

IN THE MATTER OF

KNICKERBOCKER CASE CORPORATION ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 7818. Complaint, Mar. 10, 1960—Decision, May 18, 1961*

Consent order requiring a Chicago manufacturer-jobber to cease representing falsely in catalogs and other advertising that its vinyl and surtex luggage and brief cases had all the qualities of leather, that they were scuff proof, that products made of vinyl or a plastic containing pulverized leather were manufactured of leather, that it was the manufacturer of all such products offered for sale, and that amounts set out as "retail" were the usual retail prices therefor.

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 Knickerbocker Case Corporation, a corporation, and Chester William Buchsbaum and Samuel Buchsbaum, 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 Knickerbocker Case Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 501 West Huron Street, Chicago, Illinois. Respondents Chester William Buchsbaum and Samuel Buchsbaum are individuals and president and secretary-treasurer, respectively, of the said corporation, and have their office and place of business at the same address as the corporate respondent. Said individual respondents direct and control the policies, acts and practices of the corporate respondent.

PAR. 2. Respondents are now, and for more than two years last past have been, engaged in the sale offering for sale and distribution of luggage, brief cases and other merchandise, as manufacturers and jobbers to wholesalers and retailers for resale to the public.

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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 course of trade in said 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 sales of their products, the respondents have made certain statements and representations in their catalogues and other advertising media. Among and typical, but not all inclusive, of the statements and representations so made are the following:

Vinyl leather-like		
Leather-like Surtex		
Leather-like vinyl in levant-grain buchyde		
Scuff proof		
Made from skuff proof vinyl quality Italian bond-leather		
Black vinyl leather		
Buy direct from manufacturer and save		
Your cost . . . \$9.45		Retail Price . . . \$15.75
Your cost		Similar goods retail
\$22.50		\$39.50
24.50		41.50

PAR. 5. The respondents, through use of the aforesaid statements and representations, and others similar thereto, represent, directly and by implication, that:

1. Respondents' products advertised as made of vinyl and surtex have all the qualities and characteristics of leather.
2. Respondents' products as advertised are scuff proof.
3. Products advertised by respondents are manufactured of leather.
4. Respondents are the manufacturer of all the luggage, cases, binders, portfolios and other similar products offered for sale in their catalogue, and that a purchaser thereof can effect a saving by purchasing from the respondents any of the products offered for sale in their catalogue.

5. The amounts set out in the catalogue and other advertising material and designated as "retail" are the usual and regular retail prices for their products.

PAR. 6. The said statements and representations as hereinabove set forth are false, misleading and deceptive. In truth and in fact:

1. The products advertised as made of vinyl and surtex do not have all the qualities and characteristics of leather.

2. The products represented as such are not scuff proof.

3. Certain of respondents' products represented as being manufactured of leather are manufactured of and made out of vinyl or a plastic or pulverization of leather containing 50%, more or less, of leather that has been pulverized.

4. Respondents do not manufacture all the luggage, cases, binders, portfolios and other similar products they offer for sale in their catalogue, and purchasers can purchase the products, jobbed and offered for sale by the respondents, at a lower price from the manufacturer of the products jobbed by the respondents.

5. The amounts set out in the catalogue and advertising material, and designated as "retail" were, in many instances, fictitious and in excess of the prices at which such products were usually and regularly sold at retail.

PAR. 7. There has long been a preference on the part of a substantial portion of the purchasing and consuming public to deal direct with the manufacturer of the product being purchased, in the belief that more reliance may be placed on a manufacturer with reference to carrying out representations and contracts, and that lower prices, elimination of middlemen's profits, superior products and other advantages can thereby be obtained.

PAR. 8. 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 luggage, cases, portfolios and other products of the same general kind and nature as that sold by respondents.

PAR. 9. 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. 10. 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 constitutes, unfair and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.

William A. Somers, Esq., for the Commission.

Kennedy, Golan & Morris, by *Stanley J. Morris, Esq.*, of Chicago, Ill., for respondents.

