

Decision

IN THE MATTER OF
EASTERN METAL PRODUCTS CORPORATION, ET AL.

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

Docket 7294. Complaint, Nov. 5, 1958—Decision, Mar. 24, 1959

Consent order requiring distributors of electrical appliances—including irons, cooker-fryers and skillet-casseroles—in Tuckahoe, N.Y., to cease representing falsely in advertising material disseminated to customers for use in resale, in newspaper advertising, on attached tags and labels, and on cartons packaging its products, that exaggerated prices were the regular retail prices; by use of the Good Housekeeping Seal of Approval, that its products had been approved and guaranteed by Good Housekeeping Magazine and advertised therein; and through use of the name "General Electric" that the products were manufactured by General Electric Company.

Mr. Terral A. Jordan for the Commission.

Respondents, for themselves.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on November 5, 1958, charging respondents with violation of the Federal Trade Commission Act by the use of false and misleading statements and representations as to prices, the Good Housekeeping Seal of Approval, and the name "General Electric," contained in or appearing on advertising material prepared and disseminated by respondents in connection with the sale and distribution in commerce of their electrical appliances, including irons, cooker-fryers and skillet-casseroles.

Thereafter, on January 19, 1959, respondents and counsel supporting the complaint herein 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 submitted to the hearing examiner for consideration.

The agreement identifies respondent Eastern Metal Products Corporation as a New York corporation, and respondents Arnold Troy and Seymour Troy as individuals and president and vice president, respectively, of said corporate respondent; all respondents having their office and principal place of business located at 135 Marbledale Road, Tuckahoe, N.Y.

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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.

Respondents waive any further procedure before the hearing examiner and the Commission; the making of findings of fact and 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. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist, as contained in the agreement, when it shall have become a part of the decision of the Commission, shall have the same force and effect as if entered after a full hearing, and may be altered, modified or set aside in the manner provided for other orders; that the complaint herein may be used in construing the terms of said order; and 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.

After consideration of the allegations of the complaint and the provisions of the agreement and the proposed order, the hearing examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the hearing examiner accepts the Agreement Containing Consent Order to Cease and Desist; finds that the Commission has jurisdiction over the respondents and over their acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That respondents Eastern Metal Products Corporation, a corporation, and its officers, and Arnold Troy and Seymour Troy, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of electrical appliances, including irons, cooker-fryers, or skillet-casseroles, or other articles of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing directly or indirectly that any price is the

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retail selling price of their products which is in excess of the price at which their products are regularly and customarily sold at retail;

2. Using the Good Housekeeping Seal of Approval in connection with their merchandise; or representing in any manner that their merchandise has been awarded said seal of approval, or that their merchandise has been approved by any other group or organization, unless such is the fact; *provided, however*, that this prohibition shall not be construed as prohibiting a truthful statement that a part of an article of merchandise has been approved by a group or organization, when such part is clearly and conspicuously identified;

3. Using the name of any company in connection with merchandise which has not been manufactured in its entirety by said company, or representing, directly or indirectly, that merchandise not manufactured in its entirety by a specified company, was so manufactured; *provided, however*, that this prohibition shall not be construed as prohibiting a truthful statement that a part of an article of merchandise has been manufactured by a specific company when such part is clearly and conspicuously identified;

4. Providing retailers or distributors of their products with preticketed articles of merchandise or price lists or advertising or promotional material through or by which said retailers or distributors are enabled to mislead and deceive the purchasing public with respect to the matters set out in paragraph 1 herein.

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 24th day of March 1959, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Eastern Metal Products Corporation, a corporation, and Arnold Troy and Seymour Troy, 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.

IN THE MATTER OF
MARTIN GOLDSTEIN, ET AL.
DOING BUSINESS AS THE NAGOLD CO.

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

Docket 7312. Complaint, Nov. 19, 1958—Decision, Mar. 26, 1959

Consent order requiring a New York City firm of factory agents for manufacturers of cutlery, luggage, kitchenware, jewelry, and other merchandise, to cease representing falsely that fictitious and exaggerated amounts appearing in their advertising and promotional literature and attached to their said products were the usual retail selling prices.

Mr. Terral A. Jordan for the Commission.

Shemitz, Craig & Fischman, by *Mr. Sydney U. Craig*, of New York, N.Y., for respondents.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated November 19, 1958, the respondents are charged with violating the provisions of the Federal Trade Commission Act.

On February 3, 1959, the respondents and their attorney entered into an agreement with counsel in support of the complaint for a consent order.

The hearing examiner finds that the content of the agreement meets all of the requirements of Section 3.25(b) of the Rules of the Commission.

The hearing examiner being of the opinion that the agreement and the proposed order provide an appropriate basis for disposition of this proceeding as to all of the parties, the agreement is hereby accepted and it is ordered that the 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 following jurisdictional findings are made and the following order issued.

1. Respondents Martin Goldstein and Morris Nagler are individuals trading and doing business as a copartnership under the name of The Nagold Co., with their office and principal place of business located at 1150 Broadway, New York, N.Y.

2. The Federal Trade Commission has jurisdiction of the sub-