

dore Herman), individually and as an officer of said corporation, 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.

IN THE MATTER OF

L. T. BALDWIN DOING BUSINESS AS BALDWIN GAS
PRODUCTS COMPANY

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

Docket 8405. Complaint, May 24, 1961—Decision, Oct. 24, 1961

Consent order requiring a St. Louis, Mo., distributor of water heaters to cease representing falsely in brochures, circulars, and other media, which he also furnished to retailers of his products, that his water heaters were unconditionally guaranteed for five years or one year without disclosing that there were various limitations imposed; and to cease using fictitious list prices for proration after the unconditional guarantee period.

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 L. T. Baldwin, an individual doing business as Baldwin Gas Products Company, hereinafter referred to as respondent, has 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 L. T. Baldwin is an individual trading and doing business as Baldwin Gas Products Company, with his office

and principal place of business located at 1401 Macklind, St. Louis, Missouri.

PAR. 2. Respondent is now, and for more than two years last past has been, engaged in the advertising, offering for sale, sale and distribution of water heaters. Respondent ships, and causes to be shipped, his said water heaters, when sold, from the State of Missouri to purchasers thereof, many of whom are located in various other States of the United States. Respondent maintains, and at all times mentioned herein has maintained, a substantial course of trade in said product, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. In the course and conduct of his business, and for the purpose of inducing the sale of his product, respondent has made certain statements and representations in brochures, circulars, folders, and other media, which he also furnishes to retailers of his product. Among and typical, but not all inclusive, of the statements and representations so made are the following:

Baldwin 10 year* Heavy Duty Automatic Gas Water Heaters Genuine Glass-lined Tanks.

*. . . For domestic use—5 years unconditional, and sixth to tenth year pro-rated. . . .

All Bhott Standard Weight Automatic Gas Water Heaters are unconditionally warranted for one full year, when properly installed according to local plumbing codes and ordinances.

PAR. 4. Respondent, through use of the aforesaid statements and representations and others similar thereto, represents, directly and by implication, that his "10 Year Heavy Duty Automatic Gas Water Heaters" are unconditionally guaranteed for a period five years and his "Bhott Standard Weight Automatic Water Heaters" are unconditionally guaranteed for one year, if installation conforms with local plumbing codes and ordinances.

PAR. 5. Said statements and representations were false, misleading and deceptive. In truth and in fact, neither of said water heaters is unconditionally guaranteed for the represented periods, as there are various limitations, conditions and requirements imposed in connection with the guarantees that are not disclosed in the advertising. Moreover, the proration in connection with the Heavy Duty Water Heater is based upon fictitious list prices.

PAR. 6. Respondent, in many cases, fails and refuses to perform under the terms of his written guarantees where his product covered by the guarantee has failed during the period of the guarantee and he has been notified of such failure.

PAR. 7. Respondent, at all times mentioned herein, has been, and

now is, in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of water heaters.

PAR. 8. The use by respondent 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 respondent's product by reason of said erroneous and mistaken belief. As a consequence thereof, substantial trade in commerce has been, and is being, unfairly diverted to respondent from his competitors and substantial injury has thereby been, and is being, done to competition in commerce.

PAR. 9. The aforesaid acts and practices of respondent, as herein alleged, were, and are, all to the prejudice and injury of the public and of respondent's 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.

Mr. William A. Somers supporting the complaint.

Mr. F. William Human, Jr., of Ziercher, Tzinberg, Human & Michenfelder, Clayton, Mo., for respondent.

INITIAL DECISION BY WALTER K. BENNETT, HEARING EXAMINER

On May 24, 1961, the Federal Trade Commission issued a complaint charging that the above-named respondent had violated the provisions of the Federal Trade Commission Act. The complaint alleged that, in the course and conduct of his business and for the purpose of inducing the sale of his product, respondent had made certain statements and representations which were false, misleading and deceptive.

On July 20, 1961, respondent, his counsel and counsel supporting the complaint entered into an agreement authorizing the entry of a consent order to cease and desist the practices charged without further notice. Said agreement was duly approved by the Director and the Acting Chief of the Bureau of Deceptive Practices.

The hearing examiner finds that said agreement includes all of the provisions required by Section 3.25(b) of the Rules of the Commission, that is:

A. An admission by respondent of all jurisdictional facts alleged in the complaint.

B. Provisions that:

- (1) The complaint may be used in construing the terms of the order;
- (2) The order shall have the same force and effect as if entered after a full hearing;

Order

59 F.T.C.

(3) The agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission.