INITIAL DECISION BY ROBERT L. PIPER, HEARING EXAMINER

The Federal Trade Commission on March 10, 1960, issued its complaint against the above-named respondents, charging them with having violated the Federal Trade Commission Act, by misrepresenting the quality and price of their products. Respondents appeared and entered into an agreement dated January 25, 1961, containing a consent order to cease and desist, disposing of all the issues in this proceeding without further hearings, which agreement has been duly approved by the Bureau of Litigation. Said agreement has been submitted to the undersigned, heretofore duly designated to act as hearing examiner herein, for his consideration in accordance with §3.25 of the Rules of Practice of the Commission.

Respondents, pursuant to the aforesaid agreement, have admitted all of the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been made duly in accordance with such allegations. Said agreement further provides that respondents waive all further procedural steps before the hearing examiner and the Commission, including the making of findings of fact or conclusions of law and the right to challenge or contest the validity of the order to cease and desist entered in accordance with such agreement. It has also been agreed that the record herein shall consist solely of the complaint and said agreement, that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission, 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, that said order to cease and desist 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, and that the complaint may be used in construing the terms of the order.

With respect to respondent Samuel Buchsbaum, named in the complaint individually and as an officer of the corporate respondent, the agreement recites that he does not now direct or control, or have any responsibility for directing or controlling, nor has he ever directed or controlled, or had any responsibility for directing or controlling, alone or with the respondent Chester William Buchsbaum, any policies, acts or practices of the corporate respondent, except for acts, if any, required of him as such officer and a director of the

corporate respondent, as shown in the affidavit of Samuel Buchsbaum, which affidavit is attached to and made a part of the agreement; and accordingly the agreement provides for dismissal of the complaint as to respondent Samuel Buchsbaum individually.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing the consent order, and it appearing that the order and agreement cover all of the allegations of the complaint and provide for appropriate disposition of this proceeding, the agreement is hereby accepted and ordered filed upon this decision and said agreement becoming part of the Commission's decision pursuant to §3.21 and §3.25 of the Rules of Practice, and the hearing examiner accordingly makes the following findings, for jurisdictional purposes, and issues the following order:

1. Respondent Knickerbocker Case Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, respondent Chester William Buchsbaum, an individual and officer of the said corporate respondent, directs and controls the policies, acts and practices of the corporate respondent, and Samuel Buchsbaum is an officer of said corporation, with their office and principal place of business located at 501 West Huron Street, Chicago, Illinois.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named, except respondent Samuel Buchsbaum individually, against whom the complaint shall be dismissed. 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.

It is ordered, That respondent Knickerbocker Case Corporation, a corporation, and its officers, Samuel Buchsbaum and Chester William Buchsbaum as officers of said corporation; and Chester William Buchsbaum, individually, 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 products made of vinyl, or surtex, or any other product, 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:

- (a) A product has any of the characteristics or qualities of leather which it does not in fact possess; or misrepresenting in any manner the characteristics or qualities of a product;

- (b) Any product made of vinyl or surtex is scuff proof, or that any other product is scuff proof, unless such is the fact;

(c) Any product not made entirely of leather, is leather, provided however, that if a part of a product is leather such part may be designated as leather providing the part is clearly identified;

(d) Respondents are the manufacturers of any products sold by them unless they own, operate or directly and absolutely control the manufacturing plant or factory where the product is manufactured;

(e) Any product is offered for sale at the manufacturer's price unless respondents manufacture the product so offered or, if they do not manufacture such product, unless the price at which it is offered is in fact the manufacturer's price;

(f) Any amount is the usual and regular retail price of a product when it is in excess of the price at which said product is usually and regularly sold at retail in the trade areas or areas where the representation is made;

2. Misrepresenting in any manner, directly or by implication, the savings resulting in the purchase of respondents' product.

It is further ordered, That the complaint be, and it is hereby, dismissed as to respondent Samuel Buchsbaum as an individual.

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 18th day of May, 1961, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Knickerbocker Case Corporation, a corporation, Samuel Buchsbaum and Chester William Buchsbaum as officers of said corporation, and Chester William Buchsbaum, individually, 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.