

Decision

IN THE MATTER OF
SURPLUS TIRE CO., INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 7004. Complaint, Dec. 23, 1957—Decision, June 11, 1958*

Consent order requiring sellers of automotive tires in Chicago, largely by use of post cards offering "FACTORY SURPLUS," to cease selling cleaned, repainted, and, in some instances, repaired used tires as new ones—frequently not of the brand or size ordered but concealing that fact by wrappings until after delivery by the carrier—and failing to make guaranteed shipments and refunds to dissatisfied customers and offering instead an unprofitable exchange deal.

Mr. William C. Somers for the Commission.

Mr. Jerome J. Nudelman, of Chicago, Ill., for respondents.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on December 23, 1957, served its complaint in this proceeding against respondents Surplus Tire Co., Inc., a corporation existing and doing business under and by virtue of the laws of the State of Illinois, Jacob (Jack) Roth and Seymour Roth, individually and as president and secretary-treasurer, respectively, of the corporate respondent. The office and principal place of business of said respondents is located at 3929 West Grand Avenue, Chicago, Ill.

On April 22, 1958, there was submitted to the undersigned hearing examiner an agreement between respondents and counsel supporting the complaint providing for the entry of a consent order. By the terms of said agreement, 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. By such agreement, respondents waive any further procedural steps before the hearing examiner and the Commission; waive the making of findings of fact and conclusions of law; and waive 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. 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

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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 Commission; that the 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; and that the following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondents, and, when so entered, it 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.

The hearing examiner having considered the agreement and proposed order, and being of the opinion that they provide an appropriate basis for settlement and disposition of this proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued.

1. Respondent Surplus Tire Co., Inc., is a corporation existing and doing business under the laws of the State of Illinois. Respondents Jacob (Jack) Roth and Seymour Roth are individuals and officers of corporate respondent. Said corporate and individual respondents have their office and principal place of business located at 3929 West Grand Avenue, Chicago, Ill.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Surplus Tire Co., Inc., a corporation, and its officers, and Jacob (Jack) Roth and Seymour Roth, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of tires or other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or indirectly:

1. That merchandise which has been used, in any respect, is new.
2. That respondents will ship the brand or size of merchandise ordered, unless such is the fact.
3. That a refund of the purchase price of merchandise will be made in case the merchandise is not as represented, unless refunds are in fact made.

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4. That merchandise is guaranteed unless the extent of the guarantee and the manner in which the guarantor will perform are clearly and conspicuously disclosed.

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 11th day of June 1958, become the decision of the Commission; and, accordingly:

It is ordered, That the respondents herein 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.

IN THE MATTER OF
ACCURATE STYLE MANUFACTURING CO., INC., ET AL.
CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 7015. Complaint, Dec. 30, 1957—Decision, June 11, 1958

Consent order requiring a concern engaged in Freeport, Long Island, N.Y., in the mail order sale of precut fabrics for making dresses at home, to cease representing falsely in "Help Wanted" advertisements in newspapers that it was offering to employ persons to sew ready-cut housecoats in their homes and would pay "from \$17.40 to \$26.16 dozen" for such services.

Mr. Michael J. Vitale and *Mr. Alvin D. Edelson* for the Commission.

Mr. Joseph F. Soviero, Jr., of Jamaica, N.Y., for respondents.

INITIAL DECISION BY EVERETT F. HAYCRAFT, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on December 30, 1957, charging them with the dissemination in commerce of advertisements containing false representations with respect to distribution through the mails of precut fabrics for the making of dresses in the home, and alleging that the use of such advertisements constituted unfair and deceptive acts and practices and unfair methods of competition in commerce within the meaning and intent of the Federal Trade Commission Act. In lieu of submitting answer to said complaint, all of the respondents, except Joseph Soviero as an individual, 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 Bureau of Litigation. It was recommended in the agreement and the affidavit, which was attached to said agreement and made a part thereof, that the complaint to be dismissed as to respondent Joseph Soviero for the reason that he played no part in formulating the corporate policies. All references to respondents hereinafter made include all respondents except Joseph Soviero.

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