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Complaint

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.

IN THE MATTER OFWHITING SALES COMPANY, INC., TRADING AS WHITING
MANUFACTURING COMPANY ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-492. Complaint, Apr. 17, 1963—Decision, Apr. 17, 1963

Consent order requiring Cincinnati distributors to jobbers, retailers, and dealers of pillows filled with various kinds of feathers and down, to cease such unfair practices as stating falsely on affixed tags that their "White Star" style pillows contained "ALL NEW MATERIAL CONSISTING OF WHITE DOWN".

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 Whiting Sales Company, Inc., a corporation, also trading as Whiting Manufacturing Company, and C. Ross Whiting, Joseph R. Godar, Kathleen Zink and Kathryn Whiting, 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 Whiting Sales Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, also trading as Whiting Manufacturing Company, with its principal office and place of business located at 9701 Kenwood Road, the city of Cincinnati 42, State of Ohio.

Respondents C. Ross Whiting, Joseph R. Godar, Kathleen Zink and Kathryn Whiting are 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 advertising, offering for sale, sale and distribution of

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pillows filled with various kinds of feathers and down 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 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 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 aforesaid business, and for the purpose of inducing the purchase of their pillows, the respondents have made numerous statements on tags or labels which they have caused to be affixed or attached to their pillows purporting to state and set out the kinds or types and proportions thereof of filling material contained therein. Typical by way of illustration, but not limitation, of the statements appearing on the tags or labels of respondents' pillows which respondents describe as their "White Star" style pillow are the following:

ALL NEW MATERIAL CONSISTING OF WHITE DOWN

PAR. 5. By and through the use of the above-quoted statement, and others of similar import not specifically set out herein, the respondents have represented, directly or by implication, that the material with which the said pillows were filled, consisted in its entirety of new down.

PAR. 6. In truth and in fact, while the filling material in respondents' pillows is new, respondents' said "White Star" pillows contain substantially less than 100% down. Respondents' said "White Star" pillows contain substantial quantities of filling materials other than down.

Therefore, the statements and representations set forth in Paragraphs 4 and 5 hereof were and are false, misleading and deceptive.

PAR. 7. By the aforesaid practices, respondents place in the hands of jobbers, retailers and dealers, means and instrumentalities by and through which they may mislead the public with respect to the kinds or types and proportions of the material with which respondents' pillows are filled.

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 feather and down products 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 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 into the purchase of substantial quantities of respondents' product by reason of said erroneous and mistaken belief.

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 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 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 Whiting Sales 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 9701 Kenwood Road, in the city of Cincinnati, State of Ohio.

Respondents C. Ross Whiting, Joseph R. Godar, Kathleen Zink and Kathryn Whiting 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.

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ORDER

It is ordered, That respondents Whiting Sales Company, Inc., a corporation, also trading as Whiting Manufacturing Company or any other name or names, and its officers, and C. Ross Whiting, Joseph R. Godar, Kathleen Zink and Kathryn Whiting, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of feather and down products or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Misrepresenting, in any manner, or by any means, directly or by implication, the identity of the kind or type of filling material contained in any such products, or of the kinds or types, and proportions of each, when the filling material is a mixture of more than one kind or type.

2. Place in the hands of jobbers, retailers, dealers, and others, means and instrumentalities by and through which they may deceive and mislead the purchasing public concerning any merchandise in the respects set out above.

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.

IN THE MATTER OF

SAFEWAY STORES, INCORPORATED