15 of the Federal Trade Commission Act by the use of false, deceptive and misleading representations in connection with the sale and distribution of said oleomargarine in that it was represented or suggested therein that respondent's product is a dairy product, which is contrary to the fact. It was specifically alleged in the complaint that the use of the word "Creamo" as a trade name for respondent's oleomargarine was misleading in that it served as a representation or suggestion that respondent's product is a dairy product.

Testimony was taken in support of the allegations of the complaint. At the conclusion of the Commission's case in chief, counsel for respondent filed a motion to dismiss before the hearing examiner, which motion was granted by the hearing examiner. On November 5, 1954, the hearing examiner issued his first initial decision, dismissing the complaint on the ground that there was insufficient evidence in support of the allegations of the complaint to make out a prima facie case. An appeal was taken to the Commission by counsel in support of the complaint, and the Commission on May 5,

* Order denying motion to reopen proceedings and modify decision on p. 1278 of this volume.