

Complaint

63 F.T.C.

IN THE MATTER OF
BERLEKAMP CORPORATION ET AL.

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

Docket C-534. Complaint, Aug. 2, 1963—Decision, Aug. 2, 1963

Consent order requiring Fremont, Ohio, distributors of advertising signs and advertising specialties, to cease representing falsely, by affixing union labels thereto, that such products were manufactured by union labor.

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 Berlekamp Corporation, a corporation, and Kenneth I. Berlekamp, individually and as an officer 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 Berlekamp Corporation 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 1304 Sycamore Street, in the city of Fremont, State of Ohio.

Respondent Kenneth I. Berlekamp is president of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His 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 advertising signs and advertising specialties.

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 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 products 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 advertising signs and advertising specialties, respondents have affixed, and caused to be affixed, a union label to their advertising signs and advertising specialties offered for sale, sold and distributed by them. Said union label* is in words and figure as follows:

LOCAL NO. 56
AMALGAMATED
UNION LITHOGRAPHERS LABEL
OF AMERICA
TOLEDO

PAR. 5. By and through the use of the aforesaid union label, the respondents represented, directly or by implication, that the products bearing such label were manufactured and produced in a place where union labor performed the manufacturing and producing operations on such products.

PAR. 6. In truth and in fact, such products bearing such union label were not manufactured and produced in a place where union labor performed the manufacturing and producing operations on such products.

Therefore the statement and representation as set forth in Paragraphs 4 and 5 hereof was and is false, misleading and deceptive.

PAR. 7. 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 advertising signs and advertising specialties of the same general kind and nature as that sold by respondents.

PAR. 8. 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. 9. 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.

*Pictorial figure is omitted in printing.

Decision and Order

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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 Berlekamp Corporation 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 1304 Sycamore Street, in the city of Fremont, State of Ohio.

Respondent Kenneth I. Berlekamp is an officer of said corporation, and his 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 Berlekamp Corporation, a corporation, and its officers, and Kenneth I. Berlekamp, individually and as an officer 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 advertising signs and advertising specialties or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Affixing, or causing to be affixed, a union label to the advertising signs and advertising specialties or other products offered for sale, sold and distributed by them unless such products have in fact been manufactured and produced

in a place where union labor performed the manufacturing and producing operations on such products.

2. Representing, directly or by implication, that a product has been, or will be made by union labor when such product has not been, or will not be, made by union labor.

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.
