

Complaint

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examiner did, on the 8th day of September 1961, become the decision of the Commission; and accordingly:

It is ordered, That the respondent herein shall within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

IN THE MATTER OF

CROTON WATCH CO., INC., ET AL.

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

Docket 8352. Complaint, Apr. 13, 1961—Decision, Sept. 8, 1961

Consent order requiring New York City distributors of watches to retailers to cease advertising falsely in newspapers and magazines that their watches had been tested and approved by an agency of the U. S. Government and contained a particle of atomic matter which enabled them to run endlessly, through such statements as "Proved by the U. S. Navy", "Miracle of the Nuclear Age", "A Unique Self Charger Endlessly Pours Out The Power To Make It Run", etc.

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 the Croton Watch Co., Inc., a corporation, and William C. Horowitz, Harold I. Horton and Oscar Berlan, 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 Croton Watch Co., Inc., is a corporation organized and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 404 Fourth Avenue, New York, New York.

Respondents William C. Horowitz, Harold I. Horton and Oscar Berlan are officers of the corporate respondent. Their address is the same as the corporate respondent.

The individual respondents formulate, direct and control the policies, acts and practices of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of watches to retailers for resale to the public.

PAR. 3. Respondents in the course and conduct of their business 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 the 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, for the purpose of inducing the purchase of their products, have advertised their said products in newspapers and nationally circulated magazines. Among and typical, but not all inclusive of the statements appearing in such advertising material have been the following:

Proved by the U.S. Navy

A Major Breakthrough in Watchmaking

Miracle of the Nuclear Age

The U.S. Navy proved its dependable 17-jewel accuracy during months of grueling tests on Operation Deepfreeze

A Unique Self Charger Endlessly Pours Out The Power To Make It Run

PAR. 5. By means of the above-quoted statements, and others of similar import but not specifically set out herein, respondents have represented that their watches have been tested and approved by an agency of the United States Government and that the said watches contain a particle of atomic matter which enables them to run endlessly.

PAR. 6. The aforesaid statements were and are false, misleading and deceptive. In truth and in fact their said watches have not been tested and proved or approved by the United States Navy, nor do their watches contain or include a particle of atomic matter.

PAR. 7. By the acts and practices aforesaid, respondents have placed in the hands of retailers a means and instrumentality whereby such retailers may mislead and deceive members of the purchasing public into believing that respondents' watches have been tested and proved or approved by an agency of the United States government and that their watches are powered by atomic energy.

PAR. 8. Respondents, in the course and conduct of the sale of their watches, have been in substantial competition in commerce with other corporations, firms and individuals engaged in the manufacture, sale and distribution of watches.

PAR. 9. The use by respondents of the aforesaid false, misleading and deceptive statements and representations has had the capacity and tendency to induce members of the purchasing public into the erroneous and mistaken belief that all of said statements and representations are true, and into the purchase of a substantial number of their watches as a result of such erroneous and mistaken belief. As a con-

sequence thereof, substantial trade in commerce has been unfairly diverted to respondents from their competitors and substantial injury has been done to competition in commerce.

PAR. 10. The aforesaid acts and practices of respondents, as herein alleged, have been to the prejudice and injury of the public and of respondents' competitors and 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. Harry E. Middleton, Jr., for the Commission.

Paul, Weiss, Rifkind, Wheaton & Garrison, New York City, by *Mr. H. Russell Winokur*, for respondents.

INITIAL DECISION BY HERMAN TOCKER, HEARING EXAMINER

In a complaint issued April 13, 1961, Croton Watch Co., Inc., a corporation organized and existing under the laws of the State of New York, and William C. Horowitz, Harold I. Horton and Oscar Berlan, in their capacity as officers of the corporation and as individuals, were charged by the Federal Trade Commission with having violated the Federal Trade Commission Act by misrepresenting that watches sold and distributed by them in commerce had been tested or "proved" by the United States Navy and were powered by atomic matter. The business of the said corporation and individuals (the respondents herein) is conducted at 404 Fourth Avenue (sometimes known as 404 Park Avenue South) in the City and State of New York.

By and with the advice and consent of their attorney, respondents have entered into an agreement with counsel supporting the complaint, which agreement contains a proposed consent order to cease and desist, and disposes of all the issues involved in this proceeding.

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

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

By the agreement, the respondents expressly waive 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 to be entered in accordance therewith.

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

It is further provided in said agreement that the same, together with the complaint, shall constitute the entire record herein and that the complaint herein may be used in construing the terms of the order to be issued pursuant to said agreement and that such 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 the 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 shall be filed upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice.

Now, 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, Croton Watch Co., Inc., a corporation, and its officers and William C. Horowitz, Harold I. Horton, and Oscar Berlan, individually and as officers of said corporation, and respondent's agents, representatives and employees, directly or through any corporate or other device in connection with the advertising, offering for sale, sale or distribution of their watches 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 their watches have been tested and approved by the United States Navy or any other branch of the United States Government.

2. Representing in any manner that their watches have been purchased, tested or approved by any branch of the United States Government.

3. Representing, directly or by implication, that their watches are powered by atomic energy.

4. Placing in the hands of retailers and others a means and instrumentality whereby they may mislead and deceive the purchasing public into believing that their watches have been tested and proved or approved by an agency of the United States Government and that their watches are powered by atomic energy.

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IN THE MATTER OF

E. R. WAGNER MANUFACTURING COMPANY ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 8087. Complaint, Aug. 24, 1960—Decision, Sept. 9, 1961*

Consent order requiring a Milwaukee distributor and its subsidiary in Syracuse, N.Y., to cease misrepresenting, in advertising in newspapers and magazines, the effectiveness and comparative merits of their rug cleaning devices known as "Wagner Carpeteer" and "Easy Glamur Shampoo King", and their "Easy Glamur Shampoo".

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 E. R. Wagner Manufacturing Company, a corporation, and Glamur Products, Inc., a 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:

PAR. 1. Respondent E. R. Wagner Manufacturing Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Wisconsin, with its principal office and place of business located at 4611 N. 32nd Street in the City of Milwaukee, State of Wisconsin.

Respondent Glamur Products, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 1024 Montgomery Street in the City of Syracuse, State of New York. Respondent Glamur Products, Inc. is a subsidiary of respondent E. R. Wagner Manufacturing Company.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of rug cleaning devices and rug and upholstery cleaning shampoos, to distributors and jobbers and to retailers for resale to the public.

PAR. 3. In the course and conduct of their businesses, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their places of business in the States of Wisconsin and New York to purchasers thereof located in