

dealers in said products the means and instrumentalities by and through which they may mislead or deceive the public in the manner or as to the things hereinabove prohibited.

*It is further ordered*, That the 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 this order.

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IN THE MATTER OF  
CALVERT MANUFACTURING COMPANY ET AL.

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

*Docket C-126. Complaint, Apr. 26, 1962—Decision, Apr. 26, 1962*

Consent order requiring Baltimore distributors of a variety of advertising specialties to cease representing falsely, through use of the word "manufacturing" in their corporate name, on their letterheads, and in advertising and promotional literature, that they manufactured their merchandise in their own factories.

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 Calvert Manufacturing Company, a corporation, and High Hurwitz, Tad Lyon, and Armand Terl, 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 Calvert Manufacturing Company is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its principal office and place of business located at 1722 North Charles Street, in the city of Baltimore, State of Maryland.

High Hurwitz, Tad Lyon, and Armand Terl are individuals and are officers of said corporate respondent. They formulate, direct and

control the acts and practices of the corporate respondent. Their address as individuals and as officers 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 advertising specialties, including thermometers, scrapers, key-tags, piggy-banks, tops, playing cards, ash trays, hats, feathers, fly swatters, rulers, plastic bags, pennants, combs, pencils, pens, balloons and knives, to members of 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 Maryland to purchasers thereof located in various other states of the United States, and in the District of Columbia, 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 the aforesaid articles of merchandise, respondents now use, and for some last past have used, the word "manufacturing" in their corporate name, on their letterheads, and in advertising and promotional literature.

PAR. 5. Through the use of the aforesaid word "manufacturing" in their corporate name, on their letterheads, and in advertising and promotional literature, respondents have represented and are now representing, that they own, operate or control a factory or factories wherein their said articles of merchandise are manufactured, and that they are the manufacturers of said articles of merchandise.

PAR. 6. Said statements and representations are false, misleading and deceptive. In truth and in fact, said respondents do not own, operate or control a factory or factories wherein said articles of merchandise are manufactured, and do not manufacture any of said products.

PAR. 7. There is a preference on the part of members of the purchasing public for dealing directly with manufacturers of products rather than with outlets, distributors, jobbers or other intermediaries, such preference being due in part to a belief that by dealing directly with the manufacturers, lower prices and other advantages may be obtained.

PAR. 8. In the course and conduct of their business, and at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms, and individuals en-

gaged in the sale of articles of merchandise of the same general kind and nature as those 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 true and into the purchase of substantial quantities of respondents' articles of merchandise by reason of said erroneous and mistaken belief.

PAR. 10. The aforesaid acts and practices of the 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 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 or order; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by 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:

1. Respondent Calvert Manufacturing Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its office and principal place of business located at 1722 North Charles Street, in the city of Baltimore, State of Maryland.

Respondents High Hurwitz, Tad Lyon and Armand Terl are officers of said corporation, and their address is the same as that of said corporation.

Syllabus

60 F.T.C.

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, Calvert Manufacturing Company, a corporation, and its officers, and High Hurwitz, Tad Lyon, and Armand Terl, individually, and as officers 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 advertising specialties, including thermometers, scrapers, key-tags, piggy banks, tops, playing cards, ash trays, hats, feathers, fly swatters, rules, plastic bags, pennants, combs, pencils, pens, balloons, and knives, or any other articles of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "manufacturing" or any other word or term of similar import or meaning as a part of respondent's corporate or trade name, or otherwise representing that respondents manufacture the products sold by them.

*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

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IN THE MATTER OF

O.E.M. PRODUCTS COMPANY ET AL.