

IN THE MATTER OF
REO PRODUCTS MANUFACTURING CORP. ET AL.

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

Docket 8054. Complaint, July 26, 1960—Decision, May 16, 1961

Consent order requiring Brooklyn, N. Y., distributors of cutlery—engaged in fabricating steak knives and carving sets from English knife blades, Japanese fork tines, and American fork tines, sharpening steels, and handles—to cease placing in containers packaging such products, tags and labels bearing fictitious prices represented thereby as usual retail prices; and to cease representing falsely—by their trade name and in catalogs, stationery, invoices, on containers, etc.—that they were manufacturers, that they had a factory in Sheffield, England, and that their aforesaid carving sets were “MADE IN SHEFFIELD, ENGLAND”.

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 Reo Products Manufacturing Corp., a corporation, and Milton Cohen, Sam Siegel, Theodore Ribak, and Barnett L. Ribak, individually and as officers of said corporation, 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 Reo Products Manufacturing 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 316 McDonald Avenue in the City of Brooklyn, State of New York.

Respondents Milton Cohen, Sam Siegel, Theodore Ribak, and Barnett L. Ribak are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of cutlery, forks and sharpening steels to distributors and to retailers 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 in the District of Columbia, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondents purchase knife blades from an English manufacturer, certain fork tines from Japanese manufacturers and certain other fork tines from an American supplier, sharpening steels from an American supplier, and knife, fork and sharpening steel handles from American manufacturers.

Respondents unite the said knife blades, fork tines and sharpening steels with the said handles, thereby fabricating steak knives and carving sets.

PAR. 5. In the said course and conduct of their business and for the purpose of inducing the purchase of said products, respondents have:

(a) Engaged in the practice of using fictitious prices in connection therewith by placing tags and labels in the containers in which said products are packaged, on which said tags and labels certain amounts are printed, thereby representing, directly or indirectly, that said amounts are the usual and regular retail prices charged for said products.

(b) Made certain statements and representations with respect to respondents' status and concerning the origin and composition of said products. Such statements and representations have been, and are, made in respondents' catalogs, stationery, invoices and other printed and promotional material, and in and on the containers in which said products are offered for sale and sold to the purchasing public.

Complaint

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Typical of such statements and representations are the following:

REO PRODUCTS MFG. CORP.
Manufacturers
REO PRODUCTS MFG. CORP.
320 Fifth Ave. N.Y. 1, N.Y. SHEFFIELD, ENGLAND
MADE IN SHEFFIELD, ENGLAND
SHEFFIELD STAINLESS CARVER SET

PAR. 6. By the aforesaid practice, and through the use of the aforesaid statements and representations, respondents have:

(a) Placed in the hands of distributors and retailers the means and instrumentalities by and through which they might mislead the public as to the usual and regular retail prices of said products.

(b) Represented, directly or by implication, that:

(1) Respondents are manufacturers.

(2) Respondents own, operate or control a factory in Sheffield, England.

(3) Respondents' products are of English origin in their entirety.

PAR. 7.

(a) The said printed amounts are, in truth and in fact, fictitious and in excess of the usual and regular prices charged for said products.

(b) Said statements and representations are false, misleading and deceptive. In truth and in fact:

(1) Respondents perform no manufacturing functions but are merely assemblers of components manufactured by and purchased from others:

(2) Respondents do not own, operate or control a factory in Sheffield, England.

(3) Only knife blades utilized by respondents in the assembly of complete knives are of English origin.

PAR. 8. There is a preference on the part of a substantial number of the purchasing public to deal with manufacturers of products in the belief that there are certain advantages in doing so, including but not limited to the receiving of lower prices.

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 cutlery, forks and sharpening steels.

PAR. 10. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the pur-

chase of substantial quantities of respondents' products 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. Berryman Davis supporting the complaint.

Mr. Seymour L. Morse, of New York, N. Y., for respondents.

INITIAL DECISION BY JOHN LEWIS, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on July 26, 1960, charging them with the use of unfair and deceptive acts and practices and unfair methods of competition, in commerce, in violation of the Federal Trade Commission Act, by the use of false, misleading and deceptive statements concerning their business status, and the origin, composition and prices of the cutlery and other products sold by them. After being served with said complaint, respondents appeared by counsel and entered into an agreement dated March 1, 1961, containing a consent order to cease and desist purporting to dispose of all of this proceeding as to all parties. Said agreement, which has been signed by all respondents (except Barnett L. Ribak), by counsel for said respondents and by counsel supporting the complaint, and approved by the Director, Associate 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 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 such 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 record herein shall consist solely of the complaint and said agreement, and that said 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.

The order which has been agreed upon provides that the complaint shall be dismissed as to respondent Barnett L. Ribak. The basis for such a disposition as to said respondent is set forth in an affidavit by him which has been submitted together with, and as part of, the above-mentioned agreement containing consent order. Said affidavit, which was subscribed and sworn to on February 28, 1961, recites that respondent Barnett L. Ribak ceased to be an officer of the corporate respondent on April 23, 1960 (prior to the issuance of the complaint in this proceeding), and has since been inactive in the operations of said corporate respondent, and that even prior thereto said individual respondent was not active in its operations having been made an officer because of his investment of money therein. The parties have recommended that the complaint be dismissed as to respondent Barnett L. Ribak for the reasons set forth in the aforementioned affidavit.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing consent order, together with the affidavit of Barnett L. Ribak which has been made a part of said agreement, 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, Reo Products Manufacturing Corp., 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 316 McDonald Avenue, in the City of Brooklyn, State of New York.

Respondents Milton Cohen, Sam Siegel and Theodore Ribak are individuals and officers of the corporate respondent, and they formulate, direct and control the policies, acts and practices of said cor-

porate respondent. Their office and principal 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 Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That respondent Reo Products Manufacturing Corp., a corporation, and its officers, and respondents Milton Cohen, Sam Siegel, and Theodore Ribak, individually and as officers of said corporation, and each of them, 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 cutlery, forks, sharpening steels 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 "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.

2. Representing, directly or indirectly:

(a) 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.

(b) That respondents, or any of them, own, operate or control a factory in Sheffield, England, or in any other place where they do not own, operate or control a factory.

(c) That any merchandise offered for sale, sold or distributed by them or any of them, containing parts not manufactured in England, is of English origin, or otherwise misrepresenting the origin of merchandise.

It is further ordered, That the complaint be, and the same hereby is, dismissed as to respondent Barnett L. Ribak.

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

May 1961, become the decision of the Commission; and, accordingly: