

Decision

IN THE MATTER OF
KRASNOW BELT CO., INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT

Docket 6742. Complaint, Mar. 15, 1957—Decision, Sept. 17, 1957

Consent order requiring a manufacturer in Long Island City, N.Y., to cease attaching to men's and boys' belts, labels carrying fictitious and exaggerated prices, thereby placing in the hands of retailers a means of deceiving the purchasing public as to the usual retail price.

Mr. Morton Nesmith and Mr. John J. Mathias supporting the complaint.

Mr. Erwin L. Corwin, of New York City, for respondents.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the respondents herein on March 15, 1957 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 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 Morton Nesmith and John J. Mathias have both signed the agreement as counsel supporting the complaint, whereas only John J. Mathias is named as counsel supporting the complaint in the body of the agreement. This irregularity is not believed to affect the validity of the agreement.

Respondents Krasnow Belt Company, Inc., a corporation, and Kenneth I. Krasnow and David Krasnow individually and as officers of the corporate respondent 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

Order

54 F.T.C.

and desist entered into 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 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 finds for jurisdictional purposes and order:

1. Respondent Krasnow Belt Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and place of business at 33-00 Northern Boulevard, Long Island City, New York.

2. Respondent Kenneth I. Krasnow is president of the corporate respondent, and respondent David Krasnow is vice-president, treasurer, and secretary of the corporate respondent. The address of these respondents is the same as that of the corporate respondent. These individual respondents formulate, direct and control the policies, acts and practices of the corporate respondent.

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 Krasnow Belt Co., Inc., a corporation, and its officers, and Kenneth I. Krasnow, and David Krasnow, 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 or distribution of men's and boys' belts or other merchandise in com-

339

Order

merce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing by preticketing or in any manner that certain amounts are the regular and usual retail prices of merchandise when such amounts are in excess of the prices at which such merchandise is usually and regularly sold at retail.

2. Putting into operation any plan whereby retailers or others may misrepresent the regular and usual retail prices of merchandise.

ORDER DENYING RESPONDENTS' MOTION TO VACATE,
AND DECISION OF THE COMMISSION

The hearing examiner, on June 13, 1957, having filed an initial decision in this proceeding accepting an agreement containing an order to cease and desist theretofore executed by respondents and counsel in support of the complaint, and the Commission, on July 23, 1957, having extended, until further order by it, the date on which said initial decision would otherwise become the decision of the Commission; and

Respondents, on July 31, 1957, having filed a request in the nature of a motion seeking to vacate the initial decision and to remand the proceeding for the reception of further evidence of economic harm to respondents, or in the alternative, praying that compliance by respondents with the order to cease and desist contained in the initial decision be stayed until such time as all of respondents' competitors shall be proceeded against by the Commission and be governed by similar orders; and

The Commission being of the opinion that the respondents have failed to make an adequate showing on the law and facts to justify vacating and setting aside the initial decision as prayed, and having further concluded that it would be contrary to the public interest to stay compliance with the order to cease and desist contained in the initial decision:

It is ordered, That respondents' motion be, and it hereby is, denied.

It is further ordered, That the initial decision of the hearing examiner be, and it hereby is, adopted as the decision of the Commission.

It is further ordered, That respondents Krasnow Belt Co., Inc., and Kenneth I. Krasnow and David Krasnow, 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 contained in the initial decision.

IN THE MATTER OF
SWIFT & ANDERSON, INC., ET AL.

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

Docket 6818. Complaint, June 14, 1957—Decision, Sept. 17, 1957

Consent order requiring a firm in Boston, Mass., importing lenses from Japan and movements for weather instruments from England and Germany which they fitted into frames and cases, respectively, for sale to the purchasing public, to cease failing to properly label such products to show the place of origin of the component parts, falsely representing them to be of domestic manufacture, and misrepresenting all air-to-glass lens surfaces of their binoculars as "coated".

Mr. Floyd O. Collins for the Commission.

Mr. Joseph F. Knowles, of *Goodwin, Procter & Hoar*, of Boston, Mass., for respondents.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

The complaint in this proceeding charges that Swift & Anderson, Inc., a corporation, Robert W. Swift, Jr., Humphrey H. Swift, Clifford O'Brien, and Charles H. Kent, individually and as officers of said corporation, hereinafter called respondents, violated the provisions of the Federal Trade Commission Act while engaged in their business of importing, assembling, offering for sale, selling and distributing magnifiers, reading glasses, binoculars and weather instruments.

After issuance and service of the complaint, counsel supporting the complaint and respondents, with their counsel, entered into an agreement for a consent order. The agreement has been approved by the Director and Assistant Director of the Bureau of Litigation. The order disposes of the matters complained about.

The material provisions of said agreement are as follows: Respondents admit all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and the said agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission; respondents waive the requirement that the decision must contain a statement of findings of fact and conclusion of law; respondents waive further procedural steps before the hearing examiner and the Commission, and the order may be altered, modified, or set aside in the manner provided by statute for other orders; respondents