

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
HARRY KAUFMAN, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE WOOL PRODUCTS LABELING ACTS

Docket 7756. Complaint, Jan. 26, 1960—Decision, June 1, 1960

Consent order requiring Washington, D.C., retailers to cease violating the Wool Products Labeling Act by failing to label girls' and teenage wool coats as required; and to cease representing falsely in bids submitted to the General Services Administration of the United States Government that said coats were "100% virgin wool."

Mr. Frederick McManus supporting the complaint.

Donohue & Kaufmann, by *Mr. F. Joseph Donohue*, of Washington, D.C., for respondents.

INITIAL DECISION BY JOHN LEWIS, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on January 26, 1960, charging them with having violated the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and the Federal Trade Commission Act, through the misbranding of certain wool products and misrepresenting the fiber content of certain of their products. After being served with said complaint, respondents ap-

peared by counsel and entered into an agreement containing consent order to cease and desist, dated March 29, 1960, purporting to dispose of all of this proceeding as to all parties. Said agreement, which has been signed by all respondents, by counsel for said respondents, and by counsel supporting the complaint, and approved by the Director and Assistant Director of the Commission's Bureau of Litigation, has been submitted to the above-named hearing examiner for his consideration, in accordance with Section 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings.

Respondents, pursuant to the aforesaid agreement, have admitted all the jurisdictional facts alleged in the complaint, and have agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. Said agreement further provides that respondents waive any further procedural steps before the hearing examiner and the Commission, the making of findings of fact or conclusions of law, and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with said agreement. It has been agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if entered after a full hearing and that the complaint may be used in construing the terms of said order. It has also been agreed that the aforesaid 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.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing consent order, and it appearing that the order provided for in said agreement covers all of the allegations of the complaint and provides for an appropriate disposition of this proceeding as to all parties, said agreement is hereby accepted and is ordered filed upon this decision's becoming the decision of the Commission pursuant to Sections 3.21 and 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and the hearing examiner, accordingly, makes the following jurisdictional findings and order:

1. Respondent Harry Kaufman, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the District of Columbia with its place of business located at 1312 Seventh Street, N.W., Washington, D.C.

Individual respondents Bertram Wise and David Wise are officers of the corporate respondent, being President and Vice President and Treasurer, respectively. Said individual respondents cooperate in formulating, directing and controlling the acts, policies and prac-

tices of the said corporation. Their address and place of business 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 Wool Products Labeling Act of 1939 and the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That the respondents Harry Kaufman, Inc., a corporation, and its officers, and Bertram Wise and David Wise, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the offering for sale, sale, transportation, or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, and the Wool Products Labeling Act of 1939, of girls' and teenage coats or other wool products, as such products are defined in and subject to said Wool Products Labeling Act, do forthwith cease and desist from misbranding such products by failing to affix labels to such products showing each element of information required to be disclosed by Section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That the respondents, Harry Kaufman, Inc., a corporation, its officers, and Bertram Wise and David Wise, individually and 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 girls' and teenage coats, or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the character or amount of the constituent fibers contained in said products in bids, or in any other manner.

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 the respondents herein 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

GONE RECORDING CORP. ET AL.

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

Docket 7766. Complaint, Jan. 27, 1960—Decision, June 1, 1960

Consent order requiring New York City manufacturers and distributors of phonograph records to cease giving concealed "payola" to television and radio disc jockeys to induce playing their records in order to increase sales.

Mr. John T. Walker and Mr. James H. Kelley for the Commission.
Mr. M. Warren Troob, of New York, N.Y., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The respondents are, individually and/or jointly, engaged in the manufacture, distribution and sale of phonograph records to independent distributors for resale, and in the offering for sale, sale and distribution of phonograph records as an independent distributor for several record manufacturers, to retail outlets and jukebox operators in various states of the United States. They are charged with violation of the Federal Trade Commission Act, in that, alone or in collaboration with certain record manufacturers or distributors, they have aided and abetted the deception of the public by various disk jockeys by controlling or unduly influencing their "exposure" of records by the use of "payola," i.e., the payment of money or other consideration to such disk jockeys, or to other personnel participating in the selection of the records used on such broadcasts. It is alleged that "payola" is thus used by respondents to mislead the public into believing that the records "exposed" were the independent and unbiased selections of the disk jockeys based either on each record's merit or public popularity. This deception has the capacity and tendency to enhance the popularity of the "exposed" records and to substantially increase their sales.

After the issuance of the complaint, respondents, their counsel, and counsel supporting the complaint entered into an agreement containing consent order to cease and desist, which was approved by the Director, the Associate Director, and the Assistant Director of the Commission's Bureau of Litigation, and thereafter transmitted to the hearing examiner for consideration.

The agreement states that respondents Gone Recording Corp. and End Music, Inc. are corporations organized, existing and doing business under and by virtue of the laws of the State of New York,