

It is ordered. That respondents Freiss Originals, Inc., a corporation, and Isidore Reiss, Howard Reiss, Fred Reiss, and Edward Reiss, 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
FORBES & WALLACE, INC., ET AL.

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

Docket 7477. Complaint, Apr. 15, 1959—Decision, July 9, 1959

Consent order requiring operators of a department store in Springfield, Mass., to discontinue fictitious pricing and savings claims in advertising their merchandise, by such practices as designating excessive amounts as "list" and "regularly" and representing the offering price as a reduction therefrom.

Mr. Brockman Horne for the Commission.

Mr. Milton J. Donovan, of *Robinson, Donovan, Campbell & Madden*, of Springfield, Mass., for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) on April 15, 1959, issued its complaint herein, charging respondents with having violated the provisions of the Federal Trade Commission Act by the use of false, misleading and deceptive statements and representations in connection with the words "list" and "regularly," referring to prices and savings from prices of their general merchandise being offered for sale and sold to the public in the recent regular course of respondents' business. Respondents were duly served with process.

On May 15, 1959, respondents, their attorney, and counsel supporting the complaint entered into an Agreement Containing Consent Order To Cease And Desist, which was thereafter duly approved by the Commission's Bureau of Litigation and transmitted to the Hearing Examiner for his consideration. Having examined

said agreement and the complaint herein, the Hearing Examiner finds that the agreement, both in form and in content, is in accord with §3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and that by said agreement the parties have specifically agreed to the following matters:

1. Respondent Forbes & Wallace, Inc. is a corporation existing and doing business under and by virtue of the laws of the State of Massachusetts, with its office and principal place of business located at 1414 Main Street, in the City of Springfield, State of Massachusetts. Respondents Norman Wallace, Louis B. Howland, Laurence R. Wallace, Ralph Little and Samuel R. Page are officers of the corporate respondent. They formulate, direct and control the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

2. 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.

3. This agreement disposes of all of this proceeding as to all parties.

4. Respondents waive:

a. Any further procedural steps before the hearing examiner and the Commission;

b. The making of findings of fact or conclusions of law; and

c. All of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement.

5. 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.

6. This agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

7. This 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.

8. The following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondents. When so entered it shall have the same force and effect as if entered after a full hearing. It may be altered, modified or set aside in the manner provided for other orders. The complaint may be used in construing the terms of the order.

Upon due consideration of the complaint and the said "Agreement Containing Consent Order To Cease And Desist" filed herein

the said agreement is hereby approved and accepted, and ordered filed if and when said agreement shall have become a part of the Commission's decision. The hearing examiner finds from said complaint and agreement that the Commission has jurisdiction of the subject-matter of this proceeding and of the respondents herein; that the complaint states a legal cause for action under the Federal Trade Commission Act both generally and in each of the particulars alleged therein; that this proceeding is in the interest of the public; and that the following order, as proposed in the said agreement is appropriate for the just disposition of all the issues in this proceeding as to all parties hereto, and should be and hereby is entered. Therefore,

It is ordered, That respondents Forbes & Wallace, Inc., a corporation, and its officers, and Norman Wallace, Louis B. Howland, Laurence R. Wallace, Ralph Little, and Samuel R. Page, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the sale of merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

1. That any amount is the price of merchandise in respondents' trade area when it is in excess of the price at which said merchandise is usually and customarily sold in said trade area;

2. That any amount is respondents' usual and regular price of merchandise when it is in excess of the price at which said merchandise has been usually and regularly sold by respondents in the recent regular course of their business;

3. That any saving is afforded in the purchase of merchandise from the price in respondents' trade area unless the price at which it is offered constitutes a reduction from the price at which said merchandise is usually and customarily sold in said trade area;

4. That any saving is afforded in the purchase of merchandise from respondents' price unless the price at which it is offered constitutes a reduction from the price at which the merchandise is usually and customarily sold by respondents in the recent regular course of their business.

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 9th day of July, 1959, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Forbes & Wallace, Inc., a corporation, and Norman Wallace, Louis B. Howland, Laurence R. Wallace, Ralph Little, and Samuel B. Page, individually and as officers