

IN THE MATTER OF
FREDERICK MANUFACTURING CO. ET AL.

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

Docket 6866. Complaint, Aug. 14, 1957—Decision, Jan. 22, 1958

Consent order requiring manufacturers in Providence, R.I., to cease affixing to their costume jewelry and men's accessories, before shipping to retail dealer purchasers, labels bearing fictitious prices greatly in excess of the usual retail prices, thereby providing retailers with means for deceiving the purchasing public.

Mr. John W. Brookfield, Jr., and Mr. Charles W. O'Connell, for the Commission.

Dick & Carty, by Mr. E. Harold Dick, of Providence, R.I., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on August 14, 1957, charging respondents with the dissemination, upon labels at the request of purchasers, of false, deceptive, and misleading representations of the retail prices of their costume jewelry and men's accessories, in violation of the Federal Trade Commission Act.

On November 18, 1957, respondents, their counsel, and counsel supporting the complaint herein entered into an agreement containing consent order to cease and desist, which was approved by the director and the assistant director of the Commission's Bureau of Litigation, and thereafter submitted to the hearing examiner for consideration.

The agreement identifies Respondents Frederick Manufacturing Co. and Casselini, Inc. as Rhode Island corporations, having their office and principal place of business, in common, at 244 Oak Street, Providence, R.I.; and Respondents Albert Lieberman and Albert Bensusan as president and treasurer, respectively, of both corporations, and having the same office and place of business.

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.

Respondents waive any further procedure before the hearing examiner and the Commission; the making of findings of fact or conclusions of law; and all the rights they may have to challenge or

contest the validity of the order to cease and desist entered in accordance with the agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist, as contained in the agreement, 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; that the complaint herein may be used in construing the terms of said order; and that the agreement is for settlement purposes only and does not constitute an admission by the respondents that they have violated the law as alleged in the complaint.

After consideration of the allegations of the complaint and the provisions of the agreement and the proposed order, the hearing examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the hearing examiner accepts the agreement containing consent order to cease and desist; finds that the Commission has jurisdiction over the respondents and over their acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That Respondents Frederick Manufacturing Co. and Casselini, Inc., corporations, and their officers, and Albert Lieberman and Albert Bensusan, individually and as officers of said corporations, and their agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of costume jewelry and accessories or any other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Representing through prices or amounts set out on tickets or labels, whether or not affixed to or shipped with such merchandise, or in any other manner, that certain amounts are the regular and usual retail prices of such merchandise, when such amounts are in excess of the prices at which such merchandise is usually and regularly sold at retail.

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 22d day of January 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Frederick Manufacturing Co. and

Casselini, Inc., corporations, and Albert Lieberman and Albert Bensusan, individually and as officers of said corporations, 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.

Complaint

IN THE MATTER OF
ALLEN V. SMITH, INC.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 2 (a)
OF THE CLAYTON ACT

Docket 6877. Complaint, Aug. 23, 1957—Decision, Jan. 22, 1958

Consent order requiring a processor and packer of dried food products in Marcellus Falls, N.Y., to cease discriminating in price in violation of section 2(a) of the Clayton Act by such transactions as selling dried peas and beans to The Great Atlantic & Pacific Tea Co. of America for resale in the Baltimore area at prices lower than those charged other direct-buying retailers in the area and lower than those charged wholesalers who resold to A & P's competitors.

Mr. William Smith and *Mr. James R. Fruchterman* for the Commission.

Mr. Nathan J. Goldrich, of New York City, for respondent.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof, and hereinafter more particularly designated and described, has violated and is now violating the provisions of subsection (a) of section 2 of the Clayton Act (U.S.C., Title 15, sec. 13), as amended by the Robinson-Patman Act approved June 19, 1936, hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Allen V. Smith, 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 located in Marcellus Falls, N.Y.

PAR. 2. Respondent is a processor and packager of dried food products, which consist for the most part of peas, beans, and pearled barley.

Respondent sells its dried food products of like grade and quality to a large number of purchasers located throughout the United States for use, consumption, or resale therein.

Respondent processes and packages its dried food products at its plants located at Marcellus Falls and Martisco, N.Y., Sylvania, Ohio, Garfield, Wash., and Greeley, Colo.

PAR. 3. In the course and conduct of its said business, respondent is now, and for many years has been, shipping its dried food products