

Decision

IN THE MATTER OF
HIRAM B. HUNDLEY DOING BUSINESS AS
BEN HUNDLEY

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

Docket 6815. Complaint, June 7, 1957—Decision, Nov. 13, 1957*

Consent order requiring a seller in Washington, D.C., to cease advertising falsely in newspapers that automobile and truck tires into which he had cut additional grooves to give the appearance of snow tires, were brand new, factory built, 100 level, first line snow and slush tires, and that the District of Columbia law required chains or snow tires on vehicles driving on certain streets when the weather warranted them.

Mr. Michael J. Vitale for the Commission.

Mr. Frederick Stohlman, of Washington, D.C., for respondents.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

The complaint in this proceeding, issued June 7, 1957, charges the respondent Hiram B. Hundley, an individual, trading and doing business as Ben Hundley, with violation of the Federal Trade Commission Act in connection with the selling and distributing of new and used automobile and truck tires. Thereafter, on August 28, 1957, this Hearing Examiner issued an order amending the complaint by removing as respondent said individual, and substituting in lieu thereof Ben Hundley Tires, Inc., a corporation, existing and doing business under and by virtue of the laws of the District of Columbia, and Hiram B. Hundley, individually and as principal officer of said corporate respondent. The office and principal place of business of both respondents is located at 3446 14th Street, N. W., Washington, D.C.

Subsequently, on September 6, 1957, respondents entered into an agreement for consent order with counsel in support of the complaint, disposing of all of the issues in this proceeding, which agreement was duly approved by the 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 the jurisdictional allegations of the complaint, as amended, and agreed that the record herein may be taken as though the Commission had

* Amended Aug. 28, 1957.

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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 argument before the Commission, and all further and other procedure before the Hearing Examiner and the Commission to which respondents may be entitled under the Federal Trade Commission Act or the Rules of Practice of the Commission.

By said agreement, respondents further agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if made after a full hearing, presentation of evidence and findings and conclusions thereon, and specifically waived any and all right, power or privilege to challenge or contest the validity of such order.

It was further provided that said agreement, together with the complaint, as amended, shall constitute the entire record herein; that the complaint herein, as amended, may be used in construing the terms of the order issued pursuant to said agreement; and that the said order may be altered, modified or set aside in the manner provided by statute for other orders of the Commission.

Said agreement recites that respondent Ben Hundley Tires, Inc., is a corporation existing under and by virtue of the laws of the District of Columbia, with its office and principal place of business located at 3446 14th Street, N.W., Washington, D.C., and respondent Hiram B. Hundley is the principal officer of said corporation. His address is the same as that of the corporate respondent.

The Hearing Examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provides for an appropriate disposition of this proceeding, the same is hereby accepted and, without further notice to respondents, is ordered filed upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice, and in consonance with the terms of said agreement, the Hearing Examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents named herein, and that this proceeding is in the interest of the public, and issues the following order:

ORDER

It is ordered, That respondent Ben Hundley Tires, Inc., a corporation, and its officers, and Hiram B. Hundley, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in

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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 representing, directly or by implication:

1. That a specified tire is a factory-built snow and slush tire, unless such is the fact.
2. That a snow and slush tire or any other type of tire, is of a certain kind, line, quality, or level, unless such is the fact.
3. That the law in the District of Columbia requires snow and slush tires to be used at certain times.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Sec. 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 13th day of November, 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
WALSIDE, INC., ET AL.

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

Docket 6873. Complaint, Aug. 21, 1957—Decision, Nov. 13, 1957

Consent order requiring Des Moines, Ia., manufacturers of aluminum house or building siding to cease making, in advertising and through sales talks given by employees, false representations as to a free gift of a dining table service set purportedly given to interested prospects and the value thereof, and commissions paid for the use of houses of purchasers as models to demonstrate their product; and to cease quoting initial inflated and fictitious prices and subsequently quoting the lower usual price as special introductory conditioned on use of the customer's home for demonstration, etc.

Mr. Terral A. Jordan for the Commission.

Mr. Charles J. Cardamon, of Des Moines, Ia., for respondents.

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 making of certain misrepresentations in connection with aluminum house or building siding material. An agreement has now been entered into by respondents and counsel supporting the complaint which provides, among other things, that 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 and 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, 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 respondents that they have violated the law as alleged in the complaint.