

It is ordered, That respondents California Floral Manufacturing Company, a corporation, and Raymond E. Ramont, individually, and as an officer of said corporation, and trading as Ramont's Floral Arts Studio, 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

ECONOMY PRODUCTS CORPORATION ET AL.

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

Docket 8223. Complaint, Dec. 21, 1960—Decision, May 16, 1961

Consent order requiring Chicago manufacturers to cease misrepresenting the size of their sleeping bags on attached labels and in advertisements which gave as the "cut size", dimensions almost invariably larger than the actual size.

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 Economy Products Corporation, a corporation, and Harry Wagner, Vernon M. Wagner, and Arnold W. Behrstock, individually and as officers of said corporation, hereinafter referred to as respondents, have violated

Complaint

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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 Economy Products Corporation is a corporation organized and existing under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 1215 Washington Boulevard, in the City of Chicago, State of Illinois. Said corporation does business under the name of Sportline.

Respondents Harry Wagner, Vernon M. Wagner, and Arnold W. Behrstock are individuals and officers of said 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 manufacture, distribution, sale and advertising, among other things, of sleeping bags.

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 Illinois 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 of trade in their said products, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondents, in connection with the sale of their sleeping bags, have engaged in misrepresenting the sizes of various of said bags on tags attached thereto and in advertisements of said bags. Respondents' size descriptions are stated as "cut size" whereas the dimensions following such descriptions are almost invariably larger than the actual size of the bags in question. The term "cut size", when used in the manner as stated above, is confusing and tends to indicate that the size following such description is the actual size of the finished product. In truth and in fact, this is almost never the case, as the actual size of the finished product is substantially smaller than the size set out on the tags and as advertised.

PAR. 5. By the aforesaid practices, respondents have placed in the hands of their retailers means and instrumentalities by and through which they mislead the public as to the size of their sleeping bags.

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

PAR. 7. The use by respondents of the aforesaid practice has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that their sleeping bags are larger than is the fact, and into the purchase thereof because 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 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. Charles W. O'Connell for the Commission.

Altheimer, Gray, Naiburg & Lawton, by *Mr. David V. Kahn*, of Chicago, Ill., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on December 21, 1960, charging Respondents with violation of the Federal Trade Commission Act by misrepresenting the sizes of various of their sleeping bags on tags attached thereto and in advertisements thereof.

Thereafter, on March 21, 1961, Respondents, their counsel, and counsel supporting the complaint herein entered into an Agreement Containing Consent Order To Cease And Desist, which was approved by the Director and Assistant Director of the Commission's Bureau of Litigation, and thereafter, on March 24, 1961, submitted to the Hearing Examiner for consideration.

The agreement identifies Respondent Economy Products Corporation as an Illinois corporation, selling sleeping bags under the name Sportline, with its office and principal place of business located at 1215 Washington Boulevard, Chicago, Illinois, and Respondents Harry Wagner, Vernon M. Wagner, and Arnold W. Behrstock as individuals and officers of said corporate Respondent, who formulate, direct and control the acts and practices of the

corporate Respondent, their address being the same as that of the corporate Respondent.

Respondents admit all the jurisdictional facts alleged in the complaint, and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

Respondents waive any further procedure before the Hearing Examiner and the Commission; the making of findings of fact and 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 the agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist, as contained in the agreement, when it shall have become a part of the decision of the Commission, shall have the same force and effect as if entered after a full hearing, and may be altered, modified or set aside in the manner provided for other orders; that the complaint herein may be used in construing the terms of said order; and that the 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.

After consideration of the allegations of the complaint, and the provisions of the agreement and the proposed order, the Hearing Examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the Hearing Examiner accepts the Agreement Containing Consent Order To Cease And Desist; finds that the Commission has jurisdiction over the Respondents and over their acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That the respondents Economy Products Corporation, a corporation, and its officers, and Harry Wagner, Vernon M. Wagner, and Arnold W. Behrstock, 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 offering for sale, sale or distribution of sleeping bags or other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Advertising, labeling or otherwise representing the "cut size" or dimensions of materials used in their construction, unless such

representation is accompanied by a description of the finished or actual size, with the latter description being given at least equal prominence;

2. Misrepresenting the size of such products on tags, in advertising or in any other manner;

3. Furnishing any means or instrumentality to others by and through which they may mislead the public as to any of the matters referred to in Paragraphs 1 and 2.

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:

It is ordered, That the above-named 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 to cease and desist.
