

IN THE MATTER OF
BERNARD D. GARFINKEL DOING BUSINESS AS
BENAT WATCH CASE CO.

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

Docket 6857. Complaint, July 26, 1957—Decision, Nov. 22, 1957

Consent order requiring a New York City distributor to cease misrepresenting the gold karat fineness of watch cases he sold to jobbers and retailers by imprinting "14 K" on the backs thereof.

Edward F. Downs, Esq. and Thomas A. Sterner, Esq., for the Commission.

Respondent, pro se.

INITIAL DECISION BY ROBERT L. PIPER, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondent on July 26, 1957, charging him with having violated the Federal Trade Commission Act by labeling his gold watch cases 14 karat when they were in fact less than 14 karat. Respondent entered into an agreement, dated September 21, 1957, containing a consent order to cease and desist, disposing of all the issues in this proceeding without hearing, which agreement has been duly approved by the Director of the Bureau of Litigation. Said agreement has been submitted to the undersigned, heretofore duly designated to act as hearing examiner herein, for his consideration in accordance with Section 3.25 of the Rules of Practice of the Commission.

Respondent, pursuant to the aforesaid agreement, has admitted all of the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been made duly in accordance with such allegations. Said agreement further provides that respondent waives 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 in accordance with such 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 respondent that he has 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, 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 order and agreement cover all of the allegations of the complaint and provide for appropriate disposition of this proceeding, the agreement is hereby accepted and ordered filed upon this decision and said agreement 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 Bernard D. Garfinkel is an individual trading and doing business as Benat Watch Case Co., with his office and principal place of business at 2 West 47th Street, New York, New York.

2. The Federal Trade Commission has jurisdiction of the subject-matter of this proceeding and of the respondent hereinabove named. The complaint states a cause of action against said respondent under the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That respondent, Bernard D. Garfinkel, trading and doing business as Benat Watch Case Co., or under any other name, his agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of any articles composed in whole or in part of gold or an alloy of gold in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Stamping, branding, engraving or marking any article, or selling any article that is stamped, branded, engraved or marked, with any phrase or mark such as 14K, or otherwise representing directly or by implication that the whole or a part of any article is composed of gold or any alloy of gold of any designated fineness, unless the article or part thereof so marked or represented is composed of gold of the designated fineness within the permissible tolerance established by the National Stamping Act (15 U.S.C. Sections 294 et seq.).

Decision

54 F.T.C.

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 did, on the 22nd day of November, 1957, become the decision of the Commission; and, accordingly:

It is ordered, That the respondent herein shall within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Decision

IN THE MATTER OF

JULIUS BERMAN ET AL. TRADING AS
BERMAN BROTHERS

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

Docket 6863. Complaint, Aug. 14, 1957—Decision, Nov. 22, 1957

Consent order requiring a New York City furrier to cease violating the Fur Products Labeling Act by failing to label certain products as required and by invoicing which showed the United States as the country of origin of furs which were in fact imported.

Mr. Charles W. O'Connell for the Commission.

Mr. Julius Berman, Mr. Max Berman, and Mr. William Berman,
pro se.

INITIAL DECISION BY EVERETT F. HAYCRAFT, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on August 14, 1957, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of the Federal Trade Commission Act, the Fur Products Labeling Act and the Rules and Regulations promulgated under the Fur Products Labeling Act. In lieu of submitting answer to said complaint, all of the respondents on September 20, 1957, entered into an agreement for consent order with counsel supporting the complaint disposing of all the issues in this proceeding in accordance with Section 3.25 of the Rules of Practice and Procedure of the Commission, which agreement has been duly approved by the Director and the Assistant Director of the Bureau of Litigation.

By the terms of said agreement, the respondents admitted all the jurisdictional facts alleged in the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. Respondents in the agreement expressly waived any further procedural steps before the hearing examiner and the Commission; the making of findings of fact or conclusions of law; and 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. It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; 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 the respondents that