

Decision

IN THE MATTER OF
UTICA CUTLERY COMPANY ET AL.

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

Docket 7427. Complaint, Feb. 27, 1959—Decision, Nov. 17, 1959

Consent order requiring Utica, N.Y., manufacturers of kitchen utensils, cutlery, stainless steel tableware, etc., to cease attaching to their merchandise, and furnishing to their customers for attachment, tickets printed with greatly exaggerated prices represented thus as the regular retail prices.

Charges of failing to disclose the foreign origin of tableware imported from Japan remain to be disposed of in separate proceedings.

Before *Mr. Everett F. Haycraft*, hearing examiner.

Mr. Ames W. Williams for the Commission.

Kernan and Kernan, of Utica, N.Y., for respondents.

INITIAL DECISION AS TO CERTAIN ALLEGATIONS OF THE COMPLAINT

On February 27, 1959, the Federal Trade Commission issued its complaint against the above-named respondents charging them with violating the provisions of the Federal Trade Commission Act in connection with the manufacture and sale of kitchen utensils, cutlery, stainless steel tableware, advertising specialties and other merchandise. On August 26, 1959, respondents Utica Cutlery Company, a corporation, Albert Edward Allen, individually and as an officer of said corporation, and Walter Joseph Matt, H. Robert Agne, and W. H. Van Vliet, as officers of said corporation, and their counsel and counsel supporting the complaint entered into an agreement containing a consent order to cease and desist, which disposes of certain allegations of the complaint, in accordance with Section 3.25(a) of the Rules of Practice and Procedure of the Commission.

This agreement disposes of all of this proceeding as to all parties except with respect to the allegations set forth in paragraphs 4, 5, 6 and 7 of the complaint and paragraphs 11 and 12 insofar as they pertain to paragraphs 4, 5, 6 and 7, which will be otherwise disposed of in another Initial Decision.

It is set out in the agreement that individual respondents Walter Joseph Matt, H. Robert Agne and W. H. Van Vliet, while officers and directors of the corporate respondent, are not concerned with the

pricing or packaging practices challenged in the complaint. These facts are set out in an affidavit executed by Albert Edward Allen, President, Utica Cutlery Company, which is attached to and made a part of the agreement. It was agreed that the complaint should be dismissed as to such respondents in their individual capacity.

Under the foregoing 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 shall have the same force and effect as if entered after a full hearing. The agreement includes a waiver by the respondents of all rights to challenge or contest the validity of the order issuing in accordance therewith; and recites that the said agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission, and 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 said agreement meets all the requirements of Section 3.25(b) of the Rules of Practice.

This proceeding having now come on for final consideration by the hearing examiner on the complaint and the aforesaid agreement for consent order, and it appearing that said agreement provides for an appropriate disposition of this proceeding as to all parties as to certain allegations, hereinbefore set forth, the aforesaid agreement is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Section 3.21 of the Rules of Practice; and in consonance with the terms of said agreement, the hearing examiner makes the following jurisdictional findings and order:

1. Corporate respondent Utica Cutlery Company is a corporation existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 820 Noyes Street in the City of Utica, State of New York.

Respondent Albert Edward Allen is an officer of respondent Utica Cutlery Company. He formulates, directs, and controls the acts and practices of said corporate respondent, including those set out in the complaint. Respondent Walter Joseph Matt, H. Robert Agne, and W. H. Van Vliet are officers of said corporation. The business address of all of the individual respondents 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 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, Utica Cutlery Company, a corporation, and its officers, and Albert Edward Allen, individually and as an officer of said corporation, and Walter Joseph Matt, H. Robert Agne, and W. H. Van Vliet, as officers 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 cutlery, stainless steel tableware, or any other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

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.

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

It is further ordered, That the complaint be and the same hereby is dismissed, as to respondents Walter Joseph Matt, H. Robert Agne, and W. H. Van Vliet, individually.

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 17th day of November, 1959, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Utica Cutlery Company, a corporation, and Albert Edward Allen, individually and as an officer of said corporation, and Walter Joseph Matt, H. Robert Agne, and W. H. Van Vliet, 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

JOSEPH SHUSTER ET AL. DOING BUSINESS AS
NATIONAL LEATHER & NOVELTY COMPANYCONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 7563. Complaint, Aug. 6, 1959—Decision, Nov. 17, 1959*

Consent order requiring Chicago distributors to cease representing falsely by the words "Leather," "Content Leather," and "Genuine Leather" stamped thereon, that wallets made of a plastic containing only 40% pulverized leather and with lining and dividers of simulated leather, were made of leather; and to cease attaching, or having attached, to said wallets, tickets imprinted with excessive prices represented thereby as the usual retail prices.

Mr. William A. Somers for the Commission.

Mr. Nathan Wolman, of Chicago, Ill., for respondents.

INITIAL DECISION BY HARRY R. HINKES, HEARING EXAMINER

The complaint in this matter charges the respondents with violation of the Federal Trade Commission Act in connection with the marking and ticketing of wallets sold. An agreement has now been entered into by respondents and counsel supporting the complaint which provides, among other things, that respondents admit all the jurisdictional facts alleged in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the making of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in this proceeding without further notice to the respondents and when entered shall have the same force and effect as if entered after a full hearing, respondents specifically waiving all the rights they may have to challenge or contest the validity of the order; that the order may be altered, modified, or set aside in the manner provided for other orders; that the complaint may be used in construing the terms of the order; that the 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; and 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.