

IN THE MATTER OF
H. B. DAVIS CORPORATION ET AL.

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

Docket 6697. Complaint, Dec. 26, 1956—Decision, July 31, 1957

Consent order requiring a seller in New York City to cease labeling as "All new material consisting of wool batting," bed comforters which contained substantial amounts of fibers other than wool, and failing to conform to the labeling requirements of the Wool Products Labeling Act; including in the transparent containers of the comforters streamers bearing fictitious prices; and representing falsely in catalogs that said comforters were "100% All Wool Filled" and bore "Good Housekeeping Seal of Approval."

Mr. S. F. House for the Commission.

Mr. J. Wolfe Chassen, of Brooklyn, N.Y., for respondent.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (hereinafter referred to as the Commission) on December 26, 1956, issued its complaint herein under the Federal Trade Commission Act, and the Wool Products Labeling Act of 1939 against the above-named respondents H. B. Davis Corporation, a corporation, and Harry B. Davis and Charles J. Schwartz, individually and as officers of said corporation. The complaint charges respondents with having violated in certain particulars the provisions of said Acts and the Rules and Regulations promulgated under said Wool Products Labeling Act. The respondents were duly served with process. Upon being advised that Commission's counsel and the respondents were negotiating an agreement for a consent cease and desist order pursuant to Section 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, the times for answer and for initial hearing were postponed by appropriate order, pending the negotiation of such an agreement.

On June 11, 1957, there was submitted to the undersigned hearing examiner of the Commission for his consideration and approval an "Agreement Containing Consent Order To Cease and Desist," which had been entered into by and between each of the respondents, other than Harry B. Davis, and S. F. House, counsel supporting the complaint, under date of May 3, 1957, and subject to the approval of the Bureau of Litigation of the Commission. Such agreement had been

thereafter duly approved by the Director and Assistant Director of the Commission's Bureau of Litigation.

On due consideration of the said Agreement Containing Consent Order To Cease And Desist, the hearing examiner finds that said agreement both in form and content is in accord with said Section 3.25 of the Rules of Practice and Procedure of the Commission and that by said agreement the parties have specifically agreed that:

1. Respondents H. B. Davis Corporation, a corporation, and Charles J. Schwartz, an individual and officer of said corporate respondents, have their offices and principal place of business located at 145 West 15th Street, New York, New York.

2. Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, the Federal Trade Commission on December 26, 1956, issued its complaint in this proceeding against respondents, and a true copy was thereafter duly served on respondents.

3. 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.

4. This agreement disposes of all of this proceeding as to all parties except Harry B. Davis, who in accordance with respondent's answer is no longer connected with respondent corporation. It was therefore stipulated and agreed that the complaint be dismissed as to Harry B. Davis. References hereafter to "respondents" shall hereafter not include Harry B. Davis but only the parties to the agreement.

5. Respondents waive:

(a) Any further procedural steps before the hearing examiner and the Commission;

(b) The makings of findings of fact or conclusions of law; and

(c) 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.

6. 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.

7. This agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

8. This 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.

Order

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The parties have further specifically agreed that the proposed order to cease and desist included in said agreement may be entered in this proceeding by the Commission without further notice to respondents; that when so entered it shall have the same force and effect as if entered after a full hearing; that it 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.

Upon due consideration of the complaint filed herein and the said "Agreement Containing Consent Order To Cease And Desist," the latter is hereby approved, accepted and ordered filed, the same not to become a part of the record herein, however, unless and until it becomes part of the decision of the Commission. The hearing examiner finds from the complaint and the said "Agreement Containing Consent Order To Cease And Desist" that the Commission has jurisdiction of the subject matter of this proceeding and of the persons of each of the respondents herein; that the complaint states a legal cause for complaint under the Federal Trade Commission Act and the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated under the latter Act, against each of the respondents both generally and in each of the particulars alleged therein; that this proceeding is in the interest of the public; that the following order as proposed in said agreement is appropriate for the just disposition of all of the issues in this proceeding, such order to become final only if and when it becomes the order of the Commission; and that said order therefore should be, and hereby is, entered as follows:

ORDER

It is ordered, That the respondents H. B. Davis Corporation, a corporation, and its officer, Charles J. Schwartz, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from introducing into commerce, or offering for sale, selling, transporting or distributing, in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act, bed comforters or other "wool products," as such products are defined in and subject to said Wool Products Labeling Act, which products contain, purport to contain, or in any way are represented as containing "wool," "re-processed wool," or "reused wool" as those terms are defined in said Act:

1. Any such products which are misbranded in that they are falsely or deceptively stamped, tagged, labeled or otherwise iden-

tified as to the character or amount of the constituent fibers contained therein.

