

Decision

IN THE MATTER OF
B & C DISTRIBUTORS CO., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 7077. Complaint, Feb. 28, 1958—Decision, Nov. 18, 1958*

Consent order requiring two associated distributors of radio and television tubes, principally to jobbers, to disclose clearly on cartons, in advertising, invoicing and shipping memoranda, when the tubes they sold were used, pull-outs, factory rejects, or JAN surplus.

The proceeding as to the remaining individual respondent was disposed of by order with the same provisions on Dec. 13, 1958, p. 866 herein.

Mr. Kent P. Kratz for the Commission.

Brenman and Susser, by *Mr. Herbert Susser*, of Paterson, N.J., for all respondents except Edward Chernela.

INITIAL DECISION AS TO ALL RESPONDENTS EXCEPT
EDWARD CHERNELA BY J. EARL COX, HEARING EXAMINER

The complaint charges respondents with failure to disclose the true nature of the used, pullout, factory reject and JAN surplus radio and television tubes which they sell and distribute in commerce, thereby misleading and deceiving the public into the erroneous belief that such tubes are unused, new, and first quality tubes, in violation of the provisions of the Federal Trade Commission Act.

After the issuance of the complaint, all respondents except Edward Chernela, 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 respondents B & C Distributors Co. and Revere Labs., Inc., as New Jersey corporations, with their office and principal place of business located at 840 Main Street, Paterson, N.J., and individual respondents Philip L. Bornstein and Celia Bornstein as president and secretary, respectively, of each of said corporations, and having the same address.

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

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facts had been duly made in accordance with such allegations; 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 as to the respondents signatory to said agreement, and adequately prohibits as to them the acts and practices charged as being in violation of the Federal Trade Commission Act. Accordingly, the hearing examiner accepts the agreement containing consent order to cease and desist as part of the record upon which this decision is based.

After consideration of the entire record herein, the hearing examiner finds this proceeding to be in the public interest. Therefore,

It is ordered, That respondents B & C Distributors Co., a corporation, Revere Labs., Inc., a corporation, and their officers and Philip L. Bornstein and Celia Bornstein, individually and as officers of said corporations, 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 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, pullouts, factory rejects or JAN surplus radio or television tubes without clearly disclosing on the tubes or on individual cartons in which each tube is packaged when sold this way, and in advertising,

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invoices and shipping memoranda that they are used, pullouts, 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 or the individual carton in which such 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 18th day of November 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents B & C Distributors Co., a corporation, Revere Labs., Inc., a corporation, and their officers and Philip L. Bornstein and Celia Bornstein, individually and as officers of said corporations, 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
THE JOHN BRESSMER COMPANY

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS

Docket 7186. Complaint, July 11, 1958—Decision, Nov. 18, 1958

Consent order requiring a furrier in Springfield, Ill., to cease violating the Fur Products Labeling Act by failing to comply with the labeling and invoicing requirements and by advertising in newspapers and otherwise which failed to disclose the names of animals producing certain furs, the country or origin of imported furs, or that some furs were artificially colored; failed to set forth the term "Persian Lamb," "Dyed Mouton-processed Lamb," and "Dyed Broadtail-processed Lamb" as required; and contained the names of other animals than those producing certain furs.

John T. Walker, Esq., for the Commission.

Ensel, Martin, Jones & Blanchard, of Springfield, Ill., for respondent.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

The complaint in this proceeding, issued July 11, 1958, charges the respondent above named with violation of the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act and the Rules and Regulations promulgated under the last-named Act, in connection with the introduction, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce, of fur and fur products, as the designations "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act.

After the issuance of said complaint respondent, on September 16, 1958, entered into an agreement for a consent order with counsel in support of the complaint, disposing of all of the issues in this proceeding, which agreement was duly approved by the director and assistant director of the Bureau of Litigation of the Federal Trade Commission. It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

By the terms of said agreement, the respondent admitted all of the jurisdictional allegations of the complaint and agreed that