

IN THE MATTER OF
RAYCO MANUFACTURING COMPANY, INC., ET AL.

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

Docket 7101. Complaint, Mar. 28, 1958—Decision, Sept. 3, 1958

Consent order requiring manufacturers in Patterson, N.J., to cease representing falsely in advertising materials furnished to retail stores for their use and in advertisements in newspapers, by radio, television, etc., that their auto seat covers and tops had been awarded the Fashion Academy seal for beauty and styling and the U.S. Testing seal for durability; that exaggerated fictitious prices were their regular prices; that their franchised retail dealers were having a "Close-Out" of 4,000 sets of seat covers at sacrifice prices; that their ready-made products were "custom fitted" for the individual buyer; and that purchasers of their convertible tops received the complete top for the advertised price.

Mr. Michael J. Vitale for the Commission.

Mr. Joseph L. Kelin, of New York, N.Y., for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondents with violation of the Federal Trade Commission Act through the making of certain representations in connection with automobile seat covers and convertible tops sold by them. An agreement providing for disposition of the proceeding by means of a consent order has now been entered into by respondents Rayco Manufacturing Company, Inc., Joseph Weiss and Julius Stern and their attorney and counsel supporting the complaint. The agreement contemplates dismissal of the complaint as to respondent Burton B. Weiner, and the term "respondents" as used hereinafter will not include this individual.

The agreement provides, among other things, that all of said respondents admit all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered

after a full hearing, said respondents specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified, or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by said respondents that they have violated the law as alleged in the complaint.

The proposed order covers all of the alleged misrepresentations charged in the complaint except one, and it appears from the agreement that this charge could not be sustained. It further appears from an affidavit attached to the agreement that dismissal of the complaint as to respondent Burton B. Weiner is proper.

The agreement and proposed order are therefore accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Rayco Manufacturing Company, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New Jersey with its office and principal place of business located at 220 Straight Street, Paterson, N.J. The individual respondents, Joseph Weiss and Julius Stern, are president and secretary-treasurer, respectively, of the corporate respondent, and have the same address as that of the corporate respondent.

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

ORDER

It is ordered, That respondent Rayco Manufacturing Company, Inc., a corporation, and its officers, and Joseph Weiss and Julius Stern, individually and as officers 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 of automobile seat covers and convertible tops, or any other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the Fashion Academy Seal or representing, in any manner, that any of their products had been awarded said seal, or an award, by Fashion Academy upon the basis of a contest

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in which respondents' products, or any of them, and competitive products had been judged.

2. Using the U.S. Testing Company Seal in such a manner as indicating that any of their products had been found to be of greater durability than competitive products by U.S. Testing Company, or representing in any other manner that the U.S. Testing Company had found that their products, or any of them, were more durable than competitive products, unless such is the fact.

3. Representing, directly or by implication:

(a) That the usual and customary retail price of any of respondents' products is in excess of the price at which such products are regularly and customarily sold by respondents or their franchised dealers in their usual course of business.

(b) That the retail price of a product has been reduced, unless it is a reduction from the price at which this product had been regularly and customarily sold by respondents or their franchised dealers.

(c) That any of respondents' franchised dealers had 4,000 seat covers on hand at a particular time; or misrepresenting the number of seat covers, or any other product, that may be on hand at a particular time.

(d) That the purchasers of respondents' convertible tops receive a complete top for the advertised price, including rear window and curtain, unless such is the fact.

It is further ordered, That the complaint insofar as it relates to respondent Burton B. Weiner and to the charge concerning the words "custom fitted," set out in subparagraph (e) of paragraph 6, be, and the same hereby is, dismissed.

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 3d day of September 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Rayco Manufacturing Company, Inc., a corporation, and Joseph Weiss and Julius Stern, individually and as officers 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
MASTER FURRIERS, INC., ET AL.¹CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS*Docket 6895. Complaint, Sept. 26, 1957—Decision, Sept. 6, 1958*

Consent order requiring furriers in New York City to cease violating the Fur Products Labeling Act by representing that fictitious prices on labels affixed to fur products were the regular retail selling prices; by failing to comply with invoicing requirements; by advertising in newspapers which represented falsely that fur products were being sold "below cost" and were reduced from regular prices which were in fact fictitious, and which used comparative prices and percentage savings claims not based on usual retail prices; and by failing to keep adequate records as a basis for such pricing claims.

Before: *Mr. John Lewis*, hearing examiner.

Mr. Charles W. O'Connell supporting the complaint.

Newman & Bisco, by *Mr. John E. Higgiston, Jr.*, of New York, N.Y., for Frank-Cunningham Stores Corporation and other respondents named individually and as officers of said respondent.

INITIAL DECISION AS TO REMAINING RESPONDENTS

The Federal Trade Commission issued its complaint against the above-named respondents on September 26, 1957, charging them with having violated the Fur Products Labeling Act and the Rules and Regulations issued thereunder, and the Federal Trade Commission Act, through the misbranding of certain fur products and the false and deceptive invoicing and advertising thereof. After being served with said complaint, respondents appeared by their respective counsel and filed their answers thereto. Thereafter respondent Master Furriers, Inc. and certain individual respondents affiliated with it entered into an agreement with counsel supporting the complaint providing for the entry of a consent order to cease and desist as to said respondents. The undersigned filed his initial decision based thereon on April 22, 1958, which decision became the Decision of the Commission on June 10, 1958. Thereafter the respondent Frank-Cunningham Stores Corporation, on June 23, 1958, entered into

¹ The case against respondents Master Furriers, Inc., Ernest E. Marx, Erwin C. Bein, and M. J. Swartz was settled by consent order, identical with that above, dated June 10, 1958, 54 F.T.C. 1774. At the same time, the charges were dismissed as to Sally Marx.