

assets referred to in the first paragraph of the Commission's order ruling on the petition filed by the respondent on June 7, 1961.

IN THE MATTER OF
MARADO TRADING CORPORATION ET AL.

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

Docket 7863. Complaint, Apr. 8, 1960—Decision, July 13, 1961

Consent order requiring New York City distributors to cease selling sunglasses imported from Japan with no markings to show the country of origin or with markings so indistinct or so easily obliterated in ordinary handling as to constitute inadequate disclosure of their foreign manufacture.

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 Marado Trading Corporation, a corporation, and Adolph Shefts and Marte Previte, 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:

Complaint

59 F.T.C.

PARAGRAPH 1. Respondent, Marado Trading Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with an office at 19 West 34th Street, New York, New York.

Respondents Adolph Shefts and Marte Previte 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 offering for sale, sale and distribution of sunglasses to wholesalers who resell the same to retailers who in turn resell to the purchasing 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 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' sunglasses are manufactured in Japan and imported into the United States. Some are not marked to show the country of origin. Some are marked to show the country of origin in such an indistinct manner as not to constitute adequate disclosure of the country of origin. Some are enclosed in cellophane bags which are marked to show the country of origin, but the markings are made in such a manner that they are readily obliterated in the ordinary handling of the bags and do not constitute adequate disclosure of the country of origin.

PAR. 5. In the absence of an adequate disclosure that a product, including sunglasses, is of foreign origin, the public believes and understands that it is of domestic origin. A substantial number of the purchasing public prefer domestic products over foreign products, including sunglasses. Many domestic sunglasses sell for higher prices than imported sunglasses but there are among the purchasing public those who are willing to pay these higher prices for such domestic sunglasses.

PAR. 6. In the course and 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

sunglasses of the same general kind and nature as those sold by respondents.

PAR. 7. The failure of the respondents to disclose, or adequately disclose, the foreign origin of their product has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said products are of domestic manufacture and into the purchase of substantial quantities of respondents' products by reason of such erroneous and mistaken belief. As a consequence thereof, substantial trade in commerce has been, and is being, 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. Frederick McManus for the Commission.

Sylvester & Harris, by *Mr. Charles L. Sylvester*, of New York, N.Y., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondents, who are engaged in the offering for sale, sale and distribution of sunglasses to wholesalers who resell the same to retailers who in turn resell to the purchasing public, with violation of the Federal Trade Commission Act, by failing to disclose, or adequately disclose, the foreign origin of their sunglasses, which are manufactured in Japan and imported into the United States.

After the issuance of the complaint, respondents, their counsel, and counsel supporting the complaint entered into an agreement containing consent order to cease and desist, which was approved by the Director, Associate Director and Assistant Director of the Commission's Bureau of Litigation, and thereafter transmitted to the Hearing Examiner for consideration.

The agreement states that respondent Marado Trading Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with an office at 19 West 34th Street, New York, New York, and that respondents Adolph Shefts and Marte Previte are officers of the corporate re-

spondent and formulate, direct and control the acts and practices of the corporate respondent, their address being the same as that of the corporate respondent.

The agreement provides, among other things, that 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; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this 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 the complaint may be used in construing the terms of the order agreed upon, which may be altered, modified or set aside in the manner provided for other orders; 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; and that the order set forth in the agreement and hereinafter included in this decision shall have the same force and effect as if entered after a full hearing.

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 the agreement.

The Hearing Examiner has determined that the aforesaid agreement containing the consent order to cease and desist provides for an appropriate disposition of this proceeding in the public interest, and such agreement is hereby accepted. Therefore,

It is ordered. That the respondents, Marado Trading Corporation, a corporation, and its officers, and Adolph Shefts and Marte Previte, individually and as officers of said corporation, and respondents' officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of sun-glasses or other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Offering for sale or selling any product which is in whole or substantial part of foreign origin, without clearly and conspicuously disclosing on such product, or in immediate connection therewith, and, if such product is enclosed in a package or container, on the package or container, in such a manner that it will not be hidden or readily obliterated, the country of origin of the product or part thereof.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having considered the hearing examiner's initial decision, filed December 28, 1960, accepting an agreement containing a consent order to cease and desist, theretofore executed by the respondents and counsel supporting the complaint; and

Respondent Marte Previti, by letter received March 9, 1961, having advised that the correct spelling of his name is "Previti"; and

It appearing that the initial decision erroneously refers to said respondent as "Marte Previte" and should be corrected to reflect the correct spelling of this name:

It is ordered, That the initial decision be, and it hereby is, amended by striking therefrom the name "Marte Previte" wherever it appears therein and substituting therefor the name "Marte Previti."

It is further ordered, That the initial decision as so amended, shall, on the 13th day of July 1961, become the decision of the Commission.

It is further ordered, That 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 the aforesaid initial decision, as amended.