

or otherwise made available on proportionally equal terms to all other customers competing in the distribution or resale of such products.

It is further ordered, That the respondent 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 this order.

IN THE MATTER OF

THE DAVIS FURNACE COMPANY, INC., ET AL.

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

Docket 8362. Complaint, Apr. 17, 1961—Decision, Sept. 22, 1961

Consent order requiring three affiliated concerns in Kansas City and Independence, Mo., to cease using scare tactics and other unfair means to sell their furnaces, heating equipment and parts and to get repair jobs, including deceptive offers of free inspection and low-cost cleaning services, representing their sales and servicemen falsely as engineers, misinforming the home owner that his furnace is defective or dangerous, dismantling furnaces and refusing to reassemble them, etc.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that The Davis Furnace Company, Inc., a corporation, The Davis Furnace Company of Independence, Inc., a corporation, and the Kansas Furnace Company, Inc., a corporation, and Ralph L. Davis and Paul Davis, individually and as officers of said corporations, 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

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public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent The Davis Furnace Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business located at 3702 East 27th Street, Kansas City, Missouri.

Respondent The Davis Furnace Company of Independence, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business located at 1337 West Lexington, Independence, Missouri.

Respondent Kansas Furnace Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kansas, with its principal office and place of business located at 1714 Central Avenue, Kansas City, Kansas.

Respondents Ralph L. Davis and Paul Davis are officers of the corporate respondents, The Davis Furnace Company, Inc., The Davis Furnace Company of Independence, Inc., and the Kansas Furnace Company, Inc. They formulate, direct and control the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent The Davis Furnace Company, Inc.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the sale and distribution of furnaces, heating equipment and parts therefor to the purchasing public, and in the repair and servicing of heating equipment.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their products, when sold, to be shipped from their principal places of business in the States of Missouri and Kansas to purchasers thereof located in the States of the United States other than the States in which the shipments originated. In the course of the repairing of furnaces, heating equipment or the parts thereof, respondents have sent their employees to repair and service such furnaces, heating equipment and the parts thereof at the homes of customers located in States of the United States other than the State in which the principal office and place of business of the respective corporate respondent was located, and at all times mentioned herein respondents have maintained a substantial course of trade in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, as aforesaid, and for the purpose of selling their products or services, respondents,

directly and through representatives, employ many unfair and deceptive practices. Among and typical of such practices are the following:

(1) Respondents through phone solicitations and otherwise offer free inspection services or low cost cleaning services, thereby gaining access to home owners' heating plants or equipment.

(2) Respondents' salesmen and servicemen falsely represent themselves or each other to be engineers.

(3) Respondents' salesmen and servicemen falsely represent to the owner of a furnace or heating equipment that the said furnace or heating equipment is defective, is not repairable, or is dangerous to use, to the extent that continued use will result in asphyxiation, carbon monoxide poisoning, fires or other damage.

(4) Respondents' employees have refused to reassemble furnaces which they have dismantled or have left them unassembled for long periods of time and have misrepresented the condition of such furnaces, and have stated to the owners of such furnaces and heating equipment that reassembling and continued use of the equipment will result in gas poisoning, asphyxiation, or fires, when such is not the fact. In this connection, the employees of respondents have misrepresented the condition of the furnaces and asserted, contrary to the fact, that the continued use thereof would be dangerous, thereby causing the owners of said furnaces to purchase furnaces or parts thereof from respondents, which they would not have otherwise purchased.

PAR. 5. 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, repair and servicing of furnaces, heating equipment and the parts thereof of the same general kind and nature as sold, repaired or serviced by respondents.

PAR. 6. The use by respondents of the aforesaid acts and practices in connection with the conduct of their business has had, and now has, the capacity and tendency to mislead and deceive a substantial number of the public, to cause many owners of furnaces and heating equipment, through fear of continuing to use such equipment, to discard such furnaces and heating equipment before the completion of the useful life of such products and to purchase furnaces, heating equipment and parts thereof sold by respondents, or to contract for extensive but unnecessary repairs of existing furnaces and heating equipment. As a result thereof, trade has been unfairly diverted to respondents from their competitors and substantial injury has thereby been, and is being, done to competition in commerce.

PAR. 7. 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.

Messrs. John W. Brookfield, Jr., and Anthony J. Kennedy, Jr., supporting the complaint.

Mr. W. Raymond Hedrick, Kansas City, Mo., and *Ms. Lillie Knight* Atty., Kansas City, Co., counsel for respondents.

