
IN THE MATTER OF
FULLER TOOL CO., INC., ET AL.

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

Docket C-499. Complaint, May 17, 1963—Decision, May 17, 1963

Consent order requiring Whitestone, N.Y., importers of a complete line of hand tools manufactured in foreign countries, including Japan, England, Holland, Italy and Portugal, to cease selling the tools so packaged or otherwise assembled as to obscure or conceal the mark of foreign origin, thus failing to give the public adequate notice that the tools were not made in the United States; to cease using in catalog advertisements of hand tools and on tool packages such statements as "Guaranteed", "Unconditionally guaranteed", etc., when the guarantees contained limitations; and to cease representing falsely that their hammer was "100% drop forged" when only the head was drop forged.

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 Fuller Tool Co., Inc., a corporation, and Bernard Fuller, Harrison Fuller, John W. Weil, and Lillian Sasanow, 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 Fuller Tool Co., Inc., 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 152-35 Tenth Avenue, Whitestone, New York.

Respondents Bernard Fuller, Harrison Fuller, John W. Weil and Lillian Sasanow 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 importation, advertising, offering for sale, sale and distribution of a complete line of hand tools, including but not limited to wrenches, pliers, hammers, and screw drivers. Respondents sell their tools primarily to wholesalers and jobbers who in turn sell to others 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. Certain of the hand tools sold and distributed by respondents are manufactured in and imported from foreign countries, including Japan, England, Holland, Italy and Portugal. Certain of said tools are packaged in plastic pouches and others are packaged in cardboard boxes. In some instances, said foreign-made tools are so packaged or otherwise assembled so as to obscure or conceal the mark of foreign origin, in which case there is not adequate notice to the public that such tools are not made in the United States.

PAR. 5. In the absence of an adequate disclosure that a product, including hand tools, is of foreign origin, the public believes and under-

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stands 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. Through the aforesaid practices, respondents place in the hands of others the means and instrumentalities by and through which they may mislead the public as to the country of origin of said tools.

PAR. 7. In their catalog advertisements of hand tools and on their tool packages respondents have used such statements as "Guaranteed", "Unconditionally guaranteed" and "Fully guaranteed", thereby representing that said products are guaranteed in every respect.

PAR. 8. In truth and in fact, said guarantees contain limitations and respondents fail to set forth the nature and extent of the guarantee, the manner in which the guarantor will perform and the identity of the guarantor. Therefore, the quoted statements in Paragraph 7 are false, misleading and deceptive.

PAR. 9. In the course and conduct of their business, respondents have made the representation that their hammer is "100% drop forged", thereby representing that the entire hammer is drop forged.

PAR. 10. In truth and in fact, only the head of the hammer is drop forged. The metal handle of the hammer is not drop forged. Therefore, said statement that respondents' hammer is "100% drop forged" is false, misleading and deceptive.

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 hand tools of the same general kind and nature as those sold by respondents.

PAR. 12. 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 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 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

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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 Fuller Tool Co., Inc., 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 152-35 Tenth Avenue, Whitestone, New York.

Respondents Bernard Fuller, Harrison Fuller, John W. Weil, and Lillian Sasanow 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, Fuller Tool Co., Inc., a corporation, and its officers, and Bernard Fuller, Harrison Fuller, John W. Weil, and Lillian Sasanow, 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 or distribution of hand tools, or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Offering for sale, selling or distributing any product which is in whole or in part of foreign origin without clearly and con-

spicuously disclosing on such product the country of origin thereof, and if said product is enclosed in a package or container or mounted on a card, without also clearly and conspicuously disclosing on such package, container or card the country of origin of such product, in such manner as to be readily visible on or through the front of any package or container in which the product is to be displayed for consumer resale, and in such manner as to be readily visible on the front or face of any card on which said product is mounted for such resale;

2. Placing in the hands of others any means or instrumentalities by or through which they may mislead the public as to the country or place of origin of respondents' products;

3. Representing, directly or by implication, that any of respondents' products are guaranteed unless the nature and extent of the guarantee, the identity of the guarantor, and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

4. Representing that any of respondents' products, including hammers, are "100% drop forged", unless all the metal in such products has been so processed; or otherwise misrepresenting the composition of their products or the method by which they have been processed.

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

BERKELEY'S OF FRESNO, INC., ET AL.