

Complaint

IN THE MATTER OF

LEC ELECTRIC COMPANY, INC., ET AL.

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

Docket C-92. Complaint, Mar. 7, 1962—Decision, Mar. 7, 1962

Consent order requiring Dallas, Tex., distributors of automobile parts to jobbers and retailers for resale to cease selling automobile parts which they had rebuilt or reconditioned without any marking or other disclosure to show their used nature, and with only small inconspicuous notice, if any, on cartons, far removed from the name of the parts; advertising such products without such disclosure as they did in "The Independent Garageman", a trade paper of wide circulation; and failing to make disclosure of used nature in invoices listing rebuilt parts.

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 Lec Electric Company, Inc., a corporation, and Lec Albert Wells, individually and as an officer 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 Lec Electric Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas, with its principal office and place of business located at 2615 Good-Latimer Expressway, P.O. Box 9067, in the city of Dallas, State of Texas.

Respondent Lec Albert Wells is an officer of the corporate respondent. He formulates the policies and directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His 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 advertising, offering for sale, sale and distribution of automobile parts to distributors and jobbers and to retailers for resale to the 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 Texas to purchasers thereof located in various other States of the

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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 said business, respondents purchase used automobile parts which they rebuild or recondition and sell them to various dealers. When said parts are offered for sale and sold to dealers for resale to the ultimate purchaser they have the appearance of being new and unused. Some of said parts when offered for sale and sold as aforesaid bear no label, marking or other disclosure stamped thereon or attached thereto to show that they are in fact rebuilt or reconditioned parts. The cartons or packages in which said parts are offered for sale and sold feature in bold print the name of the parts contained therein. The fact that said parts are rebuilt or reconditioned, if disclosed at all, appears in small inconspicuous print far removed from the name of the parts involved.

PAR. 5. When articles which are assembled or manufactured in whole or in part from previously used materials in such a manner that they have the appearance of being assembled or manufactured from new and previously unused materials are offered to the purchasing public, and such articles are not clearly and conspicuously marked or labeled as having been assembled or manufactured from previously used materials, they are readily accepted by members of the purchasing public as having been assembled or manufactured entirely from new and previously unused materials.

PAR. 6. Respondents advertise their business and products in a trade paper of wide circulation called "The Independent Garageman". Some of respondents' said advertisements contain no reference to the fact that said parts are rebuilt or reconditioned parts.

PAR. 7. The invoices used by respondents in connection with the sale of their said parts contain the statement "Automotive Parts Rebuilders" and a reproduction of the Automotive Parts Rebuilding Association's membership symbol. However, no disclosure appears in the bodies of said invoices that the parts listed therein are rebuilt or reconditioned parts.

PAR. 8. By the aforesaid acts and practices, the respondents place in the hands of dealers and others the means and instrumentalities whereby said persons may deceive or mislead members of the purchasing public into the erroneous and mistaken belief that they are purchasing automobile parts manufactured entirely from new and previously unused component parts, when in fact said parts are composed wholly or in part of old or previously used component parts.

PAR. 9. In the conduct of their business, at all times mentioned

herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals engaged in the business of manufacturing and selling automobile parts of the same general kind and nature as those sold by respondents.

PAR. 10. The failure of respondents to disclose in a clear, permanent and conspicuous manner in their advertising, on their invoices and cartons, and on the parts themselves that their said automobile parts are rebuilt or reconditioned parts, when such is the fact, has had and now has the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said parts sold by them were, and are, new parts assembled or manufactured entirely from new and previously unused parts, and to induce a substantial portion of the purchasing public to purchase substantial quantities of respondents' said parts because of such erroneous and mistaken belief.

PAR. 11. 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 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 respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents 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 respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents 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 respondents 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:

Decision and Order

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1. Respondent, Lec Electric Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business located at 2615 Good-Latimer Expressway, P.O. Box 9067, in the city of Dallas, State of Texas.

Respondent Lec Albert Wells is an officer of said corporation. His address is the same as that of said corporation.

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 Lec Electric Company, Inc., a corporation, and its officers, and Lec Albert Wells, 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 and distribution of automobile parts in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Offering for sale, selling or delivering to others for sale to the public, any used automobile part or any automobile part containing a used component part or parts, unless a clear and conspicuous disclosure of such prior use is made on the product in a location most readily noticeable to the purchaser and with sufficient permanency to remain thereon after installation for a reasonable period of time under ordinary conditions of use, and in such manner that said disclosure cannot be easily removed or obliterated; and unless there is clearly and conspicuously printed or marked on the box, carton, wrapper or other container in which said product is sold or offered for sale, a notice that said automobile part is a used part or contains a used component part or parts.

2. Representing that any used automobile part, or any automobile part containing a used component part or parts, is new by failing clearly and conspicuously to disclose such prior use in invoices, and in all advertising and sales promotional material disseminated therefor.

3. Furnishing means or instrumentalities to others by and through which they may mislead the public as to any of the matters and things prohibited in 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

MANCO WATCH STRAP CO., INC., ET AL.

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

*Docket 7785. Complaint, Feb. 24, 1960—Decision, Mar. 13, 1962 **

Order requiring Jersey City, N.J., distributors of imported metal expansion watch bands to jobbers, chain stores, and other retailers under the trade name "Topps", to cease selling the watch bands so packaged that the words "Hong Kong" or "Japan", stamped on a link on the inner side, were concealed and could not be seen without damaging the containers, and requiring them to clearly disclose the place of origin in a conspicuous place on the packages.

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 Manco Watch Strap Co., Inc., and Topps Products Corp., corporations, and Samuel Mandel, Marvin Mandel, Morris Mandel and Eugene Mandel, 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 public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondents Manco Watch Strap Co., Inc., and Topps Products Corp., are corporations organized, existing and doing business under and by virtue of the laws of the State of New York with their office and principal place of business located at 930 Newark Avenue, Postal Zone 6, in the city of Jersey City, State of New Jersey.

Respondents Samuel Mandel, Marvin Mandel, Morris Mandel and Eugene Mandel are officers of the corporate respondents. 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 respondents.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the offering for sale, sale and distribution of metal expansion watch bands to jobbers, chain stores and other retail stores for resale to the public. Respondents' watch bands are sold under the trade name "Topps."

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said product,

* Reported with modifying orders of July 26, 1962 and April 8, 1963.