

ONYX ART CREATORS, INC., ET AL.

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

Docket 8441. Complaint, June 28, 1961—Decision, Oct. 16, 1961

Consent order requiring Brooklyn, N.Y., manufacturers of trophies and awards to cease representing falsely in catalogs and other advertising media distributed to dealers that their said products were made of "Bianco Marble" and were "Everlasting" when in fact they were made of the much less durable alabaster and were thus much more subject to damage and destruction.

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

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Trade Commission, having reason to believe that Onyx Art Creators, Inc., a corporation, and Jack Weiger and Joseph Dinner, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of the 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 Onyx Art Creators, 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 641 Lexington Avenue, Brooklyn 21, New York.

Individual respondents Jack Weiger and Joseph Dinner 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 manufacture, advertising, offering for sale, sale and distribution of, among other things, trophies and awards to distributors and retailers for resale 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. In the course and conduct of their business, and for the purpose of inducing the sale of their trophies and awards, respondents have made certain statements and representations in catalogs and through other media, distributed to their customers and the trade, concerning the type of materials used in manufacturing said products. Among and typical of such statements and representations are the following:

Bianco Marble

Everlasting

Everlasting Genuine Imported Onyx and Marble Sculptured Column Awards

PAR. 5. Through the use of the aforesaid statements and representations, and others similar thereto but not specifically set out herein, respondents have represented, and are now representing, directly or by implication:

1. That their trophies and awards were made in part from marble, designated as "Bianco Marble"; and

2. That said trophies and awards would last forever.

PAR. 6. Said statements and representations were false, misleading and deceptive. In truth and in fact, respondents' trophies and awards:

1. Were not made in part of marble designated as "Bianco Marble" but were made of alabaster, a stone, which is not marble, and is much less durable than marble and, consequently, much more subject to damage or destruction.

2. Will not last forever.

PAR. 7. By the aforesaid practice, respondents place in the hands of retailers and others means and instrumentalities by and through which they may mislead the public as to the nature and character of the stone portions of said products.

PAR. 8. In the 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 products of the same general kind and nature as that sold by respondents.

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 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' products 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 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.

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 the law has been

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violated 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 Onyx Art Creators, Inc., 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 641 Lexington Avenue, Brooklyn, New York.

Respondents Jack Weiger and Joseph Dinner are officers of the corporate respondent, and 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 Onyx Art Creators, Inc., a corporation, and its officers, and Jack Weiger and Joseph Dinner, individually and as officers of the said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the manufacture, advertising, offering for sale, sale or distribution of trophies or awards, or any other product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "bianco marble", "marble", or any other term of similar import or meaning, to designate, describe, or refer to, the alabaster contained in any product; or misrepresenting in any manner the composition of any product.

2. Misrepresenting by use of the word "everlasting", or any other term of similar import or meaning, that their products will last forever; or misrepresenting in any manner the durability of any product.

3. Placing in the hands of others any means or instrumentality by or through which the public may be misled with respect to any of the representations prohibited under paragraphs 1 and 2 hereof.

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.

Complaint

IN THE MATTER OF

LEWIS APPAREL STORES, INC., ET AL.

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

Docket 8442. Complaint, June 28, 1961—Decision, Oct. 16, 1961

Consent order requiring operators of a large number of retail clothing stores in eastern and midwestern States to cease attempting to obtain information concerning alleged delinquent debtors by subterfuge through such practices as use, on printed cards requesting the current address and employment of such delinquents, of the name "Regional Statistical Bureau" and a return address in Washington, D.C., both of which, together with the setup and phraseology of the form, represented and implied to the recipient that the request was being made by a branch of the United States Government.

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 Lewis Apparel Stores, Inc., a corporation, and Morris Lewis, Leon Lewis and David Lewis, 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 Lewis Apparel Stores, Inc. 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 275 Seventh Avenue, in the City of New York, State of New York.

Respondents Morris Lewis, Leon Lewis and David Lewis 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 retail sale of clothing and other merchandise through a large number of retail stores located in Eastern and Midwestern States.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said merchandise, when sold, to be shipped in commerce between and among the various States of the United States, and maintain, and at all