

Decision

55 F.T.C.

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

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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 respondents that they have 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 The American Foam Latex Corporation is a corporation existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business located at 2840 Liberty Avenue, Pittsburgh, Pa.

The individual respondents Leo Unger, Murray B. Pfeffer, Hugo Unger and Elvira Pfeffer are officers of the corporate respondent and have their office and principal place of business at the same address as the corporate respondent.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named. The complaint states a cause of action against said respondents under the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That respondents, The American Foam Latex Corporation, a corporation, and its officers, and Leo Unger, Murray B. Pfeffer, Hugo Unger and Elvira Pfeffer, 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 advertising, offering for sale, or

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selling of bed pillows, sofa toss pillows, stuffed plush dolls, stuffed regular dolls, plastic refrigerator bags, plastic table cloths, plastic bedspreads, ironing board pad and cover sets, ironing board covers, beach pads or any other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Misrepresenting their products with respect to the character and condition of the materials used in said products;
2. Representing by preticketing or in any other manner that certain amounts are the usual and regular retail prices for their products when such amounts are in excess of the prices at which their products are usually and regularly sold at retail;
3. Placing in the hands of retailers and dealers a means and instrumentality by and through which they may deceive and mislead the purchasing public, concerning merchandise in the respects set out in paragraphs 1 and 2 above.

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 the above-named respondents 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.

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IN THE MATTER OF
INTERNATIONAL HOMES, INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 7324. Complaint, Dec. 9, 1958—Decision, Apr. 2, 1959*

Consent order requiring Lyndhurst, N.J., distributors of house siding material to cease representing falsely, principally by sales talks, that homes of purchasers of their siding would be used as demonstration homes to sell the products and the commission paid for such use would cover the cost of the siding; that purchasers would receive commissions on other sales made in their vicinity; that the cash price shown on contracts was the total price to be paid; that a blank promissory note, among other papers required to be signed, was for the purpose of credit checking only; that signing of the contract was required by law and that the attached note was a formality; that the siding and installation were "Guaranteed for 25 Years"; and that a cash bonus would be given the purchaser when the installation was completed.

Mr. John W. Brookfield, Jr., for the Commission.

Mr. Morris Bromley, of Newark, N.J., for respondents.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this proceeding issued December 9, 1958, charges the respondents with violation of the Federal Trade Commission Act in the sale and distribution of house or building siding material.

Respondent International Homes, Inc., is a corporation organized, existing and doing business under the laws of the State of New Jersey, with its office and principal place of business located at 601 Ridge Road, Lyndhurst, N.J.

Respondent Harold Schreier is an individual and president of the corporate respondent, and respondent Alton Waldstein is an individual and manager of the corporate respondent. The office and principal place of business of said individual respondents is the same as that of the corporate respondent.

After the issuance of the complaint, respondents entered into an agreement containing consent order to cease and desist with counsel in support of the complaint, disposing of all the issues as to all parties in this proceeding, which agreement was duly approved by the director and assistant director of the Bureau of Litigation.