

which they have complied with the order to cease and desist.

IN THE MATTER OF
AMERICAN STANDARD TELEVISION TUBE CORP. ET AL.
CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 8107. Complaint, Aug. 29, 1960—Decision, Feb. 16, 1961

Consent order requiring a manufacturer of rebuilt television picture tubes containing used parts and its exclusive sales agent, to cease representing falsely that certain of their television tubes were new in their entirety, by such statements on labels and otherwise as "This is a NEW DuMont

Licensed PICTURE TUBE", and to disclose on the tubes, cartons, invoices, etc., that the tubes were rebuilt.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that American Standard Television Tube Corp., a corporation and A. S. T. Sales Corp., a corporation and Jack Cherches and Alan H. Shindel, individually and as officers of said corporations, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent American Standard Television Tube Corp., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 94-50 158th Street, Jamaica, New York.

Respondent A. S. T. Sales Corp., is a corporation organized 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 94-50 158th Street, Jamaica, New York. Said corporation is the exclusive sales agent for American Standard Television Tube Corp. and both corporations cooperate and act together in carrying out the acts and practices hereinafter set forth.

Respondent Jack Cherches and Alan H. Shindel are officers and directors of both corporate respondents. They formulate, control and direct the policies, acts and practices of the corporate respondents. Their address is the same as that of the corporate respondents.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the manufacture, offering for sale, sale and distribution of rebuilt television picture tubes containing used parts to distributors for resale to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of New York to purchasers thereof located in various other States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course in trade in said

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products, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, and for the purpose of inducing the sale of their products, respondents made certain statements concerning their products on labels and by other media. Among and typical of such statements is the following:

This is a
NEW
DuMont Licensed
PICTURE
TUBE
This is Another
NEW
STANDARD
TELEVISION PICTURE TUBE

PAR. 5. Through the use of the aforesaid statement respondents represented that certain of their television picture tubes were new in their entirety.

PAR. 6. Said statement and representation was false, misleading and deceptive. In truth and in fact, the television picture tubes represented as being "new" are not new in their entirety.

PAR. 7. The television picture tubes sold by respondents are rebuilt containing used parts. Respondents do not disclose on the tubes, or on the cartons in which they are packed, or on invoices, or in any other manner that said television picture tubes are rebuilt and contain used parts.

When television picture tubes are rebuilt containing used parts, in the absence of a disclosure to the contrary, such tubes are understood to be and are readily accepted by the public as new tubes.

PAR. 8. By failing to disclose the facts as set forth in Paragraph Seven, respondents place in the hands of uninformed or unscrupulous dealers means and instrumentalities whereby they may mislead and deceive the public as to the nature of their said television picture tubes.

PAR. 9. In the conduct of their business, and at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of television picture tubes.

PAR. 10. The use by respondents of the aforesaid false, misleading and deceptive statements and representations and the failure of respondents to disclose on their television picture tubes, on the cartons in which they are packed, on invoices, or in any other manner, that they are rebuilt, containing used parts, have had, and now have, the capacity and tendency to mislead members of the

purchasing public into the erroneous and mistaken belief that said picture tubes are new in their entirety and into the purchase of substantial quantities of respondents' said tubes by reason of said erroneous and mistaken belief. As a consequence thereof, substantial trade in commerce has been, and is being, unfairly diverted to respondents from their competitors and substantial injury has thereby been, and is being, done to competition in commerce.

PAR. 11. The aforesaid acts and practices of respondents, as herein alleged, were, and are, all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.

Mr. Michael J. Vitale for the Commission.

Respondents, *pro se*.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated August 29, 1960, the respondents are charged with violating the provisions of the Federal Trade Commission Act.

On November 18, 1960, the respondents entered into an agreement with counsel in support of the complaint for a consent order.

Under the foregoing agreement, the respondents admit the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and have the same force and effect as if entered after a full hearing and the document includes a waiver by the respondents of all rights to challenge or contest the validity of the order issuing in accordance therewith. The agreement further recites 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 hearing examiner finds that the content of the agreement meets all of the requirements of section 3.25(b) of the Rules of the Commission.

The hearing examiner being of the opinion that the agreement and the proposed order provide an appropriate basis for disposition of this proceeding as to all of the parties, the agreement is hereby accepted and it is ordered that the agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission. The following jurisdictional findings are made and the following order issued.

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1. Respondent American Standard Television Tube Corp., and A. S. T. Sales Corp., are corporations existing and doing business under and by virtue of the laws of the State of New York, with their office and principal place of business located at 94-50 - 158th Street, Jamaica, New York.

Respondent Jack Cherches and Alan H. Shindel are officers of said corporate respondents. They formulate, direct and control the acts and practices of the corporate respondents. Their 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, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents American Standard Television Tube Corp., a corporation, A. S. T. Sales Corp., a corporation, and their officers, and Jack Cherches and Alan H. Shindel, individually and as officers of said corporations, and said respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of television picture tubes containing used parts, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication that such television picture tubes are new;
2. Failing to clearly disclose on the tubes, on the carton in which they are packed, on invoices and in advertising, that said tubes are rebuilt and contain used parts;
3. Placing any means or instrumentality in the hands of others whereby they may mislead the public as to the nature and condition of their television picture tubes.

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 16th day of February, 1961, 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 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

JOHN J. TIERNEY TRADING AS ARTISAN GALLERIES

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

Docket 8172. Complaint, Nov. 14, 1960—Decision, Feb. 16, 1961

Consent order requiring Dallas, Tex., furriers to cease violating the Fur Products Labeling Act by advertising which failed to disclose the names of animals producing certain furs or falsely identified the animals, and by failing to invoice furs with all required information.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that John J. Tierney, an individual trading as Artisan Galleries, hereinafter referred to as respondent, has violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. John J. Tierney is an individual trading as Artisan Galleries, with his office and principal place of business located at 2100 North Haskell Avenue, Dallas, Texas.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondent has been engaged in the introduction into commerce, and in the sale, advertising and offering for sale in commerce, and in the transportation and distribution, in commerce, of fur as the term "fur" and "commerce" are defined in the Fur Products Labeling Act.

PAR. 3. Certain of said furs were falsely and deceptively invoiced by the respondent in that they were not invoiced as required by Section 5(b) (1) of the Fur Products Labeling Act and in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

PAR. 4. Certain of said furs were falsely and deceptively advertised in violation of the Fur Products Labeling Act in that respondent caused the dissemination in commerce, as "commerce" is defined in said Act, of certain advertisements concerning said furs which were not in accordance with the provisions of Section 5 of the said Act and the Rules and Regulations promulgated thereunder and which