(4) The entire record on which any cease and desist order may be based shall consist solely of the complaint and the agreement;

(5) The order may be altered, modified, or set aside in the manner provided by statute for other orders;

C. Waivers of:

(1) The requirement that the decision must contain a statement of findings of fact and conclusions of law;

(2) Further procedural steps before the hearing examiner and the Commission.

(3) Any right to challenge or contest the validity of the order entered in accordance with the agreement.

In addition the agreement contains the following provision: A statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that he has violated the law as alleged in the complaint.

Having considered said agreement, including the proposed order, and being of the opinion that it provides an appropriate basis for settlement and disposition of this proceeding; the hearing examiner hereby accepts the agreement but orders that it shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

The following jurisdictional findings are made and the following order issued:

1. Respondent L. T. Baldwin is an individual trading and doing business as Baldwin Gas Products Company, with his office and principal place of business located at 1401 Macklind, St. Louis, Missouri.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent.

ORDER

It is ordered, That respondent L. T. Baldwin, individually and doing business as Baldwin Gas Products Company, or under any other name, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of water heaters, or any other product, do forthwith cease and desist from:

1. Representing, directly or by implication, that a product is guaranteed unless the nature and extent of the guarantee and the manner in which the guarantor will perform thereunder are clearly disclosed.

975

Complaint

2. Representing, directly or by implication, that a product is sold under a guarantee unless the terms of the guarantee are strictly complied with.

3. Using fictitious list prices or any other fictitious prices in pro rata adjustment of guarantees.

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 24th day of October, 1961, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF

ARCTIC LIGHT BLANKET CO., INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE WOOL PRODUCTS LABELING ACTS

Docket 8426. Complaint, June 2, 1961—Decision, Oct. 24, 1961

Consent order requiring Worcester, Mass., manufacturers to cease violating the Wool Products Labeling Act by such practices as labeling as 100% wool, blankets which contained a substantial quantity of reprocessed wool and other fibers, and by failing to disclose on blanket labels the presence of reprocessed wool and non-woolen fibers and the percentage thereof.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Arctic Light Blanket Co., Inc., a corporation, and Philip F. Goldberg, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Wool 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. Respondent Arctic Light Blanket Co., Inc., is a corporation organized, existing and doing business under and by virtue

Complaint

59 F.T.C.

of the laws of the State of Massachusetts. Individual respondent Philip F. Goldberg is president and treasurer of the corporate respondent. Said individual respondent formulates, directs and controls the acts, policies and practices of the corporate respondent, including the acts and practices hereinafter referred to. Both respondents have their office and principal place of business at 1 Fay Street, Worcester, Massachusetts.

PAR. 2. Subsequent to the effective date of the Wool Products Labeling Act of 1939, and more especially since January 1958, respondents have manufactured for introduction into commerce, introduced into commerce, sold, transported, distributed, delivered for shipment and offered for sale in commerce, as "commerce" is defined in the said Act, wool products, as "wool products" are defined therein.

PAR. 3. Certain of said wool products were misbranded by the respondents within the intent and meaning of Section 4(a) (1) of the Wool Products Labeling Act and the Rules and Regulations promulgated thereunder, in that they were falsely and deceptively labeled or tagged with respect to the character and amount of the constituent fibers contained therein.

Among such misbranded wool products were blankets labeled or tagged by respondents as 100% wool, whereas in truth and in fact said products contained a substantial quantity of reprocessed wool and fibers other than wool.

PAR. 4. Certain of said wool products were further misbranded by respondents in that they were not stamped, tagged or labeled as required under the provisions of Section 4(a) (2) of the Wool Products Labeling Act and in the manner and form as prescribed by the Rules and Regulations promulgated under said Act. Among such misbranded wool products, but not limited thereto, were blankets with labels which failed: (1) to disclose reprocessed wool and other non-woolen fibers present, and (2) to disclose the percentage of such reprocessed wool and other fibers.

PAR. 5. Respondents in the course and conduct of their business as aforesaid, were and are in competition in commerce with other individuals, corporations, and firms likewise engaged in the manufacture and sale of wool products.

PAR. 6. The acts and practices as set forth in Paragraphs Three and Four were and are in violation of the Wool Products Labeling Act of 1939, and the Rules and Regulations promulgated thereunder, 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.

PAR. 7. In the course and conduct of their business, as aforesaid, respondents have made various statements concerning their products in sales invoices. Among and typical of said statements is the following:

100% wool

PAR. 8. The aforesaid representations and statements set out in Paragraph Seven were and are false, misleading and deceptive. In truth and in fact, respondents' said products were not composed of 100% wool, but contained substantial amounts of fibers other than wool.

