

(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
MASTER MECHANIC MFG. CO. ET AL.

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

Docket 8235. Complaint, Dec. 27, 1960—Decision, Oct. 16, 1961

Consent order requiring manufacturers in Burlington, Wis., of their immersion electrode-type "Zip Instant Water Heater", to cease representing falsely in advertisements in newspapers and magazines, and by circulars and catalogs, that the device would heat any amount of water instantly and that under ordinary conditions of use it was harmless; and to attach to the device a "warning" and statement that for safe use the directions attached or enclosed should be followed.

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 Master Mechanic Mfg. Co., a corporation, and Harry J. Allen, A. E. McFarland and Margaret Allen, 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 Master Mechanic Mfg. Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Wisconsin. Its principal place of business is located at 420 Wilmot Avenue, Burlington, Wisconsin.

Respondents Harry J. Allen, A. E. McFarland and Margaret Allen are officers of the corporate respondent and 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 manufacture and sale of an electric water heater designated "Zip Instant Water Heater."

Said Zip Instant Water Heater is an immersion electrode-type device in which the heating element or coil is heated by electricity. When it is immersed in water said water is heated by coming in contact with the heating coil.

PAR. 3. Respondents cause and have caused the said "Zip Instant Water Heater" when sold to be shipped from their place of business in the State of Wisconsin 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 water heater 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 the purchase of their said product in commerce, respondents have represented directly or by implication, by means of advertisements in newspapers and magazines and in circulars and catalogues, all of which are circulated among the purchasing public, that their "Zip Instant Water Heater" will heat either a small or large amount of water instantly and that under ordinary conditions of use said water heater is harmless in that it is shockproof.

PAR. 5. The aforesaid representations are false, misleading and deceptive. In truth and in fact, said water heater will not heat a large amount of water instantly nor is said water heater harmless or shockproof. Being an immersion type heater operated by electricity in which the heating element is in direct contact with the water to be heated there is a leakage of electrical current which flows through the water in an amount which constitutes a serious electrical hazard under some conditions of ordinary use.

PAR. 6. By failing to reveal the dangerous potentialities of their water heater respondents impliedly represent, contrary to the facts, that said product is harmless under all conditions of ordinary use.

PAR. 7. The use by respondents of the aforesaid statements and representations has had and now has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements are true, and that said product is harmless under ordinary conditions of use, and to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase the said "Zip Instant Water Heater."

PAR. 8. The aforesaid acts and practices of respondent as herein alleged are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

DECISION AND ORDER

This matter having come on to be heard by the Commission upon a record consisting of the Commission's complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act and an agreement by and between respondents and counsel supporting the complaint, which agreement contains an order to cease and desist, an admission by the respondents of all the jurisdictional facts alleged in the complaint, a statement that the signing of 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, and waivers and provisions as required by the Commission's rules; and

The Commission having considered the agreement and order contained therein and being of the opinion that the agreement provides an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted; the following jurisdictional findings are made, and the following order is entered:

1. Respondent Master Mechanic Mfg. Co., is a corporation existing and doing business under and by virtue of the laws of the State of Wisconsin, with its office and principal place of business located at 420 Wilmot Avenue, Burlington, Wisconsin.

Respondents Harry J. Allen, A. E. McFarland and Margaret Allen are officers of the corporate respondent. Their address is the same as that of the corporate respondent.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Master Mechanic Mfg. Co., a corporation, and its officers, and Harry J. Allen, A. E. McFarland and Margaret Allen, 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 or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of respondents' electric water heating device "Zip Instant Water Heater", or any substantially similar device, whether sold under the same name or any other name, do forthwith cease and desist from:

1. Representing in any manner that other than a small amount of water can be heated instantly with said device;
2. Representing in any manner that said device is shockproof;
3. Representing in any manner that said device is harmless without adding the qualification that the said device must be used according to directions.
4. Distributing or selling said device unless there is attached thereto the word "caution" or "warning" together with a statement that for safe use of said device the directions for use thereof should be followed, which directions shall be attached to or enclosed with said device.

It is further ordered, That the 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 this order.

IN THE MATTER OF

ONYX ART CREATORS, INC., ET AL.

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