

IN THE MATTER OF
MALBORO IMPORT CORPORATION ET AL.

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

Docket C-297. Complaint, Jan. 10, 1963—Decision, Jan. 10, 1963

Consent order requiring a New York City importer of stainless steel and chrome plated steel tableware with the word "Japan" printed in small letters on each piece, to cease selling its products packed in sealed retail display packages or boxes containing a five-piece table setting, or a set, with no disclosure thereon that the products were imported from Japan; and to cease using the statement "Never Stains", on the front of the packages, when in fact the table was not impervious to discoloration.

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 Malboro Import Corporation, a corporation, and Peter C. Reiman and Alfred Ginsburg, 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 Malboro Import 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 310 Fifth Avenue, New York, N.Y.

Respondents Peter C. Reiman and Alfred Ginsberg are individuals and officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent including those 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 importing, offering for sale, sale and distribution of stainless steel and chrome plated steel tableware 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. Respondents import their stainless steel and chrome plated steel flatware from Japan. Prior to distribution respondents cause all said imported articles to be packed in retail display packages and in boxes. The packages contain a five-piece table setting and have a clear front and opaque back. At no place on the package is the fact disclosed that respondents' products are imported from Japan. The backs of the packages are sealed by gummed stickers bearing the statement, "Devon Steelsmiths, 310 Fifth Avenue, New York 1, N.Y." On the back of each utensil within the sealed package, the word "Japan" is printed in small and inconspicuous letters. As a result, any identification of the origin of the merchandise is not visible prior to purchase except by damaging or destroying the package and closely examining the contents thereof.

Respondents also sell sets of tableware which are packaged in boxes. At no place on said boxes is the fact disclosed that respondent's products are imported from Japan. On the back of each utensil within the boxes, the word "Japan" is printed in small and inconspicuous letters so that the public is not likely to be informed of the country of origin of said imported merchandise.

PAR. 5. In the absence of an adequate disclosure that a product, including stainless steel and chrome plated steel tableware 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 to clearly and conspicuously disclose the country of origin of said articles of merchandise is, therefore, to the prejudice of the purchasing public.

PAR. 6. On the front of the packages described in Paragraph 4 above appears the statement "Never Stains". By the use of this statement respondents have represented that the utensils contained in said packages are impervious to the formation of any discoloration and will remain so forever.

PAR. 7. In truth and in fact respondents' chrome plated steel tableware is not impervious to the formation of discolorations and will stain.

The representation contained in Paragraph 6 above is, therefore, false, misleading and deceptive.

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 engaged in the sale of tableware of the same general kind and nature as that sold by respondents.

PAR. 9. The use of 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 statements and representations were and are true, and that their products are of domestic origin and into the purchase of substantial quantities of respondents' products 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(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:

1. Respondent Malboro Import 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 310 Fifth Avenue, in the city of New York, State of New York.

Respondents Peter C. Reiman and Alfred Ginsberg 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 the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Malboro Import Corporation, a corporation, and its officers, and Peter C. Reiman and Alfred Ginsberg, 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 stainless steel and chrome plated steel tableware, or 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 or in any other manner that products manufactured in

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Japan or any other foreign country are manufactured in the United States.

2. Offering for sale, selling or distributing any product manufactured or assembled in whole or in part in Japan or in any other foreign country, without affirmatively and clearly disclosing on the product itself the country of origin thereof and, if any product should be packaged in a manner which would cause the mark identifying the country of origin to be not readily visible, without clearly disclosing the country of origin on the front or face of the package or container thereof.

3. Representing that their chrome plated steel tableware never stains or otherwise representing, directly or by implication, that such tableware is impervious to the formation of stains.

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.
