

Decision

IN THE MATTER OF
CARL COHEN TRADING AS BON TON FINDINGS

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

Docket 6858. Complaint, July 26, 1957—Decision, Jan. 15, 1958

Consent order requiring a manufacturer in New York City to cease imprinting the mark "14K" on the back or other location of watch cases which were manufactured from gold of less than 14-karat fineness, thereby enabling retailers to mislead the public as to the gold content of the product.

Edward F. Downs and Thomas A. Sterner, Esqs., in support of the complaint.

David S. Golden, Esq., New York, N.Y. for respondent.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

The complaint in this proceeding, issued July 26, 1957, charges the respondent Carl Cohen, an individual, trading and doing business as Bon Ton Findings, with violation of the Federal Trade Commission Act in connection with the selling and distributing of watch cases. The office and principal place of business of respondent is located at No. 208 W. 27th Street, New York, N.Y.

After issuance and service of said complaint, the respondent entered into an agreement for a 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 respondent that he has violated the law as alleged in the complaint.

By the terms of said agreement, the respondent admitted all 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 argument before the Commission, and all further and other procedure before the hearing examiner and the Commission to which respondent may be entitled under the Federal Trade Commission Act or the rules of practice of the Commission.

By said agreement, respondent further agreed that the order to

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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, shall constitute the entire record herein; that the complaint herein 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 Carl Cohen is an individual, trading and doing business as Bon Ton Findings, with his office and principal place of business located at No. 208 W. 27th Street, New York, N.Y.

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 respondent, 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 respondent named herein, and that this proceeding is in the interest of the public, and issues the following order:

ORDER

It is ordered, That respondent, Carl Cohen, trading and doing business as Bon Ton Findings, 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 an 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. secs. 294 et seq.).

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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 15th day of January 1958, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF
KEITH E. McKEE DOING BUSINESS AS NATIONAL
LABORATORIES OF DES MOINES

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

Docket 6871. Complaint, Aug. 21, 1957—Decision, Jan. 15, 1958

Consent order requiring a distributor of vending machines and nut meats dispensed thereby, located in Des Moines, Iowa, to cease representing falsely in advertisements in newspapers and through his salesmen that he was offering employment, that exaggerated profits could be earned servicing his vending machines, that inventory of machines and their supplies was security for the purchaser's investment, that customers were given exclusive territory, aid in locating machines profitably, and that machines were repurchased from dissatisfied customers; and to cease misleading use of the word "Laboratories" in his trade name or otherwise.

Mr. Garland S. Ferguson for the Commission.

Mr. Stanley R. Browne, of Des Moines, Iowa, for respondent.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) issued its complaint herein, charging the above-named respondent Keith E. McKee, an individual trading and doing business as National Laboratories of Des Moines, with having violated the Federal Trade Commission Act in certain particulars. The respondent was duly served with process and in due course filed his answer. An initial proceeding was convened at Des Moines, Iowa, October 29, 1957, pursuant to due notice, at which place and time counsel supporting the complaint and respondent and his counsel were present and at which time during a recess of the hearing an "Agreement containing consent order to cease and desist" was executed by counsel supporting the complaint and by the respondent upon the advice of his counsel, and the hearing examiner was then so informed. The initial hearing was thereupon recessed and a further scheduled hearing was canceled pending the approval and submission of said agreement in due course.

On November 6, 1957, there was submitted to the undersigned hearing examiner of the Commission for his consideration and approval said "Agreement containing consent order to cease and desist" entered into and executed by respondent and Garland S. Ferguson,