INITIAL DECISION BY LEON R. GROSS, HEARING EXAMINER

The complaint in this proceeding issued against the above-named respondents on April 17, 1961. It charges respondents with violation of the Federal Trade Commission Act by making false, misleading, and deceptive representations in selling their furnaces, heating equipment, and parts therefor, in commerce, as "commerce" is defined in the Federal Trade Commission Act. A copy of the complaint was served upon respondents as required by law; respondents answered the complaint; and the cause was set down for a hearing, which was later canceled. Thereafter, respondents, through their counsel, entered into an agreement dated July 31, 1961, which purports to dispose of all of this proceeding as to all parties without the necessity of conducting a hearing. The agreement has been signed by the respondents, counsel for the parties; and has been approved by the Acting Chief, Division of General Advertising, and the Director, Bureau of Deceptive Practices. Said agreement contains the form of a consent cease and desist order which the parties have agreed is dispositive of the issues involved in this proceeding. The agreement was submitted to the undersigned hearing examiner on August 2, 1961, for his consideration, in accordance with § 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 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 §§ 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. The Federal Trade Commission has jurisdiction over the parties and the subject matter of this proceeding:

2. Respondent The Davis Furnace Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri with its principal office and place of business located at 3702 East 27th Street, Kansas City, Missouri.

3. Respondent The Davis Furnace Company of Independence, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business located at 1337 West Lexington, Independence, Missouri.

4. Respondent Kansas Furnace Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kansas with its principal office and place of business located at 1714 Central Avenue, Kansas City, Kansas.

5. Individual respondents Ralph L. Davis and Paul Davis are officers of the corporate respondents, The Davis Furnace Company, Inc., The Davis Furnace Company of Independence, Inc., and the Kansas Furnace Company, Inc. They formulate, direct and control the acts and practices of the corporate respondents. Their address is the same as that of the corporate respondent, The Davis Furnace Company, Inc.

6. Respondents are engaged in commerce, as "commerce" is defined in the Federal Trade Commission Act;

7. The complaint filed herein states a cause of action against the respondents under the Federal Trade Commission Act; and this proceeding is in the public interest. Now, therefore,

It is ordered, That The Davis Furnace Company, Inc., a corporation, The Davis Furnace Company of Independence, Inc., a corporation, and Kansas Furnace Company, Inc., a corporation, and their

officers, and Ralph L. Davis and Paul Davis, individually and as officers of said corporations, and respondents' agents, representatives and employees, directly or through any corporate device, in connection with the sale, repairing or servicing of furnaces, heating equipment, or the parts thereof, 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) Respondents will inspect without charge or clean a prospective customer's furnace or heating equipment for a nominal fee unless, as a matter of fact, such offer is a bona fide offer to inspect or to clean such furnace or heating equipment;

(b) Respondents' salesmen or servicemen are engineers;

(c) Any furnace, heating equipment or parts thereof are defective, not reparable, or reparable only at extensive cost, unless such are the facts;

(d) The continued use of any furnace, heating equipment or parts thereof is dangerous or hazardous to the health of the owner thereof or his family, due to escaping carbon monoxide, fire or other causes, unless such are the facts;

(e) A furnace that has been dismantled by respondents' employees cannot be reassembled and used without danger of asphyxiation, gas poisoning, fires or other damage when such is not a fact.

2. Refusing to immediately reassemble, at the request of the owner, any furnace that has been dismantled by respondents' employees.

3. Misrepresenting in any manner the condition of any furnace, heating equipment or the parts thereof that have been inspected by respondents or their employees.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, published May 6, 1955, as amended, the initial decision of the hearing examiner shall, on the 22d day of September 1961, become the decision of the Commission; and accordingly:

It is ordered, That the above-named 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 to cease and desist.

Complaint

IN THE MATTER OF

A. WEISS & BOB ALDERMAN FUR CORP. ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS*Docket 8372. Complaint, Apr. 21, 1961—Decision, Sept. 22, 1961*

Consent order requiring New York City furriers to cease violating the Fur Products Labeling Act by labeling and invoicing fur products falsely to show that artificially colored fur contained therein was natural, and by failing to comply in other respects with labeling and invoicing requirements.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that A. Weiss & Bob Alderman Fur Corp., a corporation, and Abraham Weiss and Robert Alderman, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling 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. A. Weiss & Bob Alderman Fur Corp., is a corporation organized, existing 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 208 West 30th Street, New York, New York.

Abraham Weiss and Robert Alderman are officers of the said corporate respondent and control, direct and formulate the acts, practices and policies of the said corporate respondent. Their office and principal place of business is the same as that of the said corporate respondent.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondents have been and are now engaged in the introduction into commerce, and in the manufacture for introduction into commerce, and in the sale, advertising, and offering for sale, in commerce, and in the transportation and distribution, in commerce, of fur products; and have manufactured for sale, sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of fur which had been shipped and received in commerce as the terms "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act.