PAR. 9. The acts and practices of respondents as set out in Paragraph Seven of falsely identifying the constituent fibers of its wool products have had and now have the tendency and capacity to mislead and deceive the purchaser of said products as to the true fiber content thereof.

PAR. 10. The acts and practices of respondents, as alleged in Paragraph Seven above, 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.

Mr. Michael P. Hughes, supporting the complaint.

Respondents, *pro se*.

INITIAL DECISION BY WALTER K. BENNETT, Hearing Examiner

The Federal Trade Commission issued its complaint against respondents on June 2, 1961, charging violation of the Federal Trade Commission Act and the Wool Products Labeling Act. The complaint charged respondents with both mislabeling and failing to properly label wool products and with issuing false and misleading statements concerning such products.

On August 22, 1961, counsel supporting the complaint presented an agreement dated August 14, 1961, and executed by him and by respondent corporation and by the individual respondent. Said agreement provided for the entry of an order on consent without further notice and was duly approved by the Chief, Division of Enforcement, the Acting Director and the Assistant Director of the Bureau of Textiles and Furs.

The hearing examiner finds that said agreement includes all of the provisions required by Section 3.25 (b) of the Rules of the Commission, that is:

A. An admission by respondents of all jurisdictional facts alleged in the complaint.

B. Provisions that:

- (1) The complaint may be used in construing the terms of the order;
- (2) The order shall have the same force and effect as if entered after a full hearing;
- (3) The agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission;
- (4) The entire record on which any cease and desist order may be based shall consist solely of the complaint and the agreement;
- (5) The order may be altered, modified, or set aside in the manner provided by statute for other orders:

C. Waivers of:

- (1) The requirement that the decision must contain a statement of findings of fact and conclusions of law;
- (2) Further procedural steps before the hearing examiner and the Commission.
- (3) Any right to challenge or contest the validity of the order entered in accordance with the agreement.

In addition the agreement contains the following provision: 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.

Having considered said agreement, including the proposed order, and being of the opinion that it provides an appropriate basis for settlement and disposition of this proceeding; the hearing examiner hereby accepts the agreement but orders that it shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

The following jurisdictional findings are made and the following order issued:

1. Respondent Arctic Light Blanket Co., Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Massachusetts, with its office and principal place of business located at 1 Fay Street, Worcester, Massachusetts.

2. Individual respondent Philip F. Goldberg is an officer of said corporation. He formulates, directs and controls the acts, policies, and practices of the corporate respondent. The address of the individual respondent is the same as the corporate respondent.

3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents.

979

Order

ORDER

It is ordered, That respondents Arctic Light Blanket Co., Inc., a corporation, and its officers, and Philip F. Goldberg, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction into commerce, or the offering for sale, sale, transportation or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act, of wool blankets or other wool products, as such products are defined in and subject to the said Wool Products Labeling Act, do forthwith cease and desist from misbranding such products by:

1. Falsely or deceptively stamping, tagging, labeling or identifying such products as to the character or amount of the constituent fibers contained therein.
2. Failing to affix labels to such products showing each element of information required to be disclosed by Section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered. That respondents, Arctic Light Blanket Co., Inc., a corporation, and its officers, and Philip F. Goldberg, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of wool blankets or other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from directly or indirectly misrepresenting on sales invoices, shipping memoranda, or in any other manner the fiber content of said products.

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 24th day of October 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.

Complaint

59 F.T.C.

IN THE MATTER OF

RICHARD L. SCHROEDER ET AL. DOING BUSINESS AS
INTERSTATE MERCHANDISERSCONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 8431. Complaint, June 16, 1961—Decision, Oct. 24, 1961*

Consent order requiring a Rochester, Minn., distributor of vending machines and nuts and candy dispensed thereby, to cease using deceptive offers of employment, false earnings claims, and other misrepresentations in newspaper advertisements, the real purpose of which was to sell its products.

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 Richard L. Schroeder and Lois I. Schroeder, individually and as copartners, trading and doing business as Interstate Merchandisers, 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. Respondents Richard L. Schroeder and Lois I. Schroeder are copartners trading and doing business as Interstate Merchandisers, with their office and principal place of business located at 1519 Fourth Avenue, N.W., Rochester, Minnesota.

Said individuals cooperate and act together in formulating, directing and controlling the acts and practices hereinafter set forth.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, sale and distribution of vending machines and nut meats, candy and other merchandise dispensed thereby, to purchasers thereof located in various States of the United States.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, said products, when sold, to be transported from their place of business located in the State of Minnesota, or drop-shipped from elsewhere, to purchasers thereof located in various other States of the United States. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondents insert advertisements in newspapers soliciting persons to whom to sell said products. Persons responding to said