

ually 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 above order to cease and desist.

IN THE MATTER OF
CONTINENTAL MANUFACTURING CORPORATION ET AL.

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

Docket 7329. Complaint, Dec. 10, 1958—Decision, Aug. 28, 1959

Consent order requiring distributors of "Life Time" batteries in Culver City, Calif., to cease representing falsely—in advertising in magazines, folders, etc., of nation-wide circulation and in advertising material furnished their dealers—that their said batteries were self-charging, carried a bonded six-year guarantee and a money-back guarantee unlimited as to time and were guaranteed for 50,000 miles of use, and that they manufactured the batteries and owned factories in Chicago, Scranton and Reading, Pa., and Des Moines, Iowa.

Mr. John J. McNally for the Commission.
Respondents for themselves.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) issued its complaint herein, charging the above-named respondents with having violated the provisions of the Federal Trade Commission Act in certain particulars.

On May 13, 1959, there was submitted to the undersigned hearing examiner of the Commission for his consideration and approval an "Agreement Containing Consent Order To Cease And Desist." which had been entered into by and between respondents and coun-

sel supporting the complaint, under date of April 27, 1959, subject to the approval of the Bureau of Litigation of the Commission, which had subsequently duly approved the same.

On due consideration of such agreement, the hearing examiner finds that said 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 Continental Manufacturing Corporation is a corporation organized, existing, and doing business under and by virtue of the laws of the State of California, and with its principal office and place of business located at 10411 Washington Boulevard, in the City of Culver City, State of California.

Respondent Frank E. Williams is an officer of the corporate respondent. He formulates, directs, and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

2. Respondents admit all the jurisdictional facts alleged in the complaint, which was issued on December 10, 1958, 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. In the agreement it is recommended that the complaint be dismissed as to respondent Ralph G. Shroyer for the reasons that he resigned as an officer and employee of the respondent corporation in October 1958, and since that date has not served either as an officer or employee of the respondent corporation, nor has he directed, formulated, or controlled the acts and practices thereof, as set forth in the affidavit which is attached to and made a part of the said agreement.

5. 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.

6. 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.

Order

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

8. 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.

9. 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 filed herein and the said "Agreement Containing Consent Order To Cease And Desist," said agreement is hereby approved and accepted and is ordered filed if and when said agreement shall have become a part of the Commission's decision. The hearing examiner finds from the complaint and the said agreement that the Commission has jurisdiction of the subject matter of this proceeding and of the persons of each of the respondents herein; that the complaint states legal causes for complaint under the Federal Trade Commission Act against each of the respondents, both generally and in each of the particulars alleged therein; that this proceeding is in the interest of the public; that the following order as proposed in said agreement is appropriate for the just disposition of all the issues in this proceeding as to all of the parties hereto; and that said order, therefore, should be and hereby is entered as follows:

ORDER

It is ordered. That respondents Continental Manufacturing Corporation, a corporation, and its officers and Frank E. Williams, individually and as an officer of said corporate respondent, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution, in commerce, of their electric storage battery, spark plug and oil filter known as "Life Time" battery, "Life Time" spark plug and "Life Time" oil filter, or any other battery, spark plug or oil filter of the same or substantially the same composition or type, or possessing substantially similar properties, functions or characteristics, whether sold under the same or any other name, or in connection with the sale of any other product in commerce, as "commerce" is defined in the Federal Trade

Commission Act, do forthwith cease and desist from representing, directly or by implication:

- (a) That their battery is self charging;
- (b) That any product is guaranteed in any respect unless the terms and conditions of the guarantee are clearly and conspicuously disclosed in connection therewith, and unless respondents in fact comply with the represented guarantee;
- (c) That they manufacture all of the products sold by them; or that they manufacture any of such products, which in fact they purchase from the manufacturer thereof;
- (d) That they own or maintain an office, factory, or warehouse in any city other than that in which an office, factory, or warehouse is in fact maintained, occupied, and used by respondents.

It is further ordered, That the complaint herein be dismissed as to respondent Ralph G. Shroyer.

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 28th day of August, 1959, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Continental Manufacturing Corporation, a corporation, and Frank E. Williams, 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 to cease and desist.

IN THE MATTER OF

HOMEMAKER RUGS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE