

a corporation, shall, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with the order contained in said initial decision.

Commissioner Tait not participating.

IN THE MATTER OF
THE LAFAYETTE BRASS MANUFACTURING
COMPANY, INC., ET AL.

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

Docket 6671. Complaint, Oct. 31, 1956—Decision, Sept. 27, 1960

Order requiring two associated corporations and their common officer-owners to cease using the word "Manufacturing" as part of their corporate or trade names unless it is clearly disclosed in immediate connection and conjunction with each such name that such corporation is primarily a distributor and assembler of the products it sells.

Charges of failure to reveal foreign origin of products, representing them to be of domestic origin, and misrepresenting the extent to which their lawn sprinklers could withstand water pressure were settled by consent order dated July 23, 1957, 54 F.T.C. 117.

Mr. Berryman Davis for the Commission.

Mr. Charles Korn, of New York, N.Y., for respondents.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

All of the issues originally involved in this proceeding except those raised by paragraph 9 and 10 of the complaint have been adjudicated as to all parties by an Initial Decision *pro tanto* issued by the hearing examiner June 10, 1957, and adopted by the Commission July 23, 1957.

Remaining to be determined is a charge in the complaint of improper and misleading use of the word "manufacturing" in the corporate names of respondents, The Lafayette Brass Manufacturing Company, Inc., and The Durst Manufacturing Company, Inc. This charge was denied by respondents, and on the issues thus joined the matter proceeded to trial, during the course of which certain testimony was had and exhibits received in evidence, all of which testimony was stenographically reported and, together with the exhibits, duly filed of record in the Office of the Commission in Washington, D.C., as required by law.

On October 23, 1958, counsel for respondents filed suggestion of death of respondent, David Durst, as to whom the complaint will be dismissed.

After the conclusion of the taking of all the testimony and the reception of all the evidence in this proceeding, respondents moved the dismissal of the ninth and tenth paragraphs of the complaint, in which this charge was set forth, on the ground that there had been a failure of proof with respect to the allegations thereof. This motion was supported by memorandum and was opposed by counsel supporting the complaint in an answering memorandum. Said motion is hereby denied for the reasons and findings herein appearing.

All parties were accorded an opportunity, of which they availed, of filing with the hearing examiner their respective Proposed Findings of Fact and Conclusions of Law, those deemed proper to be admitted having been incorporated herein, and those rejected being ignored, as a reading of this Initial Decision may indicate.

FINDINGS AS TO THE FACTS

1. Respondents The Lafayette Brass Manufacturing Company, Inc., The Durst Manufacturing Company, Inc., and Marshall Metal Products, Inc. are corporations organized and existing under and by virtue of the laws of the State of New York, and share the same offices located at 409 Lafayette Street, New York, N.Y. Respondents Pauline D. Kohn and Norman Redlich are individuals and are secretary and president, respectively, and formulate, direct and control the policies, acts and practices of each of said corporate respondents. Respondent The Durst Manufacturing Company, Inc., owns all of the stock of respondent The Lafayette Brass Manufacturing Company, Inc., and over 80% of the stock of respondent Marshall Metal Products, Inc.; the individual respondents own a majority of the stock of The Durst Manufacturing Company, Inc.

2. The Durst Manufacturing Company, Inc. (hereinafter referred to as "Durst") started doing business in New York City about 1905,

was incorporated in 1911 and has used its present corporate name uninterruptedly for almost fifty years. The word "Manufacturing" has been part of the company's name from the date of its inception in 1905. Its controlling officers are grandson and daughter, respectively, of the founder. Durst is one of the largest firms in the plumbing specialty business, and handles an extremely large number of items for repairs and replacements in the plumbing field, and also specialized in related tools, supplies and accessories. It sells these products in commerce to wholesalers, distributors, chain outlets and certain retail accounts, all of such sales being made "to the trade" in contradistinction to the general public or ultimate consumer, to whom it does not sell. Some of the merchandise sold by Durst is manufactured by it, but the vast majority of all merchandise, dollarwise and as to volume, is made by other manufacturers or producers, and as to this Durst acts as a buyer in the open market or under contract and resells for its own account and profit. Many of its customers received a Durst catalogue, exemplified by Commission's Exhibit No. 7.

3. The Lafayette Brass Manufacturing Company, Inc. (hereinafter referred to as "Lafayette") was organized in 1949 in New York City as a company dealing in brass products and was known as The Lafayette Brass Company, Inc. Its name was changed to "The Lafayette Brass Manufacturing Co., Inc." in 1955 for alleged competitive reasons. It has dealt in interstate commerce primarily in lawn sprinklers, hose nozzles and hose connections. The actual manufacture or production of these articles is performed in very limited part by Lafayette, whose chief function is that of an assembler of diverse parts manufactured or produced by others. Also it contracts abroad, specifically with manufacturers in Japan, for the production of various items which it imports and sells under its own name, thus implying and representing itself to be the manufacturer of such products.

4. Respondents, in the course and conduct of their business, are in substantial competition in commerce with other corporations, firms and individuals in the sale and distribution of lawn sprinklers, hose nozzles, hose connections, faucet aerators, electrical supplies, locks, hardware, plumbing and heating supplies and sundry other articles of merchandise.

Many of Lafayette's customers received a "Lafayette" catalogue, exemplified by Commission's Exhibit No. 6 and Respondents' Exhibits Nos. 1, 2 and 3. All of the sales of merchandise by Lafayette are effected by direct solicitation in "the trade", and sales are not made to the general public or ultimate consumer.

5. Through the use of the word "Manufacturing" in the names of corporate respondents The Lafayette Brass Manufacturing Co., Inc., and The Durst Manufacturing Company, Inc., respondents represent that they manufacture the products sold by them as aforesaid. In truth and in fact, respondents do not manufacture many of such products, but purchase from others either the completed products or the parts thereof which the respondents merely assemble. There is a preference on the part of dealers and the purchasing public for dealing with the manufacturer of products direct, such preference being due to a belief on the part of such dealers and the purchasing public that thereby lower prices and other advantages may be obtained.

6. At the outset of these proceedings, as the record will disclose, pretrial hearings and preliminary discussions were entered into, as a result of which, as in the opening paragraph hereof recited, certain issues raised by the complaint were embodied in an order to cease and desist which was formally approved by this Honorable Commission, leaving to be litigated only the charge of misrepresentation in the use of the word "manufacturing" in the corporate names of the respondents, The Lafayette Brass Manufacturing Co., Inc., and The Durst Manufacturing Company, Inc. The evidence developed without question that these names appeared prominently on the various products merchandised by the respective respondents, on the cartons containing such merchandise which was ultimately sold to the public, and many of the individual articles sold by Durst bore the imprint or trademark "DUMACO" in the center of a diamond outline, which is the trademark of The Durst Manufacturing Company. It was likewise brought out in evidence that the invoices, letterheads, and, particularly, the catalogues issued by both companies hereinabove referred to specifically, all bore the corporate names of respondents, which are found to be misleading in fact in that neither The Durst Manufacturing Company, Inc., or The Lafayette Brass Manufacturing Co., Inc., are in truth and fact manufacturers of the vast majority of the merchandise which they respectively sell.

At this point, and on this subject which is the gravamen of the issue between the parties, and the examiner being of opinion that this initial decision must perforce,¹ by reason of the many decisions on the subject and the position and rulings of the Federal Trade Commission in similar matters, result in the passage of an order against the respondents, however reluctantly he feels it incumbent to do so, especially in the matter of The Durst Manufacturing Company, which has been in business for over sixty years, enjoying an

¹ *Progress Tailoring Co. v. F.T.C.*, 153 F. 2d 103.

excellent reputation. Further, there is an absolute and total lack of any direct proof of injury to competition or that anyone has been misled to their detriment by the use of the corporate names. It must be recognized that it is not necessary to prove actual injury but that it is sufficient that the possibility of injury or deception be inherent in the act charged. Furthermore, neither respondent corporation sells directly to the ultimate purchaser or to the consuming public but solely to the trade, and we must bear in mind the contention of the respondents, which has not been overcome, that the members of the trade are not deceived by use of the word "manufacturing", especially so in those instances where the respective catalogues of the two corporations clearly disclose, by halftone cuts, that the articles vended by them are the products of others and not of respondents' own manufacture. This is especially true in the matter of the 200-page catalogue of Durst, where the trademarks and names of other manufacturers clearly stand out in the depiction of the various articles of merchandise. However, it must be noted in passing that in the Durst catalogue the name "The Durst Manufacturing Company, Inc." and the Durst trademark appear with great prominence at the top and bottom of each page of the catalogue. Such is likewise true of the catalogues issued by Lafayette.

7. During the pretrial conference and negotiations hereinabove adverted to, the matter of a substitute name, or the deletion of the word "manufacturing" from each corporate name, was explored without success, each of the respondents claiming that their respective names constituted a valuable business asset and good will which had been built up over the years, the validity of which position is recognized by this hearing examiner and forms the basis for the reluctance which he has heretofore expressed in the passage of an order which would be harsh in nature and would deprive the respondents of a valuable asset. Especially is this true in view of the language of the Supreme Court in the *Jacob Siegel Company* matter (327 U.S. 608-614), to the effect that such action should not be taken if the Commission, in the exercise of its administrative discretion and determination, could find a lesser solution, pursuant to which the Federal Trade Commission did in fact alter its original order proscribing use of the name "Alpacuna", and permitted the use of same with additions which obviated the misleading character of the tradename. However, in the instant matter, involving as it does the corporate names, no explanation or modification is possible to overcome the inherent difficulties presented, thus making excision of the word "manufacturing" imperative if the enunciated policy of the Federal Trade Commission is to be followed. With the fore-

going observations, and in order that the position of the respondents on the matter be made known, it is felt only fair to present a short resumé thereof.

THE DEFENSE

1. The Durst Company was incorporated in the year 1912 and is one of the oldest firms dealing in plumbing specialties. At its inception it manufactured substantially all of the comparatively small line of products which it sold, such sales being limited to jobbers, wholesalers, and plumbing supply houses. It did not, and has never, sold directly to the public, nor has it ever solicited mail orders or any other orders directly from the consuming public. In its early history, in common with many of its competitors, it found that there was an increasing need and demand for a single source where repair parts for plumbing fixtures could be purchased, as also the fixtures themselves and specialized tools and accessories. As kitchen and bath plumbing furnishings increased in variety and complexity, specialized tools and accessories were included in the manufacturer's line. Many of these specialized fittings, parts, tools and accessories were not and are not made by Durst, but, on the contrary, are produced in the plants of specialized manufacturers and thereafter purchased by Durst in quantities for resale. The core of the business, however, is still, according to Durst's position, the plumbing specialties made by Durst either on its own premises or with facilities owned and operated by others but made to Durst's order and to Durst's specifications, in many instances bearing Durst's name and backed by Durst's guarantee.

As the field continued to grow, with corresponding expansion of the number of plumbing specialty "manufacturers", such as Durst, it became incumbent on Durst to include in its line certain standard items of other manufacturers. which growth gave rise to a large number of *jobbers* who do absolutely no manufacturing. This activity of Durst in incorporating in its line various items of the lines of other manufacturers, is indulged in by many of Durst's competitors and who,² as in the case of Durst, because of their primary function as manufacturers, have deemed it vital to their continued operation to maintain the distinction in the trade between themselves and the *jobbers* who were not, and never were, manufacturers in any sense of the word.

Thus, at the present time Durst both manufactures some of its own products and distributes certain standard products of others as hereinabove delineated. The variety of products handled is vast in

² See Respondents' Exhibits Nos. 48 and 49.

number and description and composed of various suitable materials, including rubber, brass, steel, plastics of numerous kinds, wood, wire, porcelain, glass or fiber, and some of which may be molded, machined, cast, stamped, drawn, etc. Respondent Durst therefore contends that it is obvious from a perusal of the multitude of items contained in the catalogue and their descriptions, that any reasonable person would instantly recognize that no producing concern could be integrated to the extent that it had the capability of producing all of the various items. When this is coupled with the fact, proven of record, that the catalogue is distributed only to those who are familiar with the trade and not to consumers or the general public, and that the catalogue in each instance, where such is the fact, seeks to identify the maker of the product and clearly gives the maker's name or his trademark, no misrepresentation is possible or intended. Durst's position is, therefore, that if it is denied the use of the word "manufacturing" in its corporate name, its position in the trade as to those products which it actually manufactures would not and could not be made known, and it would revert to the position of a *jobber* as to *all* of the products by it handled, whether such to be manufactured by itself or by others, with consequent loss in good will and perhaps disaster to the company.

2. Continuing with the respondent's position concerning Lafayette Brass Manufacturing Co., Inc., the operations of the latter are entirely different from those of Durst, although the management is identical, the ownership of the two corporations is very close and, in some instances, the marketing outlets of both concerns are similar. Lafayette is not in any sense of the word a plumbing specialty manufacturer, but confines its activities to the "manufacture" and sale of lawn sprinkling and watering devices, hose nozzles, connections, sprayers and related accessories.

Originally, Lafayette actually made its lawn sprinklers and a few other items in their entirety on its own premises with its own facilities and personnel. It designed the castings for the sprinkler bases and had them cast in foundries. The moving portions of the sprinkler tops were fabricated from raw material furnished by various mills. The component parts were then assembled and packaged by Lafayette on its own premises. It was found later, as this field became more competitive, that lower manufacturing costs were imperative so that products could be offered at lower prices, which could be accomplished if the essential parts were made abroad, that is to say, in countries other than America. With this in mind Lafayette caused certain of its hose nozzles to be made in Italy and

most of its lawn sprinklers to be made under contract with Japanese fabricators. This state of affairs continues to exist as of the present time.

The product desired to be fabricated is initiated by causing industrial designers in this country to prepare drawings, a sample of the product is made up by hand for the purpose of pretesting performance, suitability of design, etc., and at such time as all of these items are satisfactory, jigs and dies are made up and negotiations entered into, either directly or through an intermediary, with owners of foreign plants who competitively bid for the privilege of making the items or some portions thereof, or merely for assembling parts and packaging same. Inspection of the foreign plants used is then caused to be made by Lafayette to ascertain if the available equipment is sufficient for the work in hand. When contracts for production are entered into, jigs and dies, as well as specialized tools, are sent by Lafayette to the plant or plants involved. An irrevocable letter of credit is then drawn and delivered to the successful bidder, against which he draws for the purpose of purchasing the required material and then proceeds to fabricate the parts or items contracted for. It is the contention of the respondent Lafayette that the fabrication of the parts or items is under the supervision of personnel who are in the employ of Lafayette and who personally supervise and coordinate the various stages and operations involved in the production. In no case does any single plant produce a complete product. Lafayette's contention, in view of the foregoing, is that it is the "manufacturer" of the part or item and the resultant product sold in commerce is the responsibility of Lafayette rather than any firm engaged in the making of a subpart or sub-assembly. In other words, the foreign facilities are being employed by Lafayette as though they were agents, remaining under the control, and subject to the direction of Lafayette at all times.

Because of the highly competitive conditions in this field and the constant emergence of new inventions and innovations, a manufacturer must be highly responsive to price fluctuations and product changes, for which reason new products are constantly being developed by Lafayette and old products are abandoned or curtailed from season to season. If the slightest cost advantage may be obtained by the use of foreign facilities, Lafayette will employ them and, on the other hand, if there are cost or other advantages to be derived in connection with any particular product by the use of Lafayette's own labor and facilities in the United States, it will immediately make the necessary shift in its production process.

Order

57 F.T.C.

CONCLUSIONS

1. This Initial Decision is concerned only with paragraphs 9 and 10 of the complaint, which specifically charges respondents The Lafayette Brass Manufacturing Co., Inc. and The Durst Manufacturing Company, Inc. with misrepresenting their status as "manufacturers" of the products by them sold because of the use of the word "manufacturing" as an integral part of their respective corporate names. Therefore, the respondent Marshall Metal Products, Inc., not being charged under paragraphs 9 and 10 of the complaint, and having heretofore entered into a consent settlement of the other charges of the complaint as to it, will not be included in the order hereinafter issued.

2. Note is made of the suggestion of death of the named respondent, David Durst, as to whom the order will provide for dismissal of the complaint.

3. The individually named respondents, Pauline D. Kohn and Norman Redlich, are officers and directors of both The Lafayette Brass Manufacturing Co., Inc., and The Durst Manufacturing Company, Inc., and as such are responsible for and direct the business policies and acts of both corporate respondents, wherefore they will be individually included in the order.

4. The acts and practices of respondents, as hereinabove found, are all to the prejudice and injury of the public and of respondents' competitors, and constitute unfair methods of competition and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act, wherefore the following order is issued:

ORDER

It is ordered, That respondents The Lafayette Brass Manufacturing Co., Inc., and The Durst Manufacturing Company, Inc., both corporations, and their officers, and respondents Pauline D. Kohn and Norman Redlich, individually and as officers of said corporations, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the sale and distribution of their products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Using the word "manufacturing" or any other word of the same or similar import or meaning as a part of their corporate or trade name or names in connection with products not manufactured by them; or representing in any manner or by any means that they

manufacture any article or product that is not manufactured in a factory owned, operated or controlled by them.

It is further ordered, That, because of the death of respondent David Durst, during the pendency of this proceeding, the complaint, as to him, be, and it hereby is, dismissed.

OPINION OF THE COMMISSION

By *SECRET, Commissioner:*

The complaint in this matter charges respondents, inter alia, with violating Section 5 of the Federal Trade Commission Act by falsely representing through use of the word "Manufacturing" in the names of two of the corporate respondents that they manufacture the products sold by them.

Respondents, acting under § 3.25 of the Commission's Rules of Practice, executed agreements containing consent orders relating to certain other practices charged in the complaint to be misleading. An initial decision disposing of these charges was issued by the hearing examiner on June 10, 1957, and became the decision of the Commission on July 23, 1957. The remaining charge was contested by respondents and after trial of the issues raised thereby, the hearing examiner, in a separate initial decision held that the charge was sustained by the evidence and ordered respondents (except for an individual respondent against whom the complaint was dismissed and corporate respondent, Marshall Metal Products, Inc.) to cease and desist the practice found to be unlawful. Respondents have appealed from this decision.

The basic issue raised by the contested charge is whether the use of the word "Manufacturing" in the corporate name of The Durst Manufacturing Company, Inc., hereinafter referred to as Durst, and in the corporate name of The Lafayette Brass Manufacturing Company, Inc., hereinafter referred to as Lafayette, has the capacity and tendency to mislead purchasers and prospective purchasers as to the true business status of these firms. Respondents contend on appeal that there is no record support for the finding in the initial decision that Durst and Lafayette do not manufacture the vast majority of the products which they sell and that the record does not provide any basis for distinguishing between a "manufacturing" operation and an "assembling" operation. We think that respondents' arguments on both points must be rejected.

Durst is engaged in the plumbing specialty business, selling a large number of repair and replacement parts for plumbing installation and repair, such as shower heads, tank valves, faucets, filters

and gauges, as well as tools, hardware and electrical products. The products sold by Lafayette are lawn sprinklers, hose nozzles, connections and related items. Both firms sell to wholesalers, distributors and retail accounts.

The record discloses that the manufacturing process used in the production of the products sold by the two firms necessarily involves the fabrication of component parts from raw materials. There is also sufficient evidence in the record to support the finding that dealers that purchase such products consider the firms that perform this basic operation to be manufacturers. The testimony of these dealers also shows that they are aware of the difference between a firm that makes the component parts of the products and a firm that merely assembles or distributes products made in whole or in part by others, and that they prefer to deal with the former.

The record also discloses that products made by various manufacturers and sold under the manufacturer's trademark or name has accounted for about 20% of Durst's total sales. Approximately 30% of this firm's business has consisted of the sale of merchandise made to its specifications by contract suppliers located in Italy and Japan. These products have been received by Durst in completed form and have been sold under the Durst name. Of the remaining products sold and distributed by Durst, some have been made completely in this country by other firms and have been packaged by Durst in its own boxes. The other products, with a few exceptions such as washers and gaskets, which Durst produces by stamping them out of sheets of such material as fiberboard, have been assembled by Durst from parts made by other firms. The evidence also shows that the products sold by Lafayette have been assembled by Lafayette from parts made by foreign and domestic manufacturers. None of the plants that have manufactured the completed products purchased by Durst and Lafayette or the plants which have manufactured the parts for the products assembled by these two corporations has been owned, operated or directly controlled by respondents.

The principal argument advanced by respondents in opposition to the hearing examiner's findings is that the assembling of parts into products is itself a process of manufacture. Although no authority is cited in support of this position, we think there can be no doubt that an assembling operation may be an essential step in the manufacture of certain products and may, therefore, be considered to be part of the manufacturing process. In this connection we have held that the blending by an American firm of perfume concentrates or compounds which had been made in France was a process of manufacture. *Fioret Sales Co., Inc. v. Federal Trade Commission*, 100 F.

2d 358 (1938). Further support for this proposition can be found in the following statement by the Supreme Court in *Tide Water Oil Company v. United States*, 171 U.S. 210 (1898):

The primary meaning of the word "manufacture" is something made by hand, as distinguished from a natural growth; but as machinery has largely supplanted this primitive method, the word is now ordinarily used to denote an article upon the material of which labor has been expended to make the finished product. Ordinarily, the article so manufactured takes a different form, or at least subserves a different purpose from the original materials; and usually it is given a different name. Raw materials may be and often are subjected to successive processes of manufacture, each one of which is complete in itself, but several of which may be required to make the final product. Thus, logs are first manufactured into boards, planks, joists, scantlings, etc., and then by entirely different processes are fashioned into boxes, furniture, doors, window sashes, trimmings, and the thousand and one articles manufactured wholly or in part of wood. The steel spring of a watch is made ultimately from iron ore, but by a large number of processes or transformations, each successive step in which is a distinct process of manufacture, and for which the article so manufactured receives a different name.

