

Decision

IN THE MATTER OF
JACK B. TIZER ET AL. TRADING AS
ROYAL TILE STORES, ETC.

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

Docket 6539. Complaint, Mar. 26, 1956—Decision, Dec. 27, 1956

Consent order requiring two associated respondents, individually owning a number of stores in Pennsylvania, New Jersey, and Delaware, and advertising cooperatively in offering floor covering materials for sale at all of their stores, to cease representing falsely in extensive "bait" advertising in newspapers that their "Tile Tone" asphalt tile was America's most popular floor tile, that it could not wear out or crack, and that it was available at the advertised price in many different colors; and to cease advertising and selling imperfect tile without clearly disclosing that they were seconds."

Mr. Frederick McManus for the Commission.

Mr. Samuel Kagle, of Philadelphia, Pa., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges that respondents have violated the provisions of the Federal Trade Commission Act by the use in newspaper advertising of false, misleading and deceptive statements directly or by implication representing "that they were making a bona fide offer to sell their Tile Tone floor covering at the prices advertised; that it is a plastic tile; that it is America's most popular plastic floor tile; that it can not wear out or crack and that it is available at the price advertised in many different colors"; and that respondents further violated said Act by advertising and selling imperfect tile, commonly known as "seconds," without clearly disclosing that fact.

Thereafter respondents, their counsel, and counsel supporting the complaint entered into an Agreement Containing Consent Order To Cease And Desist, which was approved by the Director and Assistant Director, Bureau of Litigation of the Commission, and subsequently transmitted to the Hearing Examiner for consideration.

The agreement recites that Jack B. Tizer and William B. Tizer are individuals doing business as Royal Tile Stores, Royal Tile Company and Royal Carpet Company; individually own stores in Pennsylvania, New Jersey and Delaware; advertise cooperatively; publish single advertisements offering merchandise for sale at all their stores; act together in connection with the acts and practices

alleged in the complaint; and maintain a common office at 6236 Chew Street, Philadelphia, Pennsylvania.

The agreement provides, among other things, that 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; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this 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 the complaint may be used in construing the terms of the order agreed upon, which may be altered, modified or set aside in the manner provided for other orders; 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 order set forth in the agreement and hereinafter included in this decision shall have the same force and effect as if entered after a full hearing.

Respondents waive any further procedural steps 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 this agreement.

The order agreed upon fully disposes of all the issues raised in the complaint, with the exception of the charge that respondents' product, Tile Tone, has been falsely and deceptively represented to be a plastic tile. As to this charge, the agreement states that the binder of the tile in question contains polystyrene, a plastic, and that there are no recognized applicable standards setting forth the amount of plastic required in a tile to justify its designation as a plastic tile. Under these circumstances, this charge is abandoned, and no provision relative thereto appears in the order, which adequately prohibits all other acts and practices charged in the complaint as being in violation of the Federal Trade Commission Act. Accordingly, the Hearing Examiner finds this proceeding to be in the public interest and accepts the Agreement Containing Consent Order To Cease And Desist as part of the record upon which this decision is based. Therefore,

It is ordered, That respondents Jack B. Tizer and William B. Tizer, individuals trading and doing business as Royal Tile Stores, Royal Tile Company and Royal Carpet Company, or under any other name, and respondents' representatives, agents and employees,

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directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of asphalt tile, rubber or other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that certain merchandise is offered for sale when such offer is not a bona fide offer to sell the merchandise so offered;

2. Representing, directly or by implication, that Tile Tone is America's most popular floor tile or that it cannot wear out or crack;

3. Representing, directly or by implication, that merchandise is available at an advertised price in colors, when such is not the fact;

4. Offering for sale or selling imperfect tile without clearly disclosing such fact.

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 27th day of December, 1956, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Jack B. Tizer and William B. Tizer, individuals, trading as Royal Tile Stores, Royal Tile Company and Royal Carpet Company, 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
CLINFORD COMB AND NOVELTY CO., INC., ET AL.

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

Docket 6550. Complaint, May 8, 1956—Decision, Dec. 27, 1956

Consent order requiring a concern in New York City to cease stamping and branding as "rubber" and "Atlas Rubber," combs made in large part of material other than rubber, and to cease representing falsely that they manufactured the merchandise they sold.

Mr. Charles S. Cox for the Commission.

Milton M. & Barnard B. Jacobs, of New York City, for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

On May 8, 1956, the Federal Trade Commission issued its complaint against the respondents herein and thereafter the respondents filed their answer thereto. Counsel supporting the complaint and the respondents have now submitted to the hearing examiner, however, for his approval an agreement for consent order, including a proposed order, which will result in a just disposition of all of the issues involved in this proceeding. Such agreement has been properly executed by the respondent Clinford Comb and Novelty Co., Inc., a corporation, by its President, Louis G. Katz, and by the individual respondents Louis G. Katz, both individually and as President and Secretary of said corporation, and Julius Wolfsie, both individually and as Vice President and Treasurer of said corporation. The agreement has also been signed by counsel supporting the complaint. Said agreement bears date of October 10, 1956, and it has been approved by the Director and Assistant Director of the Commission's Bureau of Litigation.

Upon due consideration of said agreement, the proposed order contained therein, and the complaint, the undersigned hearing examiner finds that said agreement has been properly prepared, approved, and submitted to him for his consideration and approval in accordance with the requirements of Sections 3.21 and 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, effective on and after May 21, 1955.

The hearing examiner specially finds that by the terms of said agreement all parties thereto have agreed that:

1. Respondent Clinford Comb and Novelty Co., Inc., is a cor-