

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:

It is ordered, That respondent herein 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 to cease and desist.

IN THE MATTER OF
SHIP'n SHORE, INC., ET AL.

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

Docket 8161. Complaint, Nov. 4, 1960—Decision, May 16, 1961

Consent order requiring manufacturers of women's and children's blouses and sportswear at Upland, Pa., to cease misrepresenting the material from which their products were made as the long-time well-known fabric produced in the Madras Province of India, by advertising and labeling garments falsely as "madras".

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 Ship 'n Shore, Inc., a corporation, and William Netzky, individually and as an officer 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 Ship'n Shore, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at Upland, Pennsylvania. Respondent William Netzky is an officer of said corporate respondent. He formulates, directs and controls the acts and practices of corporate

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respondent, including the acts and practices hereinafter set forth. His 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 manufacturing, advertising, offering for sale, sale and distribution of women's and children's blouses and sportswear.

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

PAR. 4. Respondents, for the purpose of inducing the purchase of their products, have engaged in the practice of misrepresenting the material from which their products are made or composed, by advertising and labeling their garments as "madras." In truth and in fact the said garments are not "madras."

By the use of such advertising and labels respondents represent that their color-fast domestic fabrics are the same or similar to madras cotton fabrics imported from India, which have a distinctive character and quality.

The word "madras" has long been applied to a fabric produced in the Madras Province of India and is made of fine hand-loomed cotton and if in a color other than natural, is dyed with bleeding vegetable dyes. Such fabric has for a long time been well and favorably known to the purchasing public.

PAR. 5. By the aforesaid practices the respondents place in the hands of retailers the means and instrumentalities by and through which they may mislead the public as to the character and quality of their products.

PAR. 6. In the conduct of their business at all times mentioned herein, respondents have been in substantial competition in commerce with corporations, firms and individuals in the sale of merchandise of the same general kind and nature as that sold by respondents.

PAR. 7. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the tendency and capacity 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 purchase 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. 8. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public, and to 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. Harry E. Middleton, Jr., supporting the complaint.

Blank, Rudenko, Klaus & Rome by *Mr. Edwin P. Rome* of Philadelphia, Pa., for respondents.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

On November 4, 1960, the Federal Trade Commission issued a complaint charging that the above-named respondents had misrepresented the material from which their products are made or composed by advertising and labeling their garments as "Madras".

After issuance and service of the complaint, the respondents, their counsel, and counsel supporting the complaint entered into an agreement for a consent order. The agreement has been approved by the Director, Associate Director and the Assistant Director of the Bureau of Litigation. The agreement disposes of the matters complained about.

The pertinent provisions of said agreement are as follows: Respondents admit all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and the said 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 record herein shall consist solely of the complaint and the agreement; respondents waive the requirement that the decision must contain a statement of findings of fact and conclusions of law; respondents waive further procedural steps before the hearing examiner and the Commission, and the order may be altered, modified, or set aside in the manner provided by statute for other orders; respondents waive any right to challenge or contest the validity of the order entered in accordance with the agreement and the signing of said agreement is for settlement purposes only and does not

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constitute an admission by respondents that they have violated the law as alleged in the complaint.

The undersigned hearing examiner having considered the agreement and proposed order, hereby accepts such agreement, makes the following jurisdictional findings, and issues the following order:

JURISDICTIONAL FINDINGS

1. Respondent Ship'n Shore, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business located in the City of Upland, State of Pennsylvania.

2. William Netzky is an officer of said corporate respondent. His address is the same as that of the corporate respondent.

3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Ship'n Shore, Inc., a corporation, and its officers, and William Netzky, individually and as an officer 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 blouses, sportswear, or other textile products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "madras" or any simulations thereof, either alone or in connection with other words to designate, describe, or refer to any fabric or other textile product which is not in fact made of fine cotton, handloomed and imported from India, and if the cloth is other than natural in color, has not been dyed with bleeding vegetable dyes.

2. Placing in the hands of retailers the means and instrumentalities by and through which they may deceive the purchasing public concerning Paragraph 1, above.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having considered the hearing examiner's initial decision filed March 30, 1961, accepting an agreement containing a consent order to cease and desist, theretofore executed by the respondents and counsel in support of the complaint; and

It appearing that the order contained in said initial decision departs from the proposed order set forth in the agreement of the

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parties in that the words "merchandise in the respects set out in" were inadvertently left out of paragraph 2 of the order contained in the initial decision; and

The Commission being of the opinion that said error should be corrected; accordingly

It is ordered, That paragraph 2 of the order contained in the initial decision be, and it hereby is, revised to read:

2. Placing in the hands of retailers the means and instrumentalities by and through which they may deceive the purchasing public concerning merchandise in the respects set out in Paragraph 1, above.

It is further ordered, That the initial decision as so modified, shall, on the 16th day of May 1961, become the decision of the Commission.

It is further ordered, That the respondents 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 contained in aforesaid initial decision as modified.