

IN THE MATTER OF
RIPLEY MANUFACTURING CORPORATION

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

Docket 6870. Complaint, Aug. 20, 1957—Decision, May 21, 1958

Consent order requiring a large retail clothing chain, with principal office in New York City and owning numerous subsidiary corporations operating retail clothing stores in various States, to cease representing falsely in advertising in newspapers and by radio that it manufactured all the merchandise sold in its stores and sold it at prices substantially below those charged by other retailers; that it was a wholesaler and sold to the public at wholesale prices; and that its clothing was rated the best buy in America by "America's top consumer group," purportedly based on a report by Consumers Union.

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

Mr. Bernard Newman, 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 with having violated the provisions of the Federal Trade Commission Act in certain particulars.

On March 19, 1958, there was submitted to the undersigned hearing examiner of the Commission for his consideration and approval an agreement containing consent order to cease and desist which had been entered into by and between respondent, and counsel for both parties, under date of March 12, 1958, subject to the approval of the Bureau of Litigation of the Commission, which had subsequently duly approved the same.

On due consideration of such agreement, the hearing examiner finds that said agreement, both in form and in content, is in accord with section 3.25 of the Commission's rules of practice for adjudicative proceedings, and that by said agreement the parties have specifically agreed to the following matters:

1. Respondent Ripley Manufacturing Corp. 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 80 West End Avenue, New York, N.Y.

2. Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on August 20, 1957, issued its complaint in this proceeding against respondent, and a true copy was thereafter duly served on respondent.

3. 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.

4. This agreement disposes of all of this proceeding as to all parties.

5. Respondent waives:

(a) Any further procedural steps before the hearing examiner and the Commission;

(b) The making of findings of fact or conclusion of law; and

(c) 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.

6. The record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement.

7. This agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

8. This agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

9. That the proposed order set forth in the agreement may be entered by the Commission without further notice to the respondent, and when so entered it shall have the same force and effect as if entered after a full hearing; 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.

The hearing examiner further finds from the complaint and said agreement that the Commission has jurisdiction of the subject matter of this proceeding and of the person of the respondent herein; that the complaint states a legal cause for complaint under the Federal Trade Commission Act, both generally and in each of the particular charges alleged therein; that this proceeding is in the interest of the public; and that the order proposed in the said agreement is appropriate for the full disposition of all the issues as to all of the parties to this proceeding.

The said agreement, including the order proposed therein, is therefore accepted by the hearing examiner and transmitted to the Commission herewith for filing if the Commission so decides; and said

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proposed order is adopted and hereinafter made and entered as the "Order" portion of this initial decision: *Provided*, That neither said agreement nor this initial decision shall become a part of the official record of this proceeding, nor shall this initial decision be published unless and until they respectively become parts of the official decision of the Commission.

ORDER

It is ordered, That respondent, Ripley Manufacturing Corp., a corporation, and its officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of clothing, shoes and haberdashery, 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 respondent manufactures all of the merchandise sold in its stores;
2. That respondent sells all merchandise at prices below the prices charged for the same or comparable merchandise by other retailers;
3. That the purchasing public will realize a saving on any article purchased from respondent unless respondent sell such article below the price charged for the same or comparable articles by other manufacturing-chain-retailers in the same trade territories;
4. That respondent is a wholesaler or conducts a wholesale business in addition to its retail business;
5. That Consumers Union, or any other organization, has determined certain facts or expressed particular opinions about respondent's merchandise unless, in fact, such is the case, and then only to the extent of such expression or determination.

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 21st day of May 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondent Ripley Manufacturing Corp., a corporation, 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
THE ALUMINUM COOKING UTENSIL CO., INC.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 6972. Complaint, Dec. 5, 1957—Decision, May 21, 1958*

Consent order requiring the manufacturer in New Kensington, Pa., of "Wear-Ever" aluminum cooking utensils, designed to employ the so-called "waterless" method of cooking, selling its products chiefly by representatives who gave demonstrations before groups of purchasers, to cease misrepresenting the health benefits obtained by cooking with its utensils and their superiority over competitive products, and that potential customers were selected by its advertising department to receive a special gift, among other things.

Mr. Morton Nesmith and *Mr. John Mathias* for the Commission.
Mr. William K. Unverzagt, of Pittsburgh, Pa., 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 respondents with having violated the provisions of the Federal Trade Commission Act in certain particulars.

On March 20, 1958, there was submitted to the undersigned hearing examiner of the Commission for his consideration and approval an agreement containing consent order to cease and desist, which had been entered into by and between respondent and attorneys for both parties, under date of March 17, 1958, subject to the approval of the Bureau of Litigation of the Commission, which had subsequently duly approved the same.

On due consideration of such agreement, the hearing examiner finds that said agreement, both in form and in content, is in accord with section 3.25 of the Commission's rules of practice for adjudicative proceedings, and that by said agreement the parties have specifically agreed to the following matters:

1. Respondent is a corporation organized, existing and doing business under the laws of the State of Delaware, with its offices and principal place of business located at Wear-Ever Building, in the city of New Kensington, State of Pennsylvania.

2. Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on December 5, 1957, issued