

IN THE MATTER OF
NECCHI SEWING MACHINE SALES CORPORATION
ET AL.

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

Docket 5903. Complaint, July 9, 1951—Decision, May 15, 1957

Consent order requiring sellers of Necchi sewing machines in New York City to cease making false representations in advertising of specialized sewing operations possible for their machines without attachments, unique features, comparative cost, and claimed long-time leadership in the precision-built sewing machine industry.

Mr. Daniel J. Murphy for the Commission.

Herbst & Herbst, by *Mr. Samuel B. Herbst*, of New York, N.Y., for respondents.

Mr. James W. Cassedy and *Mr. Edward O. Poole*, of Washington, D.C., for respondent Necchi Sewing Machine Sales Corporation.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondents with violation of the Federal Trade Commission Act through the use of certain advertisements in connection with the sale of sewing machines. An agreement has now been entered into by the Commission's Bureau of Litigation and respondents Necchi Sewing Machine Sales Corporation, Leon Jolson and Ben Krisiloff (erroneously referred to in the complaint as Ben Krisloff) and their attorneys, 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, an interlocutory decision of the Commission issued on June 28, 1955, and the agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter 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 the proceeding, 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; that the complaint may be used in construing the terms of the order;

and that the agreement is for settlement 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 Milton Heimlich (erroneously referred to in the complaint as Milton Heinlich), there is attached to the agreement an affidavit executed by the general counsel of the corporate respondent to the effect that Heimlich severed his connection with the corporation in March 1954, and that while Heimlich was associated with the corporation he did not participate in the formulation, direction or control of its acts and practices. In view of this affidavit, the agreement recommends that the complaint be dismissed as to Heimlich without prejudice.

Aside from certain charges in the complaint heretofore dismissed by the hearing examiner, which action was affirmed by the Commission in the interlocutory decision referred to above, the proposed order covers all of the issues raised in the complaint except those relating to respondents' representations: (1) that the machines in question will, without the use of attachments, hemstitch, blind stitch and make buttonholes; (2) that the machines incorporate the exclusive features of certain specialized factory machines referred to in respondents' advertising; and (3) that the machines, without attachments, will satisfactorily do all home sewing. The agreement states that the preponderance of the presently available evidence does not sustain the complaint in respect of these matters.

Upon consideration of the agreement and proposed order, the hearing examiner is of the view that they provide an adequate basis for appropriate disposition of the proceeding. It seems clear that the omission from the order of the matters referred to above is proper, and also that the complaint should be dismissed as to respondent Milton Heimlich without prejudice. The agreement is therefore accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Necchi Sewing Machine Sales Corporation is a corporation organized, existing and doing business under the laws of the State of New York, with its office and principal place of business located at 164 West 25th Street, New York, New York. Respondents Leon Jolson and Ben Krisiloff are president and secretary, respectively, of the corporation, and formulate, direct and control its acts and practices.

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

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ORDER

It is ordered, That the respondents, Necchi Sewing Machine Sales Corporation, a corporation, and its officers, and Leon Jolson and Ben Krisiloff, individually and as officers of said corporation, and said respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of their sewing machines designated BU Necchi Sewing Machines, or any other hand or manual sewing machines of substantially similar construction or performance, whether offered for sale or sold under the same name or under any other name, do forthwith cease and desist from representing, directly or by implication:

1. That said machines will do genuine hand rolling.
2. That said machines do button sewing, embroidery, zigzag, stitching, overedge stitching, hemstitching, plain straight stitching, or make buttonholes of a quality equal to such work done by specialized factory machines, unless such is the fact.
3. That said machines, without attachments, will make 90 different stitches or any substantial portion thereof; or that said machines are capable of doing more home sewing or of performing more sewing operations than is the actual fact, provided respondents are not to be precluded from representing that said machines perform the two (2) basic stitches: to wit, straight stitch and zigzag stitch and numerous variations thereof.
4. That said machines are less expensive than other sewing machines on the market, including attachments, or that they will perform any sewing operations which cannot be performed by other sewing machines with their attachments, unless such is the fact.
5. That features are incorporated in said machines which are not found in any other sewing machines, unless such is the fact.
6. That the manufacturer of said machines is the industry leader in the design and manufacture of sewing machines, unless such is the fact.

It is further ordered, That the complaint be, and it hereby is, dismissed as to respondent Milton Heimlich without prejudice to the right of the Commission to take such further action in the future with respect to said respondent as may be warranted by the then existing facts and circumstances.

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Decision

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 15th day of May, 1957, become the decision of the Commission; and, accordingly:

It is ordered, That Necchi Sewing Machine Sales Corporation, a corporation, and Leon Jolson and Ben Krisiloff, 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.

Commissioner Kern not participating.

IN THE MATTER OF
GLENSDER TEXTILE CORPORATION ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FLAMMABLE FABRICS ACTS

Docket 6690. Complaint, Dec. 13, 1956—Decision, May 15, 1957

Consent order requiring an importer in New York City to cease violating the Flammable Fabrics Act by importing into the United States and selling Japanese silk scarves "so highly flammable as to be dangerous when worn".

Mr. Brockman Horne for the Commission.

Mr. Walter E. Joyce, of Washington, D.C., for respondents.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

The complaint in this proceeding, issued December 13, 1956, charges the respondents Glensder Textile Corporation, a corporation existing and doing business by virtue of the laws of the State of Delaware, and Edwin Rosenberg, Arthur Klein, Sidney Nathan and Louis Grossman, individually and as officers of the respondent corporation with violation of the Federal Trade Commission Act and of the Flammable Fabrics Act and the Rules and Regulations promulgated thereunder, in connection with the importation, sale, offering for sale and transporting, in interstate commerce, of articles of wearing apparel which articles were so highly flammable as to be dangerous when worn by individuals.

After the issuance of said complaint, respondents entered into an agreement for consent order with counsel in support of complaint, disposing of all the issues in this proceeding, which agreement was duly approved by the Director and the 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 respondents admitted all of the jurisdictional allegations of the complaint and agreed that the record herein may be taken as though the Commission had made findings of jurisdictional facts in accordance with such allegations. By said agreement the parties expressly waived a hearing before the Hearing Examiner or the Commission, the making of findings of fact or conclusions of law by the Hearing Examiner or the Commission, the filing of exceptions and oral arguments before the Commission, and all further and other procedure before the