

It is ordered, That respondents Fury Records, Inc., a corporation, and Morgan Robinson and Clarence L. Lewis, 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

CHARLES A. EATON CO. TRADING AS
CHARLES CHESTER SHOE CO. ET AL.

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

Docket 7610. Complaint, Oct. 19, 1959—Decision, May 1, 1960

Consent order requiring shoe manufacturers at Brockton, Mass., to cease representing falsely, in catalogs and sales aids furnished to their commission salesmen, that their "Charles Chester Air Cushion" stock shoes, produced by usual quantity production methods, would assure better body balance, furnish support of the feet where found to be individually indicated, and eliminate bunion pressure and fatigue, aid circulation and improve foot health.

Mr. Ames Williams for the Commission.

Haussermann, Davison & Shattuck, by *Mr. Eugene F. Endicott* of Boston, Mass. for respondents.

INITIAL DECISION BY EDGAR A. BUTTLE, HEARING EXAMINER

On October 19, 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 shoes designated as Charles Chester Air Cushion Shoes.

On February 11, 1960, the respondents and counsel supporting the complaint entered into an agreement containing a consent order to cease and desist in accordance with section 3.25 (a) of the Rules of Practice and Procedure of the Commission.

Under the foregoing agreement, the respondents admit the jurisdictional facts alleged in the complaint and 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. Said agreement is entered into subject to the condition that the effective date of the initial decision based thereon shall be stayed by the Commission until May 1, 1960; and recites that 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 agreement further provides that the complaint insofar as it concerns respondent Carl F. Bauer should be dismissed for the reasons set forth in an affidavit attached thereto to the effect that said respondent is not now, and was not at the time the complaint issued, an officer of the corporate respondent, and that during the time said respondent served as an officer of said company he was not active in formulating, directing or controlling the acts and practices of the company and it is not contemplated that said respondent will have any connection with said company in the future. 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, 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 following jurisdictional findings are made and the following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondents, subject to the condition as set out above:

1. Corporate respondent Charles A. Eaton Co. is a corporation organized and existing under and by virtue of the laws of the State of Massachusetts. Its office and principal place of business is located at Brockton, Massachusetts.

Respondents Charles C. Eaton, Jr., Robert A. Eaton, Louis F. Eaton, and Edward B. Hutton are officers of the corporate respondent. They formulate, direct and control the acts and practices of

the corporate respondent, including the acts and practices hereinafter set forth. Their business address is the same as the corporate respondents.

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 subsection (d) of section 2 of the Clayton Act, as amended.

ORDER

It is ordered, That the respondents Charles A. Eaton Co., a corporation, trading as Charles Chester Shoe Co., or under any other name or names, and its officers, and Charles C. Eaton, Jr., Robert A. Eaton, Louis F. Eaton and Edward B. Hutton, individually and as officers of Charles A. Eaton Co., and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of shoes, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, by any means, that the wearing of their shoes:

1. Will assure better body balance;
2. Will furnish support of the feet in those cases where support is found to be individually indicated;
3. Will eliminate bunion pressure, eliminate fatigue, aid circulation or improve the health of the feet.

It is further ordered, That the complaint be, and it hereby is, dismissed as to respondent Carl F. Bauer.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

This matter having come on to be heard by the Commission upon its review of the hearing examiner's initial decision; and

The Commission having determined that the erroneous reference in the initial decision to subsection (d) of Section 2 of the Clayton Act, as amended, should be deleted:

It was ordered, On the 12th day of April, 1960, that the second sentence contained in paragraph 2 of the initial decision be, and it hereby is, modified to read as follows:

"The complaint states a cause of action."

It was further ordered, That the initial decision, as herein modified, did, on the 1st day of May, 1960, become the decision of the Commission.

It is further ordered, That the respondents named in the preamble

