

IN THE MATTER OF
MARKET TIRE COMPANY ET AL.

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

Docket 6625. Complaint, Sept. 11, 1956—Decision, Jan. 25, 1957

Consent order requiring two corporate sellers of new and used automobile and truck tires in Washington, D.C., and Bethesda, Md., to cease using bait advertising in newspapers and other false claims as to prices, savings and discounts, guarantees, and quality; and false representations that certain older tires—most of them no longer manufactured—were "Factory Fresh" or "1956" stock.

Mr. Michael J. Vitale for the Commission.

Mr. Henry J. Fox of *Berge, Fox & Arent*, of Washington, D.C., for respondents.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on September 11, 1956, charging them with violation of the Federal Trade Commission Act in connection with the sale and distribution of new and used automobile and truck tires, as set forth in the complaint. After the issuance and service of said complaint and after the filing of answer for Market Tire Company of Maryland, Inc., and the respondents David Lawson and Allan Bratman, individually and as officers of Market Tire Company of Maryland, Inc., on November 29, 1956, an agreement containing consent order to cease and desist from the practices complained of was entered into with counsel supporting the complaint, which agreement purports to dispose of all the issues in this proceeding without hearing. This agreement has been duly approved by the Assistant Director and the Director of the Bureau of Litigation, and has been submitted to the undersigned, heretofore designated to act as hearing examiner herein, for his consideration in accordance with Rule 3.25 of the Rules of Practice of the Commission.

It is noted that although the complaint only names one corporate respondent, Market Tire Company, a Maryland corporation, the aforesaid agreement names and is signed by two corporate respondents, Market Tire Company of Southeast, Inc., a Maryland corporation with its office and principal place of business located at New Jersey Avenue and M Streets, S.E., Washington, D.C., and Market Tire Company of Maryland, Inc., a Maryland corporation with its

office and principal place of business located at 4718 Hampden Lane, Bethesda, Maryland. Both corporate respondents executing the agreement, by its terms, recognize that the complaint was directed against them and agree that the complaint was served on them. That the practices of the separate corporations were intended to be reached by the complaint is further evidenced by the fact that the complaint states that the corporate respondent named has retail stores at the separate respective street addresses named in the agreement as the office and principal place of business of each of the corporate respondents executing the agreement. It is further noted that the correct spelling of the first name of respondent Bratman is "Allan" instead of "Allen" as shown in the complaint. The said agreement was also executed by the respondents Allan Bratman and David Lawson individually and as officers of Market Tire Company of Southeast, Inc., and Market Tire Company of Maryland, Inc., and counsel for all respondents.

By said agreement respondents executing it have admitted all the jurisdictional facts alleged in the complaint and have agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. Said agreement provides further 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 the 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 settlement 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 of the Commission 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 agreement and the order cover all the allegations of the complaint and provide for appropriate disposition of this proceeding, the agreement and the order are hereby accepted and ordered filed upon becoming a part of the Commission's decision pursuant to Sections 3.21 and 3.25 of the Rules of Practice, and the

Order

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hearing examiner accordingly makes the following findings for jurisdictional purposes and order:

1. Respondent Market Tire Co. of Southeast, Inc., is a corporation, existing and doing business under and by virtue of laws of the State of Maryland, with its office and principal place of business located at New Jersey Avenue and M Street, S.E., Washington, D.C. Respondent Market Tire Co. of Maryland, Inc., is a corporation, existing and doing business under and by virtue of the laws of the State of Maryland, with its office and principal place of business located at 4718 Hampden Lane, Bethesda, Maryland. Respondents David Lawson and Allan Bratman are individuals and officers of said corporations, with their offices and principal places of business at the same address as that of the respective corporate respondents.

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

ORDER

It is ordered, That respondent Market Tire Co. of Southeast, Inc., a corporation, respondent Market Tire Co. of Maryland, Inc., a corporation, and their officers, respondents David Lawson and Allan Bratman, individually and as officers of said corporations, 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 new and used automobile and truck tires or any 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 said 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 a specified brand of tire is being offered for sale at a featured price, unless such is the case;

3. Using the term "list price" to designate, describe, or refer to manufacturer's list price, without disclosing that it is the manufacturer's list price, on tires other than those which have been bona fide regularly sold and offered for sale at such "list price" by respondents in the usual and normal course of business;

4. Representing, directly or by implication, that specific savings or discounts are afforded a purchaser upon the purchase of tires

when such purported savings or discounts do not take into account the trade-in if such be required in the sale of such tires;

5. Representing that tires are "Factory Fresh" or the stock of any particular year, unless such is the case;

6. Representing that "Take-off or "Changeover" tires are new;

7. Representing, directly or by implication, that any merchandise sold or offered for sale by respondents is guaranteed, unless the nature and extent of the guarantee and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed;

8. Representing, directly or by implication, that a specified tire is of a certain kind, line, quality, or level when such tire is of a different kind, line, quality, or level;

9. Representing, directly or by implication, that respondents' usual or customary price of any merchandise is in excess of the price at which said merchandise is regularly and customarily sold in the normal course of respondents' business.

It is further ordered, That since the parties have been improperly designated in the complaint, in order to make the pleadings conform to the agreement for a consent order to cease and desist, the complaint herein be, and the same hereby is, amended to make Market Tire Company of Southeast, Inc., a Maryland corporation, Market Tire Company of Maryland, Inc., a Maryland corporation and Allan Bratman and David Lawson, individually and as officers of said corporations, parties respondent.

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 25th day of January, 1957, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Market Tire Company of Southeast, Inc., a corporation, and Market Tire Company of Maryland, Inc., a corporation, and respondents David Lawson and Allan Bratman, individually and as officers of said corporate respondents, 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
NORTHFIELD MILLS, INC., ET AL.

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

Docket 6601. Complaint, July 30, 1956—Decision, Feb. 7, 1957

Consent order requiring three affiliated New England manufacturers of wool products with mills in Northfield, Vt.; Lebanon, N.H.; and Boston, Mass., respectively, to cease violating the Wool Products Labeling Act by failing to label certain wool products as required, by overstating the guanaco content of certain fabrics labeled falsely as "70% Guanaco—30% Wool * * *", by labels furnished to purchasers to be attached to garments bearing the false information "* * * a blend of 80% Wool—20% Guanaco", and by similar false statements made in sales contracts, orders, and correspondence.

Mr. John T. Walker and Mr. S. F. House for the Commission.
Whyman and Lazarus, of New York City, for respondents.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

This proceeding was initiated July 30, 1956 by the issuance of a Federal Trade Commission complaint which charges the above named respondents with violation of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated under said Wool Products Labeling Act as set forth in said complaint. After the issuance and service of the complaint, respondents Northfield Mills, Inc., a corporation, Lebanon Woolen Mills Corporation, a corporation, Strathmore Woolen Company, a corporation, Bernard Goldfine, individually and as an officer of said corporations, Horace Maxwell Goldfine, individually and as the manager of Strathmore Woolen Company and fiber stock buyer for Northfield Mills, Inc., and Lebanon Woolen Mills Corporation on November 9, 1956, entered into an agreement for a consent order to cease and desist from the practices complained of, which agreement purports to dispose of all the issues in this proceeding as to all respondents without hearing. This agreement has been approved by the Assistant Director and Director of the Bureau of Litigation and has been submitted to the undersigned, heretofore designated to act as hearing examiner herein, for his consideration in accordance with Rule 3.25 of the Rules of Practice of the Commission.

On the basis of an affidavit of respondent Bernard Goldfine attached to and made part of the agreement by reference, the agree-