

cease and desist.

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IN THE MATTER OF  
JULEE MANUFACTURING CORPORATION ET AL.

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

*Docket 8221. Complaint, Dec. 16, 1960—Decision, May 17, 1961*

Consent order requiring manufacturers at Longmeadow, Mass., to cease misrepresenting the size of their sleeping bags by stating as "cut size" in catalogs and on attached labels, size descriptions almost invariably larger than the actual size of the bags in question.

## 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 Julee Manufacturing Corporation, a corporation, and Julius Kaplan and Lee Kaplan, 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 Julee Manufacturing Corporation is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Massachusetts. The address of said corporation is 51 Colony Acres Road, Longmeadow, Massachusetts.

Respondents Julius Kaplan and Lee Kaplan 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 have been engaged in the manufacture, distribution, sale and advertising of sleeping bags and other various types of outdoor supply equipment.

PAR. 3. In the course and conduct of their business respondents have caused their said products, when sold, to be shipped from their place of business in the State of Massachusetts 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 size of various of said bags in their catalogues and on labels sewn or attached thereto. Respondents' size descriptions are characterized as "cut size," whereas, the sizes following such description are almost invariably larger than the actual size of the bags in question. The term "cut size," when used in the manner as alleged above, is confusing and tends to indicate that 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 smaller than the size set out on the labels.

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 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 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 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*, supporting the complaint.

Respondents, *pro se*.

#### INITIAL DECISION BY JOHN LEWIS, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on December 16, 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, deceptive and misleading statements concerning the size of sleeping bags manufactured and sold by them. After being served with said complaint, respondents appeared and entered into an agreement dated February 23, 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 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.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing consent order, 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 Julee Manufacturing Corporation is a corporation existing and doing business under and by virtue of the laws of the State of Massachusetts, with its office and principal place of business located at 51 Colony Acres Road, in the City of Longmeadow, State of Massachusetts.

Respondents Julius Kaplan and Lee Kaplan are individuals and officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent. Their address 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.

Syllabus

58 F.T.C.

## ORDER

*It is ordered,* That respondents Julee Manufacturing Corporation, a corporation, and its officers, and respondents Julius Kaplan and Lee Kaplan, 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 labels or in any other manner;
3. Furnishing any means or instrumentalities 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 17th day of May 1961, become the decision of the Commission; and, accordingly:

*It is ordered,* That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission