

It is further ordered, That each respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Commissioner Anderson concurring in the result.

IN THE MATTER OF
EMIL BRAUDE & SONS, INC., ET AL.

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

Docket C-496. Complaint, May 7, 1963—Decision, May 7, 1963

Consent order requiring Chicago distributors of watches, jewelry, etc., to retailers to cease representing falsely, in catalogs and by stamping on the dials and backs, that their "Grant" watches were "SHOCK PROTECTED" and "SHOCKPROOF"; and to cease selling watch cases having bezels of base metal treated to simulate gold or plated with a gold alloy of ten karat fineness, without disclosing the true metal composition.

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 Emil Braude & Sons, Inc., a corporation, and Benjamin Braude, Stuart Braude, Kenneth Braude and Abraham S. Braude, 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 Emil Braude & Sons, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 10 South Wabash Avenue, in the city of Chicago, State of Illinois.

Respondents Benjamin Braude, Stuart Braude, Kenneth Braude and Abraham S. Braude 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 watches, jewelry, and other articles of merchandise 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 merchandise, when sold, to be shipped from their place of business in the State of Illinois 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 merchandise 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 "Grant" watches, respondents have advertised certain of said watches in their catalogs and have stamped on the dials and on the backs of certain of said watches, the terms "SHOCK PROTECTED" and "SHOCKPROOF".

Through the use of the aforesaid statements and representations, respondents represent that the entire watch is protected against damage from any type or amount of shock.

PAR. 5. In truth and in fact, the entire watch is not protected against damage from any type or amount of shock. Therefore, the statements and representations as set forth in Paragraph 4 hereof were and are false, misleading and deceptive.

PAR. 6. Certain of the watches offered for sale and sold by respondents consist of two parts, that is, a back and a bezel. The backs of certain of said watches have the appearance of base metal and are marked "BASE METAL". The bezels are composed of base metal, that is, aluminum, which has been treated or processed to simulate or have the appearance of precious metal, that is, gold or gold alloy. Said watch cases are not marked to disclose the true metal composition of the bezels, or to disclose that the bezels are composed of base metal.

PAR. 7. Respondents' practice of offering for sale and selling watches, the cases of which incorporate bezels composed of base metal which have been treated or processed to simulate or have the appearance of precious metal as aforesaid in Paragraph 6, without disclosing the true metal composition of said bezels, is misleading and deceptive and has a tendency and capacity to lead members of the purchasing public to believe that the said bezels are composed of precious metal.

PAR. 8. Certain of the watches offered for sale and sold by respondents have cases which incorporate bezels plated with an alloy of gold of ten karat fineness. The backs of certain said watch cases are composed of white base metal. Said watch cases are not marked to disclose the true metal composition of the bezels, or to disclose that said bezels are

plated, or the degree of karat fineness of the gold alloy employed in the plating.

The bezels of said watch cases have the appearance of being solid gold of twenty-four karat fineness, or gold filled, or gold plated with an alloy of gold which is in excess of ten karat fineness.

PAR. 9. Respondents' practice of offering for sale and selling watches, the cases of which incorporate bezels plated with an alloy of gold of ten karat fineness, as aforesaid in Paragraph 8, without disclosing the true metal composition of said bezels, and without disclosing that said bezels are plated with gold alloy of ten karat fineness, is misleading and deceptive and has a tendency and capacity to lead members of the purchasing public to believe that said bezels are composed of solid gold of twenty-four karat fineness, or that said bezels are gold filled, or gold plated with an alloy of gold which is in excess of ten karat fineness.

PAR. 10. By the aforesaid practices, respondents place in the hands of others means and instrumentalities by and through which they may mislead the public as to the metallic content and the shockproof and shock protected character of their watches.

PAR. 11. 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 watches of the same general kind and nature as those sold by respondents.

PAR. 12. 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' products by reason of said erroneous and mistaken belief.

PAR. 13. 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 Emil Braude & Sons, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 10 South Wabash Avenue, in the city of Chicago, State of Illinois.

Respondents Benjamin Braude, Stuart Braude, Kenneth Braude and Abraham S. Braude 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, Emil Braude & Sons, Inc., a corporation, and its officers, and Benjamin Braude, Stuart Braude, Kenneth Braude and Abraham S. Braude, 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 watches, or any other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that their watches are shockproof or shock protected.

2. Offering for sale or selling watches, the cases of which are composed in whole or in part of base metal which has been treated or processed to simulate or have the appearance of precious metal, without clearly and conspicuously disclosing by mark legibly stamped, embossed, or engraved into the metal on the outside of the case, the true metal composition of such treated cases or parts.

3. Offering for sale or selling watches, the cases of which are composed in whole or in part of precious metal, without clearly

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and conspicuously disclosing by mark legibly stamped, embossed, or engraved into the metal on the outside of the case:

- (a) the kind of precious metal composition, and
- (b) if less than solid gold of twenty-four karat fineness, the kind of process employed to apply the gold or gold alloy to the case or part, and
- (c) the karat fineness of the gold or gold alloy used in the process.

4. Misrepresenting, in any manner, the true metal composition of watch cases or parts thereof.

5. Placing any means or instrumentalities in the hands of others whereby they may mislead and deceive the purchasing public as to the metallic content or the shockproof or shock protected character of their products.

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.