

in regard to such acts and practices should, so far as practicable, be conducted on an industry-wide basis:

It is ordered, That the appeal of respondent be, and it hereby is, granted.

It is furthered ordered, That the complaint be, and it hereby is, dismissed.

Commissioner MacIntyre dissenting.

IN THE MATTER OF

GIANT PLASTICS CORPORATION ET AL.

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

Docket C-188. Complaint, July 20, 1962—Decision, July 20, 1962

Consent order requiring Bronx, N.Y., distributors of toys, novelties, and jewelry, much of it imported from Hong Kong and Japan, to jobbers and retailers, to cease selling such merchandise so packaged—commonly on a printed cardboard mount secured by clear plastic-like material—that any identification of foreign origin was not visible except by detroying the so-called “bubble pack”; to cease representing such foreign-made articles falsely as of domestic origin by their practice of stating on some of the packages “MADE IN U.S.A.” and on all of them “GIANT PLASTICS CORP., NEW YORK, N.Y.”; and requiring them to clearly and conspicuously disclose the country of origin on such display or point of sale material.

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 Giant Plastics Corporation, a corporation, and Herbert J. Rosenberg, Harold Rosenberg, and Celia Rosenberg, 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 Giant Plastics Corporation 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 3876 Park Avenue, Bronx, N.Y.

Respondents Herbert J. Rosenberg, Harold Rosenberg, and Celia Rosenberg are individuals and 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 offering for sale, sale and distribution of children's toys, novelties and jewelry 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 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. A substantial portion of respondents' toys, novelties and jewelry is imported from Hong Kong and Japan. Prior to distribution, the respondents cause all said imported articles, in some instances mingled with similar products of domestic origin, to be packed in retail display packages. Such packages consist of an article or group of articles on a printed cardboard mount secured by a tight form-fitting clear plastic bubble or other clear plastic-like material. At no place on the packaging, container, or cards is the fact disclosed that respondents' products are imported from Hong Kong or Japan. On some of the said packages appears the statement, "MADE IN U.S.A." All of the packages contain the statement "GIANT PLASTICS CORP., NEW YORK, N.Y." Obscurely printed on each item within the packaging in small and virtually indistinguishable letters appears the word "Hong Kong" or "Japan", as the case may be. In most instances, respondents cause said merchandise to be packaged so that any identification of origin thereof is not visible prior to purchase, except by damaging or destroying the so-called "bubble pack" or other plastic-like package and closely examining the contents thereof. As a result thereof the purchasing public is not informed of the country of origin of said imported merchandise prior to purchase. The use of the aforesaid quoted words, statements and representations of origin appearing on respondents' packaging herein described tends to lead the public to believe that the said merchandise is of domestic origin.

PAR. 5. In the absence of an adequate disclosure that a product, including children's toys, novelties and jewelry, is of foreign origin, the public believes and understands that it is of domestic origin, a fact of which the Commission takes official notice.

As to the aforesaid articles of merchandise, a substantial portion of the purchasing public has a preference for said articles which are of

domestic origin, of which fact the Commission also takes official notice. Respondents' failure clearly and conspicuously to disclose the country of origin of said articles of merchandise is, therefore, to the prejudice of the purchasing public.

PAR. 6. Respondents, in the course and conduct of their business, are in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of products of the same kind and nature as those sold by respondents.

PAR. 7. The use by the 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 products are of domestic origin and that said statements and representations were and are true, and to induce a substantial portion of the purchasing public, because of said erroneous and mistaken belief, to purchase said products.

PAR. 8. 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(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 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

61 F.T.C.

1. Respondent, Giant Plastics Corporation, 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 3876 Park Avenue, in the city of New York, State of New York.

Respondents Herbert J. Rosenberg, Harold Rosenberg and Celia Rosenberg are officers of said corporation, and their 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 respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Giant Plastics Corporation, a corporation, and its officers, and Herbert J. Rosenberg, Harold Rosenberg and Celia Rosenberg, 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 children's toys, novelties, and jewelry, and any other imported products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or indirectly, in advertising or in labeling that products manufactured in Hong Kong, Japan or any other foreign country are manufactured in the United States.

2. Offering for sale, selling, or distributing any such product which is packaged, or placed in a container, or mounted on or affixed to a card or other device, in such a manner as to conceal the country or place of origin, unless the country or place of origin is clearly and conspicuously disclosed on the package, container, card or other device.

3. Offering for sale, selling or distributing any such product in such a manner that the country or place of origin of the product cannot be readily seen by prospective purchasers.

4. Disseminating or causing to be disseminated any display or point of sale material with respect to any such product which fails to clearly and conspicuously disclose the country or place of origin of the product.

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

THE COMMERCIAL TRAVELERS MUTUAL ACCIDENT
ASSOCIATION OF AMERICA

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

Docket 6242. Complaint, Oct. 14, 1954—Decision, July 23, 1962

Order dismissing without prejudice—the evidence relating to practices too remote in point of time to support the recommended order—complaint charging a Utica, N.Y., insurance company with false advertising.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as that Act is applicable to the business of insurance under the provisions of Public Law 15, 79th Congress (U.S.C. Title 15, Secs. 1011 to 1015, inclusive), and by virtue of the authority vested in it by said Act, the Federal Trade Commission having reason to believe that The Commercial Travelers Mutual Accident Association of America, 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, The Commercial Travelers Mutual Accident Association of America, is a corporation duly 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 70 Genesee Street in the city of Utica, New York.

PAR. 2. Respondent is now, and for more than two years last past has been, engaged as an insurer in the business of insurance in commerce, as "commerce" is defined in the Federal Trade Commission Act, by entering into insurance contracts with insureds located in various States of the United States other than the State of New York, in which States the business of insurance is not regulated by State law to the extent of regulating the practices of respondent alleged in this complaint to be illegal. Respondent maintains, and at all times mentioned herein has maintained, a substantial course of trade in said insurance policies in commerce between and among the several States of the United States.

Respondent's said insurance policies, referred to by it as "certificates," are of the type known in the insurance trade as "accident and health policies" or "accident and sickness policies."