

prices of respondents' fur products are reduced.

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
NATIONAL CELLULOSE INSULATION MANUFACTURERS
ASSOCIATION, INC., ET AL.

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

Docket C-594. Complaint, Sept. 20, 1963—Decision, Sept. 20, 1963

Consent order requiring a trade association of manufacturers of cellulose insulation and four corporate members in the States of Ohio, Indiana, Wisconsin, and Minnesota, to cease representing falsely—as they did in brochures distributed to dealers, institutions, etc.—that tests by independent laboratories established the greater efficiency of their insulation over others; that their product would eliminate possibility of settling, moisture and paint failure problems; and that it was a more effective protection against fire than mineral or glass fiber materials.

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 National Cellulose Insulation Manufacturers Association, Inc., a corporation; Electra Manufacturing Corp., a corporation; Hagan Mfg. Company, a corporation; Oren Corporation, a corporation; and Pal-O-Pak Insu-

Complaint

63 F.T.C.

lation Co., Inc., a 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 National Cellulose Insulation Manufacturers Association, Inc. (hereinafter NCIMA), is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its principal place of business in the city of Delphos, State of Ohio.

Respondent Electra Manufacturing Corp. (hereinafter Electra) is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its principal place of business located at 2244 Tedrow Street in the city of Toledo, State of Ohio.

Respondent Hagan Mfg. Company (hereinafter Hagan) is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its principal place of business located at 101 South Main Street, in the city of Delphos, State of Ohio.

Respondent Oren Corporation (hereinafter Oren) is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana, with its principal place of business located at 2917 West Jackson, in the city of Muncie, State of Indiana.

Respondent Pal-O-Pak Insulation Co., Inc. (hereinafter Pal-O-Pak), is a corporation organized, existing and doing business under and by virtue of the laws of the State of Wisconsin, with its principal place of business located at 135 Cottonwood Avenue, in the city of Hartland, State of Wisconsin.

PAR. 2. Respondent NCIMA, a not for profit corporation, is a trade association of manufacturers of cellulose insulation.

Respondents Electra, Hagan, Oren, and Pal-O-Pak are members of NCIMA.

Respondents Electra, Hagan, Oren and Pal-O-Pak are now, and for a number of years last past have been, engaged in the advertising, offering for sale, sale and distribution of cellulose insulation to distributors for resale to the public.

PAR. 3. In the course and conduct of their businesses. Electra, Hagan, Oren, and Pal-O-Pak now cause: and for some time past have caused, their said products, when sold, to be shipped from their respective places of business (Electra in the State of Ohio, Hagan

in the State of Ohio, Oren in the State of Indiana, and Pal-O-Pak in the States of Wisconsin and Minnesota) to purchasers in 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 as aforesaid, and for the purpose of inducing the purchase of cellulose in commerce, as "commerce" is defined in the Federal Trade Commission Act, respondents caused to be prepared by NCIMA and NCIMA did prepare an advertising brochure entitled "Comfort—Safety—Economy." This brochure was distributed to the respondent members of NCIMA, who caused the said brochures to be distributed to dealers, distributors, architects, utilities, designers and similar institutional groups, for the purpose of inducing the purchase of cellulose insulation.

Among and typical, but not all inclusive of the representations caused to be published, are the following:

Cellulose fiber insulation is 15 to 20 percent more efficient than any other insulation; and this fact is proven by independent laboratory tests.

This eliminates the possibility of settling, moisture and paint failure problems. Properly manufactured, cellulose fiber insulation has a permanent fire retardant quality covering its own non-combustibility. In addition, it will not support combustion. Other commonly known types of insulation melt under the heat of fire conditions.

Cellulose insulation, due to its greater efficiency, will provide more economy inch for inch than mineral or glass fiber materials.

PAR. 5. By and through the use of such statements appearing in the aforesaid brochure and others of similar import not specifically set out herein, respondents represented, directly or by implication:

1. That respondents have had tests conducted on all insulations by independent laboratories.

2. That cellulose fiber insulation will eliminate the possibility of moisture and paint failure problems.

3. That cellulose fiber insulation would be effective protection against a fire under temperatures that would melt other commonly known types of insulation.

4. Efficiency alone determines the economy of cellulose insulation when compared with mineral or glass fiber materials.

PAR. 6. In truth and in fact:

- (1) Respondents have not had tests conducted on all insulation by independent laboratories.

Decision and Order

63 F.T.C.

(2) Cellulose fiber insulation will not eliminate the possibility of settling, moisture, and paint failure problems.

(3) Structures insulated by cellulose fiber insulation would be destroyed at temperatures that would melt other commonly known types of insulation.

(4) Efficiency alone does not determine the economy of cellulose insulation when compared with mineral or glass fiber materials.

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 insulating materials whose use is the same general kind and nature as that sold by respondents.

PAR. 8. 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' product 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.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondents that the law has been violated as alleged in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having reason to believe that the respondents have violated the Federal Trade Commission Act, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings and enters the following order:

1. Respondent National Cellulose Insulation Manufacturers Association, 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 Delphos, Ohio.

Respondent Electra Manufacturing Corp. 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 2244 Tedrow Street, Toledo, Ohio.

Respondent Hagan Mfg. Company 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 101 South Main Street, Delphos, Ohio.

Respondent Oren Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana, with its office and principal place of business located at 2917 West Jackson, Muncie, Indiana.

Respondent Pal-O-Pak Insulation Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Wisconsin, with its office and principal place of business located at 135 Cottonwood Avenue, Hartland, Wisconsin.

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 National Cellulose Insulation Manufacturers Association, Inc., a corporation; Electra Manufacturing Corp., a corporation; Hagan Mfg. Company, a corporation; Oren Corporation, a corporation; and Pal-O-Pak Insulation Co., Inc., a 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 cellulose insulation, in commerce, as "commerce" is defined in the Federal Trade Commission Act do forthwith cease and desist from:

Representing, directly or by implication, that:

1. Cellulose fiber insulation has been approved by independent laboratory tests as more efficient than other insu-

Complaint

63 F.T.C.

lations unless specific findings to the extent represented have been made by an independent laboratory.

2. Cellulose fiber insulation will eliminate the possibility of settling, moisture or paint failure problems.

3. Cellulose fiber insulation will provide effective fire protection at temperatures that would melt other commonly known types of insulation.

4. Efficiency alone determines the economy of cellulose insulation when compared with mineral or glass fiber materials.

It is further ordered, That each of the respondents herein shall, within sixty (60) days after service upon them of this order, file