

It is further ordered, That the hearing examiner's initial decision to the extent that it is in conflict with the Commission's opinion accompanying its order of June 18, 1964, be, and it hereby is, modified and as modified is adopted as the decision of the Commission.

It is further ordered, That respondents 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 the order set forth herein.

IN THE MATTER OF

LEO LISKER TRADING AS ANTWERP DISTRIBUTORS,
ETC.

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

Docket C-764. Complaint, June 18, 1964—Decision, June 18, 1964

Consent order requiring an individual in New York City, engaged in the sale and distribution to retailers of set and unset diamonds which he imported or obtained from other New York City importers and wholesalers, to cease representing falsely in advertising and other promotional material and by use of his trade name that his company was organized and did business under the laws of Belgium and that he operated its New York branch and maintained an office in Antwerp from which he sold diamonds direct to retailers without incurring shipping costs or middleman's profit.

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 Leo Lisker, an individual, trading as Antwerp Distributors, and as Antwerp Distributors of Belgium, 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 Leo Lisker is an individual trading as Antwerp Distributors and as Antwerp Distributors of Belgium with his principal office and place of business located at 30 West 47th Street, in the city of New York, State of New York.

PAR. 2. Antwerp Distributors is the trade name registered by respondent Leo Lisker in the State of New York. Respondent is now, and for some time last past has been, engaged in the offering for sale, sale and distribution of set and unset diamonds to retailers and others located throughout the United States. Respondent obtains the majority of such diamonds from importers and wholesalers located in the city of New York; and the balance respondent imports himself or obtains from other sources.

PAR. 3. In the course and conduct of his business, respondent causes, and for some time last past has caused, said set and unset diamonds, when sold, to be shipped from his aforesaid place of business in the State of New York to retailers thereof located in various other States of the United States and in the District of Columbia, and maintains, and at all times mentioned herein has maintained, a substantial course of trade in said diamonds in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of respondent's business, and for the purpose of inducing the sale of said diamonds, respondent has made numerous statements and representations with respect to the location and nationality of respondent's business and the savings available. Such statements and representations have been made in advertisements sent through the mails to prospective customers and in other kinds of promotional material. Among and typical of the statements and representations contained in such advertisements, but not all inclusive thereof, are the following:

MONEY SAVING TIPS

Take advantage of the red carpet treatment you receive when you deal with Antwerp Distributors in New York. Let us show you how you can eliminate shipping expenses and unpleasant complications. You will be pleased with our rapid and reliable delivery. * * *

* * * * *

The New York Office of Antwerp Distributors has been established to offer the most convenient and economical way for you to select and buy the quality diamonds you need. By dealing with the New York Office of this internationally respected firm, you save the time and money you'd normally spend corresponding with Europe's diamond centers. You eliminate the middleman and his share of your profits, avoid prepayment of imported merchandise and cut through annoying red tape. Antwerp Distributors offers an outstanding selection of diamonds in a wide variety of grades and prices. * * *

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BUY DIRECT THROUGH antwerp distributors

ANTWERP OFFICE

78 Pelikaanstraat

Antwerp, Belgium

NEW YORK OFFICE

30 West 47th St.,

New York 36, N.Y.

Complaint

65 F.T.C.

During this Holiday Season you won't have to share your profit with a middleman. You won't have to put up with unreliable deliveries. You won't have to lose sales because of time consuming, long distance correspondence with overseas diamond centers. You won't because you can buy direct from the European market when you buy from Antwerp Distributors in New York. And you buy best when you buy direct . . . buy from Antwerp Distributors in New York.

HOW?—By selling direct. . . . Antwerp Distributors of New York is the New World office of the internationally respected firm, Antwerp Distributors of Belgium.

Want to save money? Want to pocket what you usually pay to a middleman? . . .

If this is what you want, then Antwerp Distributors of New York is the firm you are looking for. For Antwerp Distributors of N.Y. is the New World office of the internationally respected European firm of Antwerp Distributors of Belgium. . . .

