

IN THE MATTER OF
FIBRE GLASS-EVERCOAT COMPANY, INC., ET AL.

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

Docket C-200. Complaint, Sept. 11, 1962—Decision, Sept. 11, 1962

Consent order requiring Cincinnati sellers of a plastic metal mender designated
"Ever-Flex" to automotive distributors and jobbers for resale, to cease

Complaint

61 F.T.C.

representing falsely in advertising that their said product was nontoxic and safe, and to cease selling it without adequate warning on containers of the dangers attendant on its use.

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 Fibre Glass-Evercoat, Company, Inc., a corporation, and Joseph Linder and Carl Friedman, individually and as officers of said corporation, and John Fielman and Cecil Wilson, individually, 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 Fibre Glass-Evercoat Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its principal office and place of business located at 8500 Blue Ash Road, in the city of Cincinnati, State of Ohio.

Respondents Joseph Linder and Carl Friedman are officers of the corporate respondent and John Fielman and Cecil Wilson are sales managers for said corporation. 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 advertising, offering for sale, sale and distribution of among other things, a plastic metal mender designated "Ever-Flex" to automotive distributors and jobbers for resale to the consumer.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said product, when sold, to be shipped from their place of business in the State of Ohio 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 product 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 their plastic metal mender designated "Ever-Flex", respondents have made certain statements and represen-

477

Complaint

tations in advertisements in magazines of national circulation, in catalogue sheets, and by other media, of which the following are typical:

NEW non-toxic CREME CATALYST

Ever-

Flex

* * Non-toxic

* * Creme or Liquid hardener

* * 100% Safe

PAR. 5. By and through the use of the aforesaid statements and representations, and others of similar import but not specifically set forth herein, respondents represented, directly or by implication:

(1) That the creme hardener and the liquid hardener are nontoxic and safe.

(2) That the plastic metal mender is nontoxic and safe.

PAR. 6. In truth and in fact:

(1) The creme hardener and the liquid hardener are not nontoxic and safe as the creme hardener contains benzoyl peroxide and the liquid hardener contains methyl ethyl ketone peroxide, both of which are primary irritants and sensitizers to the skin. The vapors from the methyl ethyl ketone peroxide may be harmful if inhaled.

(2) The creme hardener or the liquid hardener must be combined with the putty to make the plastic metal mender and when this is done the product resulting therefrom may cause itching or skin irritation, may be injurious when the vapors from the liquid hardener are inhaled and is not safe or nontoxic under all conditions of use.

Therefore the statements and representation set forth in paragraph 4 were, and are false, misleading and deceptive.

PAR. 7. The benzoyl peroxide contained in the creme hardener may through prolonged or repeated contact with the skin irritate or sensitize the skin and, therefore, in case of contact should be flushed from the skin. Because it contains benzoyl peroxide, the creme hardener is toxic if taken internally and, therefore, should be kept out of reach of children. If the creme hardener is ingested, vomiting should be induced and a physician consulted. Because it contains benzoyl peroxide the creme hardener may be flammable if coming in contact with heat or flame. The label on the respondents' creme hardener is misleading in that it fails to reveal these material facts with respect to the consequences which may result from the use of said product as directed on the label for the putty and with respect to the conditions of storage of the creme hardener.

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

menders of the same general kind and nature as that sold by respondents.

PAR. 9. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices and failure to warn the purchasing public on the labels of the product of the dangers attendant to the use of the product have had, and now have, 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 that there is no danger in use of the product and into the purchase of substantial quantities of respondents' product by reason of said erroneous and mistaken beliefs.

PAR. 10. The aforesaid acts and practices of respondents, as herein alleged, were, and are, all to the prejudice and injury of the public and of the 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 Federal Trade Commission having initiated an investigation of certain acts and practices of the corporation named above, and the respondents named in the caption hereof having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the respondents with violation of the Federal Trade Commission Act; 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 aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondents that the law has been violated as alleged in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having reason to believe that the respondents have violated the Federal Trade Commission Act, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings and enters the following order:

1. Respondent, Fibre Glass-Evercoat Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws

of the State of Ohio, with its office and principal place of business located at 8500 Blue Ash Road, in the city of Cincinnati, State of Ohio.

Respondents, Joseph Linder and Carl Friedman are officers of said corporation and John Fielman and Cecil Wilson are sales managers for said corporation and their address is the same as that of the 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 respondent Fibre Glass-Evercoat Company, Inc., a corporation, and its officers, and respondents Joseph Linder and Carl Friedman, individually and as officers of said corporation, and John Fielman and Cecil Wilson, individually, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of a plastic metal mender designated "Ever-Flex," or any other product of similar composition or possessing substantially similar properties, under whatever name sold, do forthwith cease and desist from:

1. Representing, directly or by implication, that the creme hardener or the liquid hardener or the plastic metal mender is nontoxic or safe or will not cause itching or skin irritation.

2. Using a label on the container for the creme hardener which does not set forth in a clear and conspicuous manner the following statements:

"CAUTION: Keep away from heat or flame. Keep out of reach of children. If taken internally, induce vomiting; consult physician. Avoid prolonged or repeated contact with skin. In case of contact, flush skin with water."

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

61 F.T.C.

IN THE MATTER OF

LEIFER-LEVITT, INC., ET AL.

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

Docket C-221. Complaint, Sept. 11, 1962—Decision, Sept. 11, 1962

Consent order requiring manufacturing furriers in New York City to cease violating the Fur Products Labeling Act by labeling and invoicing as "natural," fur products which were artificially colored, and failing to show on labels and invoices when they were bleached or dyed; and by furnishing false guaranties with respect to certain of their fur products by representing falsely in writing that they had a continuing guaranty on file with the Commission.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Leifer-Levitt, Inc., a corporation, and Abe Leifer and Samuel Levitt, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of such Acts and the Rules and Regulations promulgated under the Fur 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. Leifer-Levitt, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Individual respondents Abe Leifer and Samuel Levitt are officers of the said corporate respondent and control, direct and formulate the acts, practices and policies of said corporate respondent.

Respondents are manufacturers of fur products and have their office and principal place of business at 350 Seventh Avenue, New York, N.Y.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondents have been and are now engaged in the introduction into commerce, and in the manufacture for introduction into commerce, and in the sale, advertising and offering for sale, in commerce, and in the transportation and distribution, in commerce, of fur products; and have manufactured for sale, sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of fur which had been shipped and