

IN THE MATTER OF
DURITE LEATHER GOODS CO., INC., ET AL.

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

Docket 6897. Complaint, Sept. 27, 1957—Decision, Mar. 18, 1958

Consent order requiring a manufacturer in New York City to cease preticketing the men's belts it sold to wholesalers, retailers, and supermarket chains, with purported regular retail prices which were fictitiously high.

Mr. Franklin A. Snyder and Mr. Francis C. Mayer supporting the complaint.

Mr. Herbert Baer Brill of Brill, Bergenelf & Brill of New York, N.Y., for respondents.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

The Federal Trade Commission issued its complaint on September 27, 1957, charging the above-named respondents with violation of the Federal Trade Commission Act as set forth in said complaint. After all respondents were duly served with said complaint, respondents Durite Leather Goods Co., Inc. and Sol Wechsler individually and as an officer of the corporate respondent and their attorney, on January 6, 1958, entered into an agreement with counsel supporting the complaint containing a consent order to cease and desist from the practices complained of, which agreement purports to dispose of all the issues in this proceeding as to these respondents. The agreement has been duly approved by the assistant director and the acting 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.

On January 9, 1958, counsel supporting the complaint filed a motion, which was duly served on the parties hereto, to dismiss as to the respondent Alfred Shure (erroneously named in the complaint as Alfred Schure) both as an individual and as an officer of the corporate respondent. This motion is supported by affidavit of Alfred Shure setting forth that he was an employee only of the corporate respondent, that he held a nominal office of vice president only and had nothing to do with formulating, directing or controlling the policies, acts or practices of the corporate respondent. Counsel supporting the complaint states in said motion that there is no evidence

to the contrary. Time for answering said motion of counsel supporting the complaint has expired and no answer has been filed. Upon consideration the motion is granted.

Respondents Durite Leather Goods Co., Inc. and Sol Wechsler individually and as an officer of the corporate respondent in the aforesaid agreement have 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 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 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 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, 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 the agreement together with the aforesaid motion to dismiss cover all the allegations of the complaint and provide for an appropriate disposition of this proceeding, the order and the agreement are hereby accepted and ordered filed upon becoming a part of the Commission's decision pursuant to section 3.21 and 3.25 of the Commission's rules of practice. The hearing examiner accordingly makes the following findings for jurisdictional purposes and order.

1. Respondent Durite Leather Goods Co., Inc., is a corporation existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 476 Broadway, New York, N.Y.

2. The individual respondent, Sol Wechsler, president of the corporate respondent, Durite Leather Goods Co., Inc., has his office and principal place of business at the same address as the corporate respondent.

Decision

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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 the respondents Durite Leather Goods Co., Inc., a corporation, and its officers, and Sol Wechsler, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of belts or other articles of merchandise, do forthwith cease and desist from:

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

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

It is further ordered, That the complaint herein be and the same hereby is dismissed as to the respondent Alfred Shure individually and as an officer of respondent Durite Leather Goods Co., Inc.

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 18th day of March 1958, become the decision of the Commission; and, accordingly:

It is ordered, That the respondents Durite Leather Goods Co., Inc., a corporation and Sol Wechsler individually and as an officer 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.

Decision

IN THE MATTER OF
ADMIRAL CORP.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 6935. Complaint, Nov. 8, 1957—Decision, Mar. 18 1958*

Consent order requiring a manufacturer with principal office in Chicago to cease misrepresenting in advertising the size of certain of its television sets as "21 inch," "24 inch," etc., without clearly disclosing that the figure was the diagonal distance from opposite corners of the picture tube rather than the horizontal measurement.

Mr. William A. Somers for the Commission.

Mr. William S. Baltz, of Chicago, Ill., for respondent.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on November 8, 1957, issued and subsequently served its complaint in this proceeding against respondent Admiral Corp., a corporation existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 3800 Cortland Street, Chicago, Ill.

On January 22, 1958, there was submitted to the undersigned hearing examiner an agreement between respondent and counsel supporting the complaint providing for the entry of a consent order. By the terms of said agreement, respondent admits all the jurisdictional facts alleged in the complaint and agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. By such agreement, respondent waives any further procedural steps before the hearing examiner and the Commission; waives the making of findings of fact and conclusions of law; and waives all of the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement. Such agreement further provides that it disposes of all of this proceeding as to all parties; that the record on which this initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement; that the latter shall not become a part of the official record unless and until it becomes a part of the decision of the