

IN THE MATTER OF
QUALITONE HEARING AID COMPANY, INC., ET AL.

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

Docket 7001. Complaint, Dec. 19, 1957—Decision, July 15, 1958

Consent order requiring a Minneapolis, Minn., manufacturer of hearing aid instruments, parts, and accessories to cease representing falsely in mats for use in newspaper advertising and circulars and other advertising literature disseminated to distributors and retailers to be used to induce purchase of their products, that their "Stereophonic Optical Ear" and "Hidden Ear" hearing aids were cordless, invisible, and required nothing in the ear, and that the former was completely contained in a pair of eyeglasses.

Mr. Kent P. Kratz for the Commission.
Respondents, for themselves.

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 May 8, 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 respondents and the attorney for the Commission, under date of April 29, 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 §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 Qualitone Hearing Aid Company, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at Linden Hills Station, Minneapolis, Minn.

Individual respondent Richard T. Burger is president and respondents Mas Harada and Charles Hinz are vice presidents of

respondent corporation and each has exercised and still exercises a substantial degree of authority and control over the policies, affairs and activities of said corporation. The business address of the individual respondents is the same as that of the corporate respondent.

2. Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on December 19, 1957, issued its complaint in this proceeding against respondents and a true copy was thereafter duly served on respondents.

3. 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.

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

5. Respondents waive:

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

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

(c) 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.

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 respondents that they have violated the law as alleged in the complaint.

9. The following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondents. When so entered it shall have the same force and effect as if entered after a full hearing. It may be altered, modified or set aside in the manner provided for other orders. The complaint may be used in construing the terms of the order.

Upon due consideration of the complaint filed herein and the said "Agreement Containing Consent Order to Cease and Desist," the latter is hereby approved, accepted and ordered filed, if and when it shall have become a part of the Commission's decision. The hearing examiner finds from the complaint and the said

Order

55 F.T.C.

"Agreement Containing Consent Order to Cease and Desist" that the Commission has jurisdiction of the subject matter of this proceeding and of the persons of each of the respondents herein; that the complaint states a legal cause for complaint under the Federal Trade Commission Act against each of the respondents, both generally and in each of the particulars alleged therein; that this proceeding is in the interest of the public; that the following order as proposed in said agreement is appropriate for the just disposition of all of the issues as to all of the parties hereto, and that said order therefore should be, and hereby is, entered as follows:

ORDER

It is ordered, That respondents Qualitone Hearing Aid Company, Inc., a corporation, and its officers, Richard T. Burger, Mas Harada, and Charles Hinz, individually and as officers of said corporation, 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 hearing aid devices known as "Stereophonic Optical Ear" and "Hidden Ear" or any other device of substantially the same construction or operation, whether sold under the same or any other name, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement by means of the United States mails or by any means in commerce as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of said product, which advertisement:

A. Represents, directly or by implication:

(1) That said hearing aid devices are invisible or cannot be seen;

(2) That when wearing said device nothing is required to be placed in the ear;

(3) That their Stereophonic Optical Ear is completely contained in a pair of eyeglasses.

B. Uses the words or phrases "No tell tale wires," "No button in your ear," "without cords," or other words or phrases of the same or similar import or meaning, unless in close connection therewith and with equal prominence it is stated that a

visible plastic tube runs from the instrument to the ear where it is held in place by an ear mold or nipple.

2. Disseminating any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of respondents' products in commerce as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any of the representations prohibited in Paragraph 1 of this order.

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 15th day of July 1958, become the decision of the Commission; and, accordingly:

It is ordered, That the above-named respondents 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
INFRAGLASS HEATER COMPANY, INC., ET AL.

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

Docket 7080. Complaint, Mar. 4, 1958—Decision, July 15, 1958

Consent order requiring Pontiac, Mich., distributors of electric heaters to cease representing falsely in written guarantees inserted with their products and in newspapers and magazines of general circulation, that they guaranteed their products for normal usage for five years when, in a vast number of instances, they refused to replace, repair, or make adjustments for breakage or defects growing out of normal use of the heaters.

Mr. Alvin D. Edelson for the Commission.
Respondents, for themselves.

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 May 8, 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 respondents and the attorney for the Commission, under date of May 7, 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 §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 Infraglass Heater Company, Inc., is a corporation organized and existing under and by virtue of the laws of the State of Michigan with its office and principal place of business located at 350 South Sanford Street, Pontiac, Mich.

The individual respondents Donald J. Heckmann, Henry Schuricht and Martin Goldman are president, vice president and treasurer, respectively, of the corporate respondent and maintain