

Complaint

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IN THE MATTER OF

JOSEPH LAUFER TRADING AS LACO SUPPLY COMPANY

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-623. Complaint, Nov. 29, 1963—Decision, Nov. 29, 1963*

Consent order requiring a Los Angeles distributor of tools and drills to retailers, to cease misrepresenting, on packages in which said products were sold, the comparative price, quality, composition and superiority to competitive products of its 29-piece drill set.

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 Joseph Laufer, trading as Laco Supply Company, hereinafter referred to as respondent, has 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 Joseph Laufer is an individual trading and doing business as Laco Supply Company with his office and principal place of business located at 7716 Melrose Avenue, Los Angeles, California.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the offering for sale, sale and distribution of various kinds of tools and drills, including a twenty-nine piece drill set in which the individual drills are packaged in a cardboard container, to retailers for resale to the public.

PAR. 3. In the course and conduct of his business, respondent now causes, and for some time last past has caused, his said merchandise, when sold, to be shipped from the State of California to purchasers thereof located in various other States of the United States and maintains, and at all times mentioned herein has maintained, a substantial course of trade in said merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondent, for the purpose of inducing the sale of his merchandise, has made certain statements and representations on the package in which said drill sets are sold, of which the following are typical:

High Speed Drills * * * \$42.50 value

Finest high temper Chromium-Vanadium-Gun Metal, for use on steel, aluminum, brass, etc. * * * Hardened by a new process to improve wear

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resistance which increases the efficiency and cutting capacity * * * 10 to 15 times * * *

SUPER SPEED DRILLS

PAR. 5. Through the use of the aforesaid statements, respondent has represented, directly or by implication:

1. That a product of like grade and quality is usually and regularly sold at retail in the trade area or areas where the representation is made at a price of \$42.50, and that purchasers of respondent's product would realize a saving of the difference between this price and the generally prevailing retail price, which is substantially less.

2. That said drills are high-speed drills and are composed of high-speed steel.

3. That said drills contain significant amounts of chromium and vanadium.

4. That said drills are suitable for use on steel.

5. That said drills have been hardened so as to increase the efficiency and cutting capacity ten to fifteen times that of ordinary high speed drills.

PAR. 6. In truth and in fact:

1. A product of like grade and quality is not usually and customarily sold at retail in the trade area or areas where the representation is made at a price of \$42.50, and purchasers of respondent's product would not realize a saving of the difference between the said higher and lower price amounts.

2. Said drills are not high-speed drills and are not composed of high-speed steel. In fact, said drills are composed of carbon steel.

3. Said drills do not contain significant amounts of chromium or vanadium.

4. Said drills are not suitable for use on steel.

5. Said drills have not been hardened so as to increase the efficiency and cutting capacity 10 to 15 times that of ordinary high speed drills.

Therefore, the statements and representations referred to in Paragraphs 4 and 5 were and are false, misleading and deceptive.

PAR. 7. Respondent, by and through the use of the aforesaid acts and practices, places in the hands of jobbers, retailers and dealers the means and instrumentalities by and through which they may mislead the public in the manner herein alleged.

PAR. 8. In the conduct of his business and at all times mentioned herein, respondent has been in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of articles of merchandise of the same general kind and nature as those sold by respondent.

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PAR. 9. The use by respondent of the aforesaid false, misleading and deceptive statements, claims and representations, 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, claims and representations were and are true and into the purchase of substantial quantities of respondent's products by reason of said erroneous and mistaken belief.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereof with violation of the Federal Trade Commission Act, and the respondent 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 respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondent 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 respondent 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 Joseph Laufer is an individual trading and doing business as Laco Supply Company with his office and principal place of business located at 7716 Melrose Avenue, in the City of Los Angeles, State of California.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

It is ordered. That respondent Joseph Laufer, an individual, trading as Laco Supply Company, or under any other trade name or names, and his agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of tools, drills, drill sets or any other

products, 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:
 - a. His product is of a value comparable to any other product retailing at a higher price unless the merchandise to which his product is compared is at least of like grade and quality in all material respects and is generally available for purchase at the comparative price in the same trade area, or areas, where the claim is made.
 - b. Drills made of carbon steel are high-speed drills or super-speed drills or are composed of high-speed steel.
 - c. Drills made of carbon steel are made of chromium-vanadium steel or contain significant amounts of chromium or vanadium.
 - d. Drills made of carbon steel are suitable for use on steel.
 - e. Drills have been hardened or otherwise manufactured so as to increase their efficiency or cutting capacity beyond the actual efficiency or cutting capacity of said drills.
2. Misrepresenting in any manner the composition, quality, characteristics or performance of any tools, drills, drill sets or related products.
3. Furnishing or otherwise placing in the hands of retailers and others the means and instrumentalities by and through which they may mislead or deceive the public in the manner or as to the things hereinabove prohibited.

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