

Decision

IN THE MATTER OF
STANLEY ELECTRONICS CORPORATION ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 7078. Complaint, Mar. 3, 1958—Decision, Sept. 11, 1958*

Consent order requiring sellers in Paterson, N.J., of radio and television tubes principally to consumers, including repairmen, to cease referring falsely to their products in advertising brochures and advertisements in magazines, etc., as "Brand new pre-tested tubes" when many of such tubes were used, pull-out, manufacturers' surplus, military surplus, and factory reject; and to cease selling such inferior products without disclosing their true nature on the tube, box, carton, invoices, or in advertising.

Mr. Kent P. Kratz for the Commission.

Brenman and Susser, by *Mr. Herbert Susser*, of Paterson, N.J., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondents with falsely and deceptively representing that the television and radio tubes which they sell and distribute in commerce are new, unused and of first quality, and with failure to disclose the true nature of their tubes, in violation of the provisions of the Federal Trade Commission Act.

After the issuance of the complaint, respondents, their counsel, and counsel supporting the complaint entered into an agreement containing consent order to cease and desist, which was approved by the Director and an Assistant Director of the Commission's Bureau of Litigation, and thereafter transmitted to the hearing examiner for consideration.

The agreement identifies Respondent Stanley Electronics Corporation as a New Jersey corporation, with its office and principal place of business located at 840 Main Street, Paterson, N.J., and individual respondents Stanley Brown and Philip L. Bornstein as president and secretary, respectively, of the respondent corporation, whose affairs, activities and policies of business they control, their address being the same as that of said corporate respondent.

The agreement provides, among other things, that 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;

Order

55 F.T.C.

that 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; that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; that the complaint may be used in construing the terms of the order agreed upon, which may be altered, modified or set aside in the manner provided for other orders; that the agreement is for settlement purposes only and does not constitute an admission by the respondents that they have violated the law as alleged in the complaint; and that the order set forth in the agreement and hereinafter included in this decision shall have the same force and effect as if entered after a full hearing.

Respondents waive any further procedural steps before the Hearing Examiner and the Commission, the making of findings of fact or conclusions of law, and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

The order agreed upon fully disposes of all the issues raised in the complaint, and adequately prohibits the acts and practices charged therein as being in violation of the Federal Trade Commission Act. Accordingly, the Hearing Examiner finds this proceeding to be in the public interest, and accepts the agreement containing consent order to cease and desist as part of the record upon which this decision is based. Therefore,

It is ordered, That respondents Stanley Electronics Corporation, a corporation, and its officers, and Stanley Brown and Philip L. Bornstein, individually and as officers of Stanley Electronics Corporation, respondents' 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. Representing directly or by implication that used, pull-out, factory rejects, military surplus, or manufacturers' surplus tubes are new or of first quality;
2. Selling, offering for sale, or distributing used, pull-out, factory rejects, military surplus or manufacturers' surplus radio or television tubes without clearly disclosing on the tube or the individual carton in which each tube is packaged when sold this way and in advertising, invoices, and shipping memoranda that

303

Decision

they are used, pull-out, factory rejects, military surplus or manufacturers' surplus tubes, as the case may be;

3. 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, or the individual carton in which each tube is packaged when sold this way, and in advertising, invoices and shipping memoranda.

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

It is ordered, That respondents Stanley Electronics Corporation, a corporation, and Stanley Brown and Philip L. Bornstein, 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.

Complaint

55 F.T.C.

IN THE MATTER OF
MAGUIRE INDUSTRIES, INC.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT AND OF SEC. 2(a) OF THE CLAYTON ACT

Docket 7090. Complaint, Mar. 20, 1958—Decision, Sept. 11, 1958

Consent order requiring a manufacturer of electronic components, including coils and transformers, in Mt. Carmel, Ill., selling principally to jobbers or distributors of television and radio repair parts for resale to dealers, industrial accounts, and radio and television repair shops, to cease discriminating in price by giving a 10 percent rebate to customers whose purchases from it were equal to their total purchases from all sources in the previous twelve months, 7½ percent rebate if they equaled 75% of the total, and 5 percent if they equaled 50% of the total purchases; and to cease offering illegal inducements to customers to handle its said products exclusively by (a) utilizing aforesaid sales program, (b) granting a 10 percent rebate to customers who agreed to purchase solely from it, and (c) buying up their stocks of competitive products and selling them to competitors' distributors at less than cost or much less than the prices charged by competitors.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof, and herein-after more particularly designated and described, has violated and is now violating the provisions of subsection (a) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C., Title 15, Sec. 13), and Section 5 of the Federal Trade Commission Act (U.S.C., Title 15, Sec. 45), and it appearing to the Commission that a proceeding by it in respect thereof, would be in the public interest, the Commission hereby issues its complaint, stating its charges as follows:

Count I

Charging violation of subsection (a) of Section 2 of the Clayton Act as amended, the Commission alleges:

PARAGRAPH 1. Maguire Industries, Inc., is a corporation organized, 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 7th and Belmont Streets, Mt. Carmel, Ill.

PAR. 2. Respondent is principally engaged in the business of manufacturing, selling and distributing electronic components in-