The material of which each manufacture is formed . . . is not necessarily the original raw material—in this case the tree or log—but the product of a prior manufacture; the finished product of one manufacture thus becoming the material of the next in rank. . . .

The Court in this case also distinguished between an assembling operation and the complete manufacture of a product by observing that:

. . . If, for instance, the wheels, chain, springs, dial, hands and case of a watch were all imported from abroad, and merely put together in this country, we do not think it could be said that the watch was wholly manufactured within the United States. . . .

It is our opinion, therefore, that, as to certain products assembled by Durst and Lafayette from parts made by others, the operations performed by these firms may be considered to be a process of manufacture. Examples of such operations are the assembling of a "hook" washing machine hose by Durst which involves the cutting of the hose, the cutting and bending of aluminum tubing and the coupling of the tubing to the hose; and the assembling of certain sprinklers by Lafayette which involves such operations as grinding off aluminum flash, drilling holes, punching out gaskets and punch pressing retainer and base plates, together with the assembling of the various parts.

It is not necessary for the purpose of this decision to determine how many of the assembling operations performed by Durst and Lafayette were manufacturing operations. On the other hand, even if it be conceded that each assembling operation was a process of manufacture, it does not necessarily follow that the representation

that these firms are manufacturers would not be deceptive. Where, as here, it is shown that buyers understand the word "manufacturing" to mean the making of component parts as distinguished from the assembling of such parts, the use of the word "Manufacturing" in the corporate name of firms engaged almost exclusively in the distribution and assembling of products made in whole or in part by others, might well have the capacity to mislead and deceive such buyers as to the business status of those firms.

As found by the hearing examiner, there is no evidence of actual deception resulting from the use of the word "Manufacturing" in the names of the two corporations. Neither Durst nor Lafayette sell to the public and there is no showing that members of the trade actually have been deceived. Contrary to respondents' contention, however, such a showing is not necessary to justify an order to cease and desist. It is sufficient if the alleged acts or practices have the capacity or tendency to mislead or deceive purchasers or prospective purchasers.

The hearing examiner has also held that nothing short of excision of the word "Manufacturing" from the names of the corporate respondents "Durst" and "Lafayette" would suffice to cure the deceptive capacity of those names. We do not think the record supports this conclusion, however, nor do we agree with the hearing examiner's ruling that excision is required because corporate names are involved. As hereinbefore stated, Durst and Lafayette do perform certain manufacturing operations. In view of this fact we believe that excision of part of the corporate names would not be warranted if there is some other means by which the deceptive implications of the word "Manufacturing" can be removed. In our opinion the likelihood of deception resulting from the use of this word would be eliminated if persons dealing with Durst and Lafayette are adequately informed of the true nature of the business operations of these firms. This may be accomplished through the use of a concise, though clear statement on stationery, in catalogs and advertising and wherever the corporate names are used, to the effect that respondents are primarily distributors and assemblers of the products they sell.

Respondents' appeal is denied and the initial decision, in those respects in which it is contrary to the views expressed herein, is modified to conform with such views. An appropriate order will be entered.

FINAL ORDER

This matter having been heard by the Commission upon respondents' appeal from the hearing examiner's initial decision, and upon

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Syllabus

briefs in support thereof and in opposition thereto; and the Commission, for the reasons stated in the accompanying opinion, having denied the appeal, and having modified the initial decision to the extent it is contrary to the views expressed in said opinion:

It is ordered, That the following order be, and hereby is, substituted for the order contained in the initial decision:

It is ordered, That respondents, The Lafayette Brass Manufacturing Company, Inc., and The Durst Manufacturing Company, Inc., both corporations, and their officers, and respondents, Pauline D. Kohn and Norman Redlich, individually and as officers of said corporations, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the sale and distribution of their products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Using the word "Manufacturing" as part of the corporate or trade names of corporate respondents unless in immediate connection and conjunction with each such name a clear and conspicuous disclosure is made that such corporation is primarily a distributor and assembler of the products it sells.

It is further ordered, That the complaint be, and it hereby is, dismissed as to respondent David Durst.

It is further ordered, That respondents, The Lafayette Brass Manufacturing Company, Inc., The Durst Manufacturing Company, Inc., Pauline D. Kohn and Norman Redlich, 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 contained herein.