
IN THE MATTER OF
SON-CHIEF ELECTRICS, INC., ET AL.

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

Docket 8307. Complaint, Mar. 6, 1961—Decision, Aug. 4, 1961

Consent order requiring distributors in Winsted, Conn., to cease preticketing electric household appliances with fictitious prices and supplying customers with catalog insert sheets and price lists which showed exaggerated amounts as "Retail" or "Suggested List" prices for the appliances, thus representing the excessive prices to be the usual retail prices.

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 Son-Chief Electrics, Inc., a corporation, and Donal Fitzgerald, Maurice F. Fitzgerald and Martin Fitzgerald, 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 Son-Chief Electrics, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Connecticut. Its office and principal place of business is located on Meadow Street, Winsted, Connecticut.

Respondents Donal F. Fitzgerald, Maurice F. Fitzgerald and Martin Fitzgerald are officers of the corporate respondent. These individuals formulate, direct and control the policies, acts and practices of the corporate respondent and their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for more than one year last past have been, engaged in the sale and distribution of electric household appliances to others who either sell to retailers for resale to the consuming public or who sell directly to the consuming public.

PAR. 3. Respondents cause and have caused their said electric household appliances when sold to be shipped from their place of business in the State of Connecticut to purchasers thereof, many of whom are located in various other States of the United States. Respondents maintain, and at all times mentioned herein have maintained a substantial course of trade in said appliances in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. At all times mentioned herein, respondents have been, and are now, in direct and substantial competition with other corporations, firms and individuals engaged in the sale and distribution of similar electric household appliances in commerce.

PAR. 5. In the course and conduct of their business, and for the purpose of inducing the purchase of their electric appliances respondents have engaged in the practice of preticketing such appliances with the purported retail prices thereof. Respondents have also supplied their customers with catalog insert sheets and price lists which show the purported "Retail" or "Suggested List" prices of respondents said appliances.

PAR. 6. By means of the aforesaid preticketed prices, their catalog insert sheets and price lists, respondents have represented directly or by implication that the prices appearing thereon are the usual and regular retail prices of their appliances.

PAR. 7. The aforesaid statements and representations are false, misleading and deceptive. In truth and in fact the aforesaid preticketed prices and the "Retail" and "Suggested List" prices appearing on the said catalog insert sheets and price lists are fictitious and in excess of the usual and regular retail prices of said appliances.

PAR. 8. By the aforesaid practices respondents place and have placed in the hands of retailers the means and instrumentalities by and through which they may mislead and deceive the purchasing public as to the usual and regular retail prices of their said electric appliances.

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 and deceive 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' appliances 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.

Mr. Edward F. Downs for the Commission.
Respondents for themselves.

INITIAL DECISION BY HERMAN TOCKER, HEARING EXAMINER

The complaint in this proceeding, issued March 6, 1961, charged the respondents, Son-Chief Electrics, Inc. (a corporation organized, existing and doing business under the laws of the State of Connecticut), and Donal F. Fitzgerald, Maurice F. Fitzgerald and Martin Fitzgerald (whose correct name is Martin D. Fitzgerald), individually and as officers of said corporation, all located on Meadow Street, Winsted, Connecticut, with violating the Federal Trade Commission Act by the use of false, misleading and deceptive pricing practices in connection with the offering for sale, sale and distribution of electric household appliances in commerce.

After the issuance of the complaint, respondents and counsel supporting the complaint entered into an agreement, containing consent

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Order

order to cease and desist, disposing of all the issues as to all parties to this proceeding. Martin D. Fitzgerald has certified that he is the Martin Fitzgerald named in the complaint and he has consented that such certification be made a part of the consent agreement. It is for this reason that the Hearing Examiner has included the "D." as part of the name of said Fitzgerald at the place where it appears in the consent order.

It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

By the terms of said agreement, the respondents admitted all the jurisdictional facts alleged in the complaint and agreed that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with the allegations.

By said agreement, the parties expressly waived any further procedural steps before the Hearing Examiner and the Commission; the making of findings of fact or conclusions of law; and all rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance therewith.

Respondents agreed further that the order to cease and desist, issued in accordance with said agreement, shall have the same force and effect as if made after a full hearing.

It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; that the complaint herein may be used in construing the terms of the order issued pursuant to said agreement; and that said order may be altered, modified or set aside in the manner prescribed by the statute for orders of the Commission.

The Hearing Examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provide for an appropriate disposition of this proceeding, the same is hereby accepted and, upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice, shall be filed; and, in consonance with the terms thereof, the Hearing Examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents named herein, and that this proceeding is in the interest of the public, and issues the following order:

ORDER

It is ordered, That respondents, Son-Chief Electrics, Inc., a corporation, and its officers and Donal F. Fitzgerald, Maurice F. Fitz-

gerald and Martin D. Fitzgerald, individually and as officers 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 and distribution of electric household appliances or any other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, by means of preticketing, through the use of catalog insert sheets or price lists, or in any other manner, that any amount is the usual and regular retail price of merchandise when such amount is in excess of the price at which said merchandise is usually and regularly sold at retail in the trade area or areas where the representations are made.
2. Furnishing to others any means or instrumentality by or through which the public may be misled as to the usual and regular prices of respondents' merchandise.
3. Putting any plan into operation through the use of which retailers or others may misrepresent the usual and regular retail price of merchandise.

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 4th day of August 1961, become the decision of the Commission; and, accordingly:

It is ordered, That respondents herein, 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.
