

IN THE MATTER OF
THOMAS F. DI STEFANO TRADING AS
DUNDEE ELECTRONICS CO.

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

Docket 7058. Complaint, Feb. 7, 1958—Decision, July 7, 1958

Consent order requiring a distributor of radio and television tubes in Paterson, N.J., selling mainly to jobbers and mail order houses, to make clear disclosure, in advertising and on invoices and shipping memoranda and on the tubes themselves and their cartons, when the tubes he sold were used, pull-outs, factory rejects, or JAN surplus.

Mr. Kent P. Kratz supporting the complaint.

Mr. Bruno L. Leopizzi, of Paterson, N.J., for respondent.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

On February 7, 1958, the Federal Trade Commission issued a complaint against Thomas F. Di Stefano, an individual trading as Dundee Electronics Co., hereinafter referred to as respondent, charging him with having violated the Federal Trade Commission Act by failing to disclose to his customers that a large number of the radio and television tubes he sells and distributes are used, pull-outs, factory rejects, or JAN surplus.

After issuance and service of the complaint, the respondent, his counsel, and counsel supporting the complaint entered into an agreement for a consent order. The agreement has been approved by the director and assistant director of the Bureau of Litigation. The agreement disposes of the matters complained about.

The pertinent provisions of said agreement are as follows: Respondent admits all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and the said agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission; the record herein shall consist solely of the complaint and the agreement; respondent waives the requirement that the decision must contain a statement of findings of fact and conclusion of law; respondent waives further procedural steps before the hearing examiner and the Commission,

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Order

and the order may be altered, modified, or set aside in the manner provided by statute for other orders; respondent waives any right to challenge or contest the validity of the order entered in accordance with the agreement and the signing of said 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.

The undersigned hearing examiner having considered the the agreement and proposed order and being of the opinion that the acceptance thereof will be in the public interest, hereby accepts such agreement, makes the following jurisdictional findings, and issues the following order:

JURISDICTIONAL FINDINGS

1. Respondent Thomas F. Di Stefano is an individual trading as Dundee Electronics Co. with his principal office and place of business located at 112 Martin Street, Paterson, N.J.

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

ORDER

It is ordered, That respondent, Thomas F. Di Stefano, individually and trading as Dundee Electronics Co., or trading under any other name, and his representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of television or radio tubes in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Selling, offering for sale or distributing used, pull-outs, factory rejects or JAN surplus radio or television tubes without clearly disclosing on the tubes and the individual cartons in which each tube is packaged, and in advertising, invoices and shipping memoranda, that they are used, pull-outs, factory rejects or JAN surplus tubes, as the case may be.

2. Selling, offering for sale or distributing any radio or television tube which is not new or first quality without clearly and conspicuously disclosing that fact on the tube and the individual carton in which each tube is packaged, and in advertising, invoices and shipping memoranda.

Decision

55 F.T.C.

DECISION OF THE COMMISSION AND ORDER TO
FILE REPORT OF COMPLIANCE

This matter having come on to be heard by the Commission upon its review of the hearing examiner's initial decision filed on April 30, 1958, and the Commission having determined that said initial decision is adequate and appropriate in all respects to dispose of this proceeding:

It is ordered, That the aforesaid initial decision be, and it hereby is, adopted as the decision of the Commission.

It is further ordered, That the respondent Thomas F. Di Stefano 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 contained in said initial decision.

Complaint

IN THE MATTER OF
EMPIRE PLASTIC CORPORATIONCONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 2(a) OF THE CLAYTON ACT*Docket 7069. Complaint, Feb. 20, 1958—Decision, July 7, 1958*

Consent order requiring a manufacturer of plastic toys with factory at Pelham Manor, N.Y., and sales office in New York City, to cease discriminating in price in violation of Section 2(a) of the Clayton Act by granting as a discount or rebate an amount equivalent to five per cent of list price to certain toy jobbers and wholesalers while not making such allowance available to their competitors.

COMPLAINT

The Federal Trade Commission, having reason to believe that respondent Empire Plastic Corporation, more particularly designated and described hereinafter, has violated the provisions of Section 2(a) 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 Empire Plastic Corporation is a corporation organized and existing under the laws of the state of New York with its principal office and place of business located at 14 Pelham Parkway, Pelham Manor, N.Y.

PAR. 2. Respondent has been and is now engaged in the manufacture, sale and distribution of plastic toys throughout the United States. It operates a factory at the foregoing address and also maintains a sales office in New York City. Its annual volume of sales approximates \$2,000,000 and its customers consist of jobbers and chain stores. Respondent is represented in various sections of the country by commission merchants who are paid on a commission basis but who also represent other toy manufacturers

PAR. 3. Respondent, in the course and conduct of its said business, is engaged in commerce, as "commerce" is defined in the Clayton Act, in that it sells and distributes toys to purchasers thereof located in states other than the state of origin of shipment and causes such products to be shipped and transported from its place of business to purchasers located in other states and in the District of Columbia, and there is now and has been a constant