2. Any such products which are misbranded in that they are falsely or deceptively identified as to prices at which they are sold by retailers in their usual and regular course of business.

3. Any such products which are misbranded in that a stamp, tag, label or other means of identification is not on or securely affixed to such product showing in a clear and conspicuous manner:

(a) The percentage of the total fiber weight of such wool product, exclusive of ornamentation not exceeding five percentum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber is five percentum or more, and (5) the aggregate of all other fibers;

(b) The maximum percentage of the total weight of such wool product of any nonfibrous loading, filling, or adulterating matter;

(c) The name or the registered identification number of the manufacturer of such wool product or of one or more persons engaged in introducing such wool product into commerce, or in the offering for sale, sale, transportation, distribution, or delivery for shipment thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939.

It is further ordered, That H. B. Davis Corporation, a corporation, and its officer, Charles J. Schwartz, individually and as an officer of said corporation, 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 bed comforters or any other product in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from, directly or indirectly:

1. Misrepresenting in any way the constituent fiber or material used in their merchandise or the respective percentage thereof;

2. Representing in any manner that a certain amount is the usual and regular retail price for their products when such amount is in excess of the price at which their products are usually and regularly sold at retail;

3. Representing directly or by implication that their products are approved by Good Housekeeping Magazine or any other individual, firm, or organization, unless such is the fact.

It is still further ordered, That the complaint be, and the same hereby is, dismissed as to the respondent Harry B. Davis.

Decision

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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 31st day of July, 1957, become the decision of the Commission; and, accordingly:

It is ordered, That respondents H. B. Davis Corporation, a corporation, and Charles J. Schwartz, individually and as an officer 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.

Decision

IN THE MATTER OF
ALRICH MANUFACTURING CO., INC., ET AL.

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

Docket 6771. Complaint, Apr. 8, 1957—Decision, July 31, 1957

Consent order requiring sellers in Great Neck, Long Island, of a sheet of transparent plastic sprayed with colored paint designated "Color Pix" and designed to be attached to television sets, to cease representing falsely in advertising in periodicals and in material supplied to their customers, that a black and white television set would produce the same visual effect as a color television when said "Color Pix" was attached to it; that its use would eliminate glare and snow from television screens, and eliminate eyestrain and relieve headaches caused by viewing television; and that it would not burn.

Mr. Brockman Horne for the Commission.

Mr. Alan G. Trebach of *Trebach, Carroll & Siegel*, of New York, N.Y., for respondent.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes hereinafter referred to as the Commission), on April 8, 1957, issued its complaint herein under the Federal Trade Commission Act against the above-named respondents, Alrich Manufacturing Co., Inc., a corporation, and Judith Gleichenhaus, individually and as an officer of said corporation, charging said respondents with having violated the provisions of the Federal Trade Commission Act in certain particulars. The respondents were duly served with process.

On June 19, 1957, there was submitted to the undersigned hearing examiner of the Commission for his consideration and approval an "Agreement Containing Consent Order To Cease And Desist," which had been entered into by and between said respondents and Brockman Horne, counsel supporting the complaint, under date of June 18, 1957, and subject to the approval of the Bureau of Litigation of the Commission. Such agreement had been thereafter duly approved by the Director and Assistant Director of the Commission's Bureau of Litigation.

In view of the subsequent approval herein of said agreement, the initial hearing set for June 19, 1957, at ten o'clock in New York, New York, as fixed in the notice portion of the complaint, was canceled by order dated June 3, 1957.