

IN THE MATTER OF
EMPIRE AMEREX PRODUCTS CORP.

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

Docket 7278. Complaint, Oct. 14, 1958—Decision, Apr. 2, 1959

Consent order requiring a Chicago distributor of a variety of products including steak knives, carving sets, deep fryers, electric skillets, fans, and stainless steel flatware, to cease misrepresenting retail prices by printing fictitious and exaggerated amounts on attached labels and on containers of some of its products; misrepresenting the country of origin of cutlery products by so assembling imported tines that the word "Japan" stamped on the end was entirely covered, and packaging them for resale along with knives having blades made in England, in cartons bearing the words "Made in Sheffield, England"; packaging products equipped with Westinghouse parts in cartons bearing the words "Westinghouse Thermostat" so as to imply association of the entire product with the Westinghouse Company, boxing unapproved products in cartons printed with the "Seal of Approval from Underwriter's Laboratories"; and printing the words "IN 24 KT. GOLD PLATED" deceptively on boxes containing certain cutlery.

Franklin A. Snyder, Esq., for the Commission.

Morrill, Koutsky and Baum, by Arthur W. Baum, Esq., of Chicago, Ill., for respondent.

INITIAL DECISION BY ROBERT L. PIPER, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondent on October 14, 1958, charging it with having violated the Federal Trade Commission Act by misrepresenting (1) the origin of its products, (2) the source of manufacture thereof, (3) the material content thereof, and by the use of fictitious prices in connection with the sale thereof. Respondent appeared by counsel and entered into an agreement, dated February 9, 1959, containing a consent order to cease and desist, disposing of all the issues in this proceeding, without further hearings, which agreement has been duly approved by the director of the Bureau of Litigation. Said agreement has been submitted to the undersigned, heretofore duly designated to act as hearing examiner herein, for his consideration in accordance with §3.25 of the Rules of Practice of the Commission.

Respondent, pursuant to the aforesaid agreement, has admitted all of the jurisdictional allegations of the complaint and agreed

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that the record may be taken as if findings of jurisdictional facts had been made duly in accordance with such allegations. Said agreement further provides that respondent waives all further procedural steps before the hearing examiner or the Commission, including the making of findings of fact or conclusions of law and the right to challenge or contest the validity of the order to cease and desist entered in accordance with such agreement. It has also been agreed that the record herein shall consist solely of the complaint and said 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 said agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint, that said order to cease and desist 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, and that the complaint may be used in construing the terms of the order.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing the consent order, and it appearing that the order and agreement cover all of the allegations of the complaint and provide for appropriate disposition of this proceeding, the agreement is hereby accepted and ordered filed upon this decision and said agreement becoming part of the Commission's decision pursuant to §§3.21 and 3.25 of the Rules of Practice, and the hearing examiner accordingly makes the following findings, for jurisdictional purposes, and order:

1. Respondent Empire Amerex Products Corp. is a corporation existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 3636 North Talman Avenue, in the city of Chicago, State of Illinois.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent hereinabove named. The complaint states a cause of action against said respondent under the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That the respondent Empire Amerex Products Corp., a corporation, and its officers, representatives, agents and

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employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of cutlery and carving sets, electric deep fryers, electric skillets, fans, or any other product, do forthwith cease and desist from:

1. Representing, directly or indirectly, by preticketing, or in any other manner, that any amount is the usual and regular retail price of a product when such amount is in excess of the price at which the product is usually and regularly sold at retail;

2. Putting into operation any plan whereby retailers or others may misrepresent the regular and usual retail price of such merchandise;

3. Offering for sale or selling any product, the whole or any substantial part of which was made in Japan, or in any other foreign country, without clearly disclosing the foreign origin of said product and of such part;

4. Offering for sale or selling cutlery containing tines or any other part made in Japan, or in any country other than England, combined with other parts made in England which bear the legend "Made in Sheffield, England" or any other legend indicative of English origin without clearly disclosing the country of origin of the tines or other part;

5. Representing, directly or indirectly, in any manner, on the containers in which cutlery or other products, made in part in Japan, or any country other than England, are shipped or distributed, that such products are of English origin;

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

7. Using the seal of Underwriters Laboratories in connection with any product that has not been approved in its entirety by Underwriters Laboratories; or representing, directly or indirectly, that any product not approved in its entirety by Underwriters Laboratories has been so approved, provided, however, that this prohibition shall not be construed as preventing a truth-

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ful statement that a part of a product has been so approved when such part is clearly and conspicuously identified;

8. Representing, directly or indirectly, that a product, or any part thereof, is gold plated, unless it has a surface plating of gold or gold alloy applied by a mechanical process, provided, however, that a product, or part thereof, on which there has been affixed by an electrolytic process a coating of gold, or gold alloy of not less than 10 karat fineness, the minimum thickness of which is equivalent to seven one-millionths of an inch of fine gold, may be marked or described as gold electroplate or gold electroplated.

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 2nd day of April 1959, become the decision of the Commission; and, accordingly:

It is ordered, That respondent Empire Amerex Products Corp., a corporation, shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with the order to cease and desist.

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IN THE MATTER OF
THE AMERICAN FOAM LATEX CORPORATION, ET AL.

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

Docket 7313. Complaint, Nov. 19, 1958—Decision, Apr. 2, 1959

Consent order requiring Pittsburgh manufacturers of pillows, stuffed dolls, plastic bags, tablecloths and bedspreads, ironing board pad and cover sets, ironing board covers and beach pads, to cease misrepresenting the composition and prices of their products by affixing to them the words "all new material consisting of shredded latex foam rubber" when they were made of other materials, and by attaching to them tickets printed with exaggerated fictitious amounts represented thereby as the usual retail prices.

Harry E. Middleton, Jr., Esq., for the Commission.

Max Blecher, Jr., by Sidney Roth, Esq., of New York, N.Y., for respondents.

INITIAL DECISION BY ROBERT L. PIPER, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on November 19, 1958, charging them with having violated the Federal Trade Commission Act, by misrepresenting the material content of their products and by the use of fictitious prices in connection with the sale thereof. Respondents appeared by counsel and entered into an agreement, dated February 4, 1959, containing a consent order to cease and desist, disposing of all the issues in this proceeding without further hearings, which agreement has been duly approved by the director of the Bureau of Litigation. Said agreement has been submitted to the undersigned, heretofore duly designated to act as hearing examiner herein, for his consideration in accordance with §3.25 of the Rules of Practice of the Commission.

Respondents, pursuant to the aforesaid agreement, have admitted all of the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been made duly in accordance with such allegations. Said agreement further provides that respondents waive all further procedural steps before the hearing examiner or the Commission, including the making of findings of fact or conclusions of law and the right to challenge or contest the validity of the order to cease and desist entered in accordance with such