

SCOTT-MITCHELL HOUSE, INC., ET AL.

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

Docket 7705. Complaint, Dec. 22, 1959—Decision, June 1, 1960

Consent order requiring Yonkers, N.Y., distributors of housewares, tools, etc., to cease making such false representations in advertising as that defective, scrapped, manufacturers' reject high speed drills were "BRAND NEW! . . . TOP GRADE!", and advertising usual prices of various merchandise as reduced from "Reg." prices which were excessive and fictitious.

Mr. Berryman Davis for the Commission.
Respondents, *pro se*.

INITIAL DECISION BY HARRY R. HINKES, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission issued and subsequently served its complaint in this proceeding against the above-named respondents charging them with violation of the Federal Trade Commission Act in connection with the sale and distribution of housewares, novelties and miscellaneous merchandise.

On April 1, 1960 there was submitted to the undersigned hearing examiner an agreement between the respondents and counsel supporting the complaint providing for the entry of a consent order.

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 Scott-Mitchell House, Inc. 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 415 South Broadway, in the City of Yonkers, State of New York. Respondent Abraham Linet is secretary treasurer of the corporate respondent. The address of the individual respondent is the same as that of the corporate respondent.

Order

56 F.T.C.

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 Scott-Mitchell House, Inc., a corporation, and its officers, and Abraham Linet, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale or distribution of housewares, novelties, tools, instruments, accessories or other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "new" or any other word or words of similar import or meaning to describe merchandise previously discarded or rejected as unfit by the manufacturer thereof.

2. Using the words "top grade" or any other word or words of similar import or meaning to describe merchandise previously discarded or rejected as unfit by the manufacturer thereof or to describe merchandise which is not the best product of the manufacturer.

3. Representing in any manner that merchandise discarded or rejected as unfit by the manufacturer thereof is new or of top grade or quality.

4. Offering for sale or selling a manufacturer's reject product without clearly disclosing on the article, or on the container in which such merchandise is packaged when sold this way, and in advertising, invoices, and shipping memoranda, that such merchandise is a manufacturer's reject.

5. Representing, directly or by implication, that the price at which such merchandise is offered for sale constitutes a reduction from the usual and customary price charged for such merchandise by respondents in the recent, regular course of their business in the area or areas where the representation is made.

6. Representing that any savings are afforded in the purchase of merchandise unless the prices at which it is offered constitute a reduction from the prices at which said merchandise is usually and customarily sold by respondents in the normal course of their business.

7. Misrepresenting in any manner the amount of savings available to purchasers of respondents' merchandise, or the amount by which the price of said merchandise is reduced from the price at which it is usually and customarily sold by respondents in the normal course of their business.

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Decision

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 1st day of June, 1960, become the decision of the Commission; and, accordingly:

It is ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commis-