

IN THE MATTER OF
GENERAL RECREATION INDUSTRIES, INC., ET AL.

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

Docket C-631. Complaint, Dec. 11, 1963—Decision, Dec. 11, 1963

Consent order requiring Minneapolis, Minn., manufacturers of sleeping bags to cease attaching fictitious price labels to their sleeping bags, and distributing to retailers and others catalogs containing excessive "list prices", represented thereby as usual retail selling prices; and misrepresenting the size of the bags by giving, on attached labels and in catalogs, the "cut size", which was larger than the actual size.

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 General Recreation

Complaint

63 F.T.C.

Industries, Inc., a corporation, and Morton G. Brown, Emanuel M. Green, Myron B. Green, Sol Kronick and Herschal Wolpert, 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 General Recreation Industries, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Minnesota with its principal office and place of business located at 29 Main Street, S.E., Minneapolis 14, Minnesota.

Respondents Morton G. Brown, Emanuel M. Green, Myron B. Green, Sol Kronick and Herschal Wolpert 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 manufacturing, advertising, offering for sale, sale and distribution of sleeping bags 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 products, when sold, to be shipped from their place of business in the State of Minnesota 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. Respondents, for the purpose of inducing the purchase of their products, have engaged in the practice of using fictitious prices in connection therewith, and misrepresenting the size of said products, by various methods and means, typical but not all inclusive of which are the following:

(a) By attaching, or causing to be attached tickets or tags to their said sleeping bags upon which a certain amount is printed and, by distributing, or causing to be distributed, to retailers, and others, catalogs describing, among other things, respondents' sleeping bags and containing a stated price of each, thereby representing, directly or by implication, that the amounts so stated are the usual and regular retail price of said sleeping bags. Among and typical of the

1687

Complaint

statements on the price tickets or tags attached thereto are the following:

\$11.50, \$13.95, \$15.95, \$19.95, \$21.95, \$29.95, \$34.50 and \$55.00

Among and typical of the statements in that connection contained in respondents' recent catalog are the following:

List Price: \$11.50,	List Price: \$34.00,
List Price: \$13.95,	List Price: \$34.50,
List Price: \$15.95,	List Price: \$36.95,
List Price: \$18.00,	List Price: \$37.50,
List Price: \$19.95,	List Price: \$38.95,
List Price: \$21.50,	List Price: \$39.50,
List Price: \$22.50,	List Price: \$40.75,
List Price: \$22.95,	List Price: \$42.00,
List Price: \$24.00,	List Price: \$42.50,
List Price: \$26.50,	List Price: \$44.00,
List Price: \$27.50,	List Price: \$45.00,
List Price: \$29.95,	List Price: \$48.75,
List Price: \$32.00,	List Price: \$55.00,
	List Price: \$60.50

In the manner aforesaid, through stating a specified price and also by using the word "List Price" followed by a specified price in their catalogs, and otherwise, respondents represented, and now represent, that said amounts were and are the prices at which the merchandise referred to were and are usually and customarily sold at retail.

In truth and in fact, the amounts stated on the tickets, tags or labels and those set out in connection with the word "List Price" in their catalogs, and otherwise, were not the prices at which the merchandise referred to was usually and customarily sold at retail in the trade areas where such representations were and are made, but are in excess of prices at which said merchandise generally sells at retail in some of the trade areas where the representations were and are made.

(b) By attaching, or causing to be attached, labels to their sleeping bags stating the "cut size" of the sleeping bags, which is larger than the actual size of the bag in question. Although the "approx. fin. size" followed by a listing of dimension therefor currently appears on labels being used and attached to said sleeping bags, the same does not appear in immediate conjunction with the wording "cut size". Further respondents list the "cut size" only in their catalogs describing their said sleeping bags and the dimensions listed therein are almost invariably larger than the actual size of the bag described. The term "cut size" when used in the manner alleged above, is confusing and tends to indicate that such description is the actual size of

Decision and Order

63 F.T.C.

the finished products. In the manner aforesaid respondents represent that the dimension of the sleeping bag following the words "cut size" is the actual size of the sleeping bag.

In truth and in fact the actual size of the finished product is smaller than the size set out on the label or in the catalog following the words "cut size".

Therefore, the statements and representations and acts and practices set forth above are false, misleading and deceptive.

PAR. 5. By the aforesaid statements, representations, acts and practices respondents place in the hands of the uninformed or unscrupulous retailers means and instrumentalities by and through which they may mislead the public as to the usual and regular price of and the size of said products.

PAR. 6. In the course and conduct of their said business, and at all times mentioned herein, respondents have been engaged in substantial competition in commerce with corporations, firms and individuals in the sale of products of the same general kind and nature as those sold by respondents.

PAR. 7. 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. 8. 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(a)(1) 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 General Recreation Industries, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its office and principal place of business located at 29 Main Street, S.E., in the City of Minneapolis 14, State of Minnesota.

Respondents Morton G. Brown, Emanuel M. Green, Myron B. Green, Sol Kronick and Herschal Wolpert 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 General Recreation Industries, Inc., a corporation, and its officers, Morton G. Brown, Emanuel M. Green, Myron B. Green, Sol Kronick and Herschal Wolpert, individually and as officers of said corporation, their agents, representatives and employees, directly or through any corporate or other device, in connection with the manufacture, offering for sale, sale or distribution of sleeping bags or other merchandise in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Advertising, labeling, representing in a catalog or otherwise representing the "cut", "cut size" or dimensions of material used in their construction, unless such representation is accompanied by a description of the finished or actual size, in immediate conjunction therewith with the latter description being given at least equal prominence;

2. Misrepresenting the size of such products on labels or in any other manner;

3. The act or practice of preticketing merchandise at an indicated retail price, when the indicated retail price is in excess of the generally prevailing retail price for such merchandise in the

Complaint

63 F.T.C.

trade area, or when there is no generally prevailing retail price for such merchandise in the trade area;

4. Furnishing to others any means or instrumentality by or through which the public may be misled as to the usual and regular retail price of, or the size of respondents' merchandise;

5. Putting any plan into operation through the use of which retailers or others may misrepresent the usual and regular retail price of, or the size of respondents' merchandise;

6. Using the term "list price" or any other words or terms of similar import, to refer to price of merchandise unless such amounts are the prices at which the merchandise is usually and customarily sold in the trade area in which such representations are made, or otherwise misrepresenting the usual and customary retail price or prices of respondents' merchandise in any trade area.

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.
