

sion a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist contained in the initial decision as modified.

IN THE MATTER OF
GLOBE RUBBER PRODUCTS CORPORATION ET AL.

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

Docket 7666. Complaint, Nov. 24, 1959—Decision, May 7, 1960

Consent order requiring Philadelphia distributors of rubber products, including swimming ware and household goods, to jobbers and retailers for resale, to cease preticketing some of their products with fictitious and excessive prices, represented thereby as the usual retail price.

Mr. Ames W. Williams for the Commission.

Mr. Daniel Lowenthal of *Fox, Rothschild, O'Brien & Frankel*, of Philadelphia, Pa., for respondents.

INITIAL DECISION BY HARRY R. HINKES, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission issued its complaint in this proceeding against the above-named respondents charging them with violation of that Act in connection with the advertising and sale of rubber products. On March 10, 1960, there was submitted to the undersigned hearing examiner an agreement between the respondents, their counsel and counsel supporting the complaint, providing for the entry of a consent order.

Under the foregoing agreement it is recommended that the complaint be dismissed insofar as it relates to Emanuel Meyer as an individual but not as an officer of the corporate respondent. Mr. Meyer has admitted that he is an officer, director and shareholder in the corporation; he has, however, denied that he formulates, directs and controls the acts and practices of the company. An affidavit by a corporate officer attached to the agreement states that the policies, acts and practices of the corporate respondent are established by action of the Board of Directors of the corporation. The record is devoid of circumstances to support a conclusion that individual liability should attach.¹

Under the foregoing agreement the respondents admit all the jurisdictional allegations in the complaint. The agreement also provides 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 inclusion 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 disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, the respondents specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and proposed order and being of the opinion that they provide an adequate basis for an appropriate disposition of the proceeding as to all of the parties, the agreement is hereby accepted, the following jurisdictional findings made and the following order issued:

1. Respondent Globe Rubber Products Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 3333 North Lawrence Street, in the City of Philadelphia, State of Pennsylvania.

¹ In the matter of Basic Books, Inc., et al., D. 7016, (1959); in the matter of Kay Jewelry Stores, Inc., et al., D. 6445, (1957).

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Respondent Emanuel Meyer is an officer of said corporation. 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 respondents Globe Rubber Products Corporation, a corporation, and its officers, and Emanuel Meyer, 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 rubber products or other merchandise 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 any amount is the usual and regular retail price of merchandise when such amount is in excess of the price at which said merchandise is usually and regularly sold at retail in the trade area or areas where the representations are made.

2. Putting into operation any plan whereby retailers or others can misrepresent the regular and usual retail prices of merchandise.

It is further ordered, That the complaint herein, insofar as it relates to respondent Emanuel Meyer, individually, be, and the same hereby is, dismissed without prejudice to the right of the Commission to take such action in the future as the facts may then warrant.

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 7th day of May, 1960, become the decision of the Commission; and, accordingly:

It is ordered, That respondent Globe Rubber Products Corporation, a corporation, and Emanuel Meyer, 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

SAM S. GOLDSTEIN TRADING AS SUN GOLD INDUSTRIES

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 7414. Complaint, Feb. 19, 1959—Decision, May 10, 1960*

Order dismissing, for lack of supporting evidence, complaint charging a New York City distributor with using fictitious prices by attaching to women's hosiery tickets printed with excessive price figures, and with setting out similar amounts in advertising, thereby falsely representing such figures to be the usual retail prices.

Mr. Edward F. Downs and Mr. Anthony Kennedy for the Commission.

Bader & Bader, by Mr. I. Walton Bader, of New York, N.Y., for respondent.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

Respondent is charged with having engaged in the practice of using fictitious prices in connection with the labeling and advertising of women's hosiery, in violation of the Federal Trade Commission Act.

Upon the basis of the entire record, after hearings and submission of proposed findings of fact and conclusions, the following findings of fact are made, conclusions reached and order issued.

1. Respondent Sam S. Goldstein is an individual trading as Sun Gold Industries, with his office and principal place of business located at 1220 Broadway, New York, New York.

2. Respondent is now, and for some time last past has been, engaged in the advertising, sale and distribution of a number of products, including women's hosiery, to distributors and jobbers, and to retailers for resale to the consuming public.

3. In the course and conduct of his business, respondent now causes, and for some time last past has caused, his women's hosiery, with which this proceeding is particularly concerned, when sold, to be shipped from his place of business in the State of New York, and from the factories from which he buys said product, to the purchasers thereof, many of whom are located in states other than the state in which such shipments originated. Respondent's business in commerce has been substantial, amounting to approximately \$190,000 a year. Respondent's sales were mostly to jobbers, mail-order establishments, house-to-house canvassers, and direct premium users, at prices varying from \$6.00 to \$9.00 per dozen.