

Decision

IN THE MATTER OF
GENERAL HOME IMPROVEMENT CO., INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 6674. Complaint, Oct. 31, 1956—Decision, May 7, 1957*

Consent order requiring sellers in Brooklyn, N.Y., to cease "bait" advertising of aluminum storm windows by radio and television when the offer was not bona fide but actually made only to obtain leads to prospective customers; and falsely representing that offers were limited "to ONLY ONE HOME OWNER in each neighborhood"; and that those guessing the "mystery melody" on a radio program would receive a credit of \$100 toward the purchase of their storm windows.

Mr. Edward F. Downs supporting the complaint.

Mr. Charles Goldenberg, New York City, for respondents.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the respondents herein on October 31, 1956, charging them with violation of the Federal Trade Commission Act as set forth in said complaint. After service of the complaint respondents and their attorney entered into an agreement with counsel supporting the complaint 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. This agreement has been duly 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.

Respondents General Home Improvement Company, Inc., a corporation and Nathan Muroff and Ruby Friestat individually and as officers of said corporation in the aforesaid agreement have admitted all the jurisdictional facts alleged in the complaint and have agreed that the record may be taken as if findings of the 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 into accordance with the agreement. It has also been agreed that the record herein shall consist solely of

Order

53 F.T.C.

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 order cover all the allegations of the complaint and provide for appropriate disposition of this proceeding, the order and agreement 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. Respondent General Home Improvement Co., Inc., was, during all times mentioned in the complaint issued in this matter, a corporation existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 1728 Flatbush Avenue, in the City of Brooklyn, State of New York.

2. Respondents Nathan Muroff and Ruby Friestat were, during all times mentioned in the complaint issued in this matter, officers of corporate respondent and they formulated, directed and controlled the policies, acts and practices of said corporate respondent. Their address was the same as that of corporate respondent. While corporate respondent General Home Improvement Co., Inc., is not presently doing business as alleged in the complaint, the individual respondents herein have continued to engage in the same business as individuals.

3. 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. This proceeding is in the public interest.

ORDER

It is ordered, That respondents, General Home Improvement Co., Inc., a corporation, and its officers, Nathan Muroff and Ruby Frie-

1013

Decision

stat, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of aluminum storm windows, or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that certain storm windows, or any other products, are offered for sale when such offer is not a bona fide offer to sell the storm windows or other products so offered.

2. Representing that a credit will be given, as the result of a contest program or otherwise, to a customer on his purchase of storm windows or any other products unless such "credit" is actually given to such purchaser and amounts to a reduction from the usual and customary price, in the amount of said "credit."

3. Representing, contrary to the fact, that any offer is limited to particular persons, or limited in any other manner.

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 7th day of May, 1957, 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

JEROME SAKS ET AL. TRADING AS SAKS FUR CO.

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

Docket 6573. Complaint, June 20, 1956—Decision, May 8, 1957

Consent order requiring a furrier in Washington, D.C., to cease representing prices of fur products as reduced from regular prices which were fictitious, and misrepresenting values of the products on labels and in newspaper advertising; and failing in other respects to conform to the requirements of the Fur Products Labeling Act; also dismissing without prejudice a charge of false invoicing.

Mr. Simeon F. House for the Commission.

Mr. Philip Rosenfeld, of Washington, D.C., for respondents.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this proceeding issued June 20, 1956, charged the respondents Jerome Saks and Josephine Saks, individually and as copartners trading as Saks Fur Company, located at 610 Twelfth Street, N.W., Washington, D.C., with the use of unfair and deceptive acts and practices in interstate commerce in violation of the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act and the rules and regulations promulgated thereunder.

After the issuance of said complaint, the respondents Jerome Saks and Josephine Saks, individually and as copartners trading as Saks Fur Company, entered into an agreement for consent order with counsel in support of the complaint disposing of all the issues in this proceeding, except it appears that the preponderance of the presently available evidence does not sustain charges with regard to false and deceptive invoicing as alleged in Paragraphs Four and Five of the complaint, which agreement was duly approved by the Director and Assistant Director of the Bureau of Litigation. It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

By the terms of said agreement, the said respondents admitted all the jurisdictional facts alleged in the complaint, except the charges with regard to false and deceptive invoicing as alleged in Paragraphs Four and Five of the complaint, and agreed that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with such allegations.