

Decision

IN THE MATTER OF
FORT JEWELRY COMPANY, INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 7343. Complaint, Dec. 30, 1958—Decision, Apr. 25, 1959*

Consent order requiring a Providence, R.I., distributor of costume and men's jewelry to jobbers and distributors, to cease preticketing merchandise with tags bearing purported usual retail prices which were in fact fictitious and greatly exaggerated.

Mr. Ames W. Williams for the Commission.

Hinckley, Allen, Salisbury & Parsons, of Providence, R.I., for respondents.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated December 30, 1958, the respondents are charged with violating the provisions of the Federal Trade Commission Act.

On March 4, 1959, the respondents and their attorneys entered into an agreement with counsel in support of the complaint for a consent order.

Under the agreement, the respondents admit the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and have the same force and effect as if entered after a full hearing, and the document includes a waiver by the respondents of all rights to challenge or contest the validity of the order issuing in accordance therewith. The agreement further recites that it 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.

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.

Attached to and made a part of said agreement is an affidavit attesting to the fact that Lena Forte, while an officer of the corporate respondent, does not participate in the formulation, direction or execution of corporation policy respecting the acts and practices set forth in the complaint.

The hearing examiner being of the opinion that the agreement

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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. The respondent Fort Jewelry Company, Inc., is a corporation organized, existing and doing business under the laws of the State of Rhode Island, with its office and principal place of business located at 536 Atwells Avenue, Providence, R.I. The individual respondent Samuel Forte is an officer of the corporate respondent and formulates, directs and controls the acts and practices of the same. His address is the same as that of the corporate respondent.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents and the proceeding is in the public interest.

ORDER

It is ordered, That the respondents Fort Jewelry Company, Inc., a corporation, and its officers, and Samuel Forte, individually and as an officer 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 jewelry or any other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from directly or indirectly:

1. Representing, by preticketing, or in any other manner, that a certain amount is the customary or usual retail price of merchandise when said amount is in excess of the price at which said merchandise is customarily and usually sold at retail in the trade area or areas where such merchandise is offered for sale, sold or distributed.

2. Furnishing any means or instrumentality to others by and through which they may mislead the public as to the usual and customary prices of respondents' products.

It is further ordered, That the complaint be, and it hereby is, dismissed as to respondent Lena Forte.

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DECISION OF THE COMMISSION AND ORDER TO FILE
REPORT OF COMPLIANCE

The Commission having considered the initial decision of the hearing examiner wherein he accepted an agreement containing a consent order to cease and desist executed by the respondents and their attorney and counsel in support of the complaint, service of which initial decision was completed on March 25, 1959; and

It appearing that the initial decision may be deficient in that it fails to incorporate the substance of certain pertinent provisions of the agreement of the parties:

It is ordered, That said initial decision be, and it hereby is, amended by inserting between the second and third paragraphs thereof the following paragraph:

Under the agreement, the respondents admit the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and have the same force and effect as if entered after a full hearing, and the document includes a waiver by the respondents of all rights to challenge or contest the validity of the order issuing in accordance therewith. The agreement further recites that it 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.

It is further ordered, That the initial decision as so modified shall, on the 25th day of April 1959, become the decision of the Commission.

It is further ordered, That the respondents, Fort Jewelry Company, Inc., a corporation, and Samuel Forte, individually and as an officer 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 contained in said initial decision.

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IN THE MATTER OF
SOUTHERN NATIONAL INSURANCE COMPANY

Docket 6251. Order, Apr. 30, 1959

Order vacating and setting aside, on the basis of the Supreme Court's ruling in *Federal Trade Commission v. National Casualty Company*, 357 U.S. 560, decision of the Commission of Apr. 14, 1955, 51 F.T.C. 894, requiring a Little Rock, Ark., insurance company to cease false advertising of its health and accident policies.

Before Mr. J. Earl Cox, hearing examiner.

Mr. William A. Somers and Mr. Robert R. Sills for the Commission.

Catlett & Henderson, of Little Rock, Ark., for respondent.

ORDER GRANTING PETITION TO VACATE
COMMISSION'S DECISION

This matter having come on to be heard upon respondent's petition requesting that the decision of the Commission entered on April 14, 1955, be vacated, which petition is unopposed by counsel supporting the complaint; and

The Commission having reconsidered the matter in the light of the United States Supreme Court's ruling in *Federal Trade Commission v. National Casualty Company*, 357 U.S. 560, decided June 30, 1958, subsequent to said decision of the Commission, and having concluded that this proceeding should be reopened and the complaint dismissed upon the authority of said ruling of the Supreme Court:

It is ordered, That this proceeding be, and it hereby is, reopened.

It is further ordered, That the decision of the Commission entered on April 14, 1955, be, and it hereby is, vacated and set aside.

It is further ordered, That the complaint herein be, and it hereby is, dismissed.