

B. Representing in any manner, contrary to fact, that respondents own, operate, or control the factory in which such products are tailored or manufactured, or that respondents, have a place of business in the Crown Colony of Hong Kong.

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
WHITE STAG MANUFACTURING CO.

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

Docket C-51. Complaint, Dec. 21, 1961—Decision, Dec. 21, 1961

Consent order requiring a manufacturer in Portland, Ore., to cease misrepresenting the usual prices and size of its sleeping bags by printing on attached labels and in catalogs a fictitious figure, in excess of the regular retail price, and stating on labels the "cut size" which was larger than the finished size of the bags.

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 White Stag Manufacturing Co., a corporation, 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 White Stag Manufacturing Co. is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Oregon, with its principal office and place of business located at 7 N.W. Front Avenue, in the City of Portland, State of Oregon.

PAR. 2. Respondent is now, and for some time last past has been engaged in the manufacture, advertising, offering for sale, sale and distribution of sleeping bags to retailers for resale to the public.

PAR. 3. In the course and conduct of its business, respondent now causes, and for some time last past has caused, the said product, when sold, to be shipped from its place of business in the State of Oregon

Complaint

59 F.T.C.

to retailers thereof located in various other States of the United States, and 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. 4. Respondent, for the purpose of inducing the purchase of its product, has engaged in the practice of using fictitious prices in connection therewith, and misrepresenting the size thereof, by the following methods and means:

A. By attaching, or causing to be attached, tickets to its said sleeping bags upon which a certain amount is printed, and by distributing, or causing to be distributed, to retailers, catalogs describing, among other things, respondent's sleeping bags and containing a stated price for each, thereby representing, directly, or by implication, that the amounts so stated are the regular and usual retail price of said sleeping bags. Among and typical of the statements on the price tickets are the following:

PRICE \$22.95

PRICE \$31.95

Among and typical of the statements contained in respondent's 1960 catalog are the following:

LIST PRICE \$22.95

LIST PRICE \$31.95

In truth and in fact, said amounts appearing on the price tickets attached to said sleeping bags and appearing in said catalog, are fictitious and in excess of the usual and regular retail price of said sleeping bags.

B. By attaching, or causing to be attached, labels to its said sleeping bags stating the "cut size" of the sleeping bags, which is almost invariably larger than the actual size of the bag in question. The term "cut size", when used in the manner as alleged above, is confusing and tends to indicate that such a description is the actual size of the finished product. In truth and in fact, this is almost never the case, as the actual size of the finished product is smaller than the sizes set out on the labels.

PAR. 5. By the aforesaid acts and practices, respondent places in the hands of the uninformed or unscrupulous retailers means and instrumentalities by and through which they may mislead the public as to the size, and usual and regular price of said sleeping bag.

PAR. 6. In the course and conduct of its business, and at all times mentioned herein, respondent has been engaged 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 respondent.

PAR. 7. The use by respondent of the aforesaid false, misleading,

1371

Decision

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 products by reason of said erroneous and mistaken belief.

PAR. 8. 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 methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5(a)(1) of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereof with violation of the Federal Trade Commission Act, and the respondent having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent, White Stag Manufacturing Co., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Oregon, with its office and principal place of business located at 7 N.W. Front Avenue, in the city of Portland, State of Oregon.

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

ORDER

It is ordered, That respondent White Stag Manufacturing Co., a corporation, and its officers, agents, representatives and employees,

directly or through any corporate or other device, in connection with the manufacture, offering for sale, sale or distribution of sleeping bags or other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Advertising, labeling, representing in a catalog or otherwise representing the "cut size" or dimensions of material used in their construction, unless such representation is accompanied by a description of the finished or actual size, with the latter description being given at least equal prominence;

2. Misrepresenting the size of such products on labels or in any other manner;

3. Representing, directly or by implication, by means of pre-ticketing or by stating in a catalog, or in any other manner, that any amount is the usual and regular retail price of merchandise when such amount is in excess of the price at which said merchandise is usually and regularly sold at retail in the trade area or areas where the representations are made;

4. Furnishing to others any means or instrumentality by or through which the public may be misled as to the usual and regular retail price of respondent's merchandise;

5. Putting any plan into operation through the use of which retailers or others may misrepresent the usual and regular retail price of merchandise;

6. Using the word "Price" or any other word or expression of the same import to describe or refer to the retail price of respondent's merchandise unless such price is the usual and regular retail price of said merchandise.

It is further 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 this order.

IN THE MATTER OF

RAPHAEL'S, INC., ET AL.