PAR. 5. Through the use of the trade name Antwerp Distributors of Belgium and through the use of the aforesaid statements and representations, and others similar thereto but not specifically set forth herein, respondent has represented, directly or by implication, that:

(a) Antwerp Distributors of Belgium is a company organized, existing and doing business under the laws of Belgium.

(b) Antwerp Distributors is the New York office of a Belgian company.

(c) Respondent maintains an office at 78 Pelikaanstraat, Antwerp, Belgium, in which respondent conducts a substantial amount of business.

(d) Respondent sells and distributes from the European diamond market direct to retailers located in the United States without the use of any importer, wholesaler or other middleman.

(e) No shipping expenses are incurred in connection with the importation of respondent's diamonds into the United States of America; and the resulting savings are passed on to respondent's customers.

(f) No importer, wholesaler or other middleman earns or makes a profit on respondent's diamonds; and the resulting savings are passed on to respondent's customers.

PAR. 6. In truth and in fact:

(a) Antwerp Distributors of Belgium is not a company organized, existing and doing business under the laws of Belgium. In fact, such trade name is fictitious as such company does not exist.

(b) Antwerp Distributors is not the New York office of a Belgian company.

(c) Respondent does not maintain an office at 78 Pelikaanstraat, Antwerp, Belgium, in which respondent conducts a substantial amount of business.

(d) Respondent does not sell or distribute from the European diamond market direct to retailers located in the United States without the use of any importer, wholesaler or other middleman.

(e) Shipping expenses are incurred in connection with the importation of respondent's diamonds into the United States of America; and the savings claimed by respondent are not passed on to respondent's customers.

(f) An importer, wholesaler or other middleman does earn or make a profit on respondent's diamonds; and the savings claimed by respondent are not passed on to respondent's customers.

Said statements and representations were, and are, therefore, false, misleading and deceptive.

PAR. 7. In the course and 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 set and unset diamonds of the same general kind and nature as those sold by respondent.

PAR. 8. The use by the respondent 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 respondent's diamonds by reason of said erroneous and mistaken belief.

PAR. 9. The aforesaid acts and practices of the respondent, as herein alleged, were and are all to the prejudice and injury of the public and of respondent's 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 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 Leo Lisker is an individual trading as Antwerp Distributors and as Antwerp Distributors of Belgium with his principal office and place of business located at 30 West 47th Street, in the city of New York, State of New York.

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 Leo Lisker, an individual, trading as Antwerp Distributors, and as Antwerp Distributors of Belgium, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of set or unset diamonds in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "of Belgium" or any other word or words of similar import or meaning as part of respondent's trade or business name.

2. Representing, directly or by implication, that respondent is a Belgium or European business, firm or company; or misrepresenting, in any manner, the nationality or location of respondent's business.

3. Representing, directly or by implication, that respondent has an office in Antwerp, Belgium or at any other location or place outside of the United States of America; provided, however, that it shall be a defense in any enforcement proceeding instituted for violation hereof for respondent to establish affirmatively that respondent owns, operates or controls an office at such location or place wherein a substantial amount of respondent's business is conducted.

4. Representing, directly or by implication, that respondent sells or distributes from the European diamond market direct to retailers located in the United States or that respondent eliminates any importer, wholesaler, or other middleman from such transactions.

5. Using the words " * * * eliminate shipping expenses, * * * " or any other word or words of similar import or meaning; in advertising or in any other manner; or representing, directly or by implication, that purchasers from respondent save the amount of the shipping expenses incurred in connection with the importation of such diamonds.

6. Using the words " * * * eliminate the middleman and his share of your profits * * * " or any other words or word of similar import or meaning, in advertising or in any other manner; or representing, directly or by implication, that purchasers from respondent save the amount of profits made or earned by any importer, wholesaler or other middleman.

7. Falsely representing, directly or by implication, that any savings are available to purchasers of such diamonds; or misrepresenting, in any manner, directly or by implication, any savings available to purchasers of such diamonds.

It is further ordered, That the respondent herein shall, within