

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

Docket C-826. Complaint, Sept. 8, 1964—Decision, Sept. 8, 1964

Consent order requiring Chicago, Ill., distributors of watches and watchbands to cease and desist from selling watches of base metals with a precious metal veneer without disclosing their true metal composition, selling watches of foreign origin without proper disclosure, misrepresenting that their watches are "Shock Protected," misrepresenting the number of jewels therein, using

the term "Ruby Jewels" or any other term of similar meaning unless descriptive of natural ruby stones, and using the term "gold filled" or other words of similar import to describe watchbands unless the term is immediately preceded by the correct designation for the karat fineness.

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 The Clinton Watch Company, a corporation, and Irving L. Wein, 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 The Clinton Watch Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 1104 South Wabash Avenue, in the city of Chicago, State of Illinois.

Respondent Irving L. Wein is the president of the corporation 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 watches and watch bands to wholesalers and to retailers for resale to the public, under the trade names "Clinton," "Hampden," "Wolbrook" and "Douglas."

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their products, when sold, to be shipped from their place of business in the State of Illinois 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. The cases of certain of the watches offered for sale and sold by respondents consist of two parts, that is, a back and a bezel. The back part has the appearance of stainless steel and is marked "stainless steel back." The bezel is composed of base metal other than stainless steel which has been treated or processed to simulate or have

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the appearance of precious metal or stainless steel. Some of the bezels are finished in a color which simulates silver or silver alloy or stainless steel. Some of the bezels are finished in a color simulating gold or gold alloy. Said watch cases are not marked to disclose that the bezels are composed of base metal or metal other than stainless steel.

The practices of respondents in offering for sale and selling watches the cases of which incorporate bezels composed of base metal which have been treated or processed to simulate or have the appearance of precious metal or stainless steel, as aforesaid, without disclosing the true metal composition of said bezels, is misleading and deceptive and has a tendency and capacity to lead members of the purchasing public to believe that said bezels are composed of precious metal or stainless steel.

PAR. 5. The cases of certain of respondents' watches have bezels which have the appearance of being rolled gold plate, gold filled or solid gold, and respondents do not disclose that these bezels are composed of a stock of base metal to which has been electrolytically applied a flashing or coating of precious metal of a very thin and unsubstantial character. This practice is deceptive and confusing to the consuming public unless the thin and unsubstantial character of the flashing or coating is disclosed by an appropriate marking.

PAR. 6. The cases of certain of respondents' watches are imported from Hong Kong and France and this is not disclosed except by marking on the inside of the cases, which cannot be seen after the watch movements have been assembled into the cases. These watch cases house movements which are imported from Switzerland, and when delivered to respondents' customers for resale, the watches are marked "Swiss" on the dials.

In the absence of an adequate disclosure that the aforesaid watch cases are of Hong Kong or French origin, the public believes and understands that they are of domestic or Swiss origin, a fact of which the Commission takes official notice.

As to such watch cases, a substantial portion of the purchasing public has a preference for domestic or Swiss products, of which fact the Commission also takes official notice. Respondents' failure clearly and conspicuously to disclose the country or place of origin of said watch cases is, therefore, to the prejudice of the purchasing public.

PAR. 7. Certain of the watches offered for sale and sold by respondents are manufactured in and imported from West Germany. The watch movements and the inside of the cases are marked "Germany," but such markings are not visible after the watch movements have been assembled into the cases. The dials of these watches are marked

"Germany" in letters of minute size located below the numeral "6" at the extreme bottom of the dials, and such marking is not readily visible to the prospective consumer purchaser.

In the absence of an adequate disclosure that the aforesaid watches are of West German origin, the public believes and understands that they are of domestic or Swiss origin, a fact of which the Commission takes official notice.

As to such watches, a substantial portion of the purchasing public has a preference for domestic or Swiss products, of which fact the Commission also takes official notice. Respondents' failure clearly and conspicuously to disclose the country or place of origin of said watches is, therefore, to the prejudice of the purchasing public.

PAR. 8. In the course and conduct of their business, respondents have caused to have imprinted on the backs and on the dials of certain of their watches, and on tags affixed to certain of their watches, the words "Shock Protected."

Respondents thereby represent, directly or by implication, that the entire watch is protected against damage from any type or amount of shock.

PAR. 9. In truth and in fact, the entire watch is not protected against damage from any type or amount of shock. Therefore, the statement and representation as set forth in Paragraph Eight hereof was and is false, misleading and deceptive.

PAR. 10. Respondents sell watches containing 17 jewel movements made in and imported from Switzerland, to which movements are added synthetic stones. Respondents advertise said watches in catalog inserts and in other advertising material, and cause to be imprinted on said watches and on tags affixed to said watches, statements of which the following are typical and illustrative, but not all inclusive:

"110 JEWELS LIFETIME"

"CLINTON 110"

"110-Jewel Calendar"

The One Ten. Clinton's Finest! * * * Has 110 RUBY JEWELS * * *

By means of the above-quoted statements, and others of similar import and meaning not specifically set out herein, respondents represent, directly or by implication, that said watches contain 110 jewels, each of which serves a mechanical purpose as a frictional bearing, that is, each jewel provides a mechanical contact with a moving part at a point of wear, and that the jewels are natural rubies.

PAR. 11. In truth and in fact, the jewels added to the 17-jewel movements do not serve a mechanical purpose as frictional bearings, the

watches are not 110-jewel watches, but are 17-jewel watches, and the jewels added to said movements are not natural rubies, but are made of synthetic material. Therefore, the statements and representations as set forth in Paragraph Ten hereof were and are false, misleading and deceptive.

PAR. 12. Respondents disseminate catalog inserts upon which, among other things, appear the term "gold filled" in the body of the copy describing metallic watchbands. At the top or the bottom of the catalog insert, far removed from the term "gold filled," appears the following language, which is illustrative and not all inclusive:

Gold Filled Watch Bands—1/20-10K.

The practice of using the term "gold filled" without disclosing the karat fineness of the gold alloy of the metallic watchbands in immediate conjunction therewith, is deceptive and confusing to the consuming public.

PAR. 13. By and through the acts and practices hereinabove set forth, respondents place in the hands of retailers and others the means and instrumentalities whereby retailers and others may mislead the public as to the metal composition of their watch cases and watchbands; the country or place of origin of their watches and watch cases; the amount or degree that their watches are protected from shock; and the number and the composition of the jewels in their watches.

PAR. 14. 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 watches and watchbands of the same general kind and nature as those sold by respondents.

PAR. 15. 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' watches and watchbands by reason of said erroneous and mistaken belief.

PAR. 16. 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 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 The Clinton Watch Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 1104 South Wabash Avenue, in the city of Chicago, State of Illinois.

Respondent Irving L. Wein 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, The Clinton Watch Company, a corporation, and its officers, and Irving L. Wein, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of watches, watchbands, or any other products, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Offering for sale or selling watch cases

(a) which are in whole or in part composed of base metal that has been treated to simulate precious metal or stainless steel, or

(b) which are in whole or in part composed of base metal that has been treated with an electrolytically applied flashing or coating of precious metal of less than $1\frac{1}{2}$ of one thousandths of an inch over all exposed surfaces after completion of all finishing operations,

without clearly and conspicuously disclosing on such cases or parts the true metal composition in a form consistent with the Trade Practice Conference Rules for the Watch Case Industry (set forth in the Code of Federal Regulations, Title 16, Chapter 1, Part 174).

2. Offering for sale or selling:

(a) watch cases which are in whole or in substantial part of foreign origin, or

(b) watches, the cases or movements of which are in whole or in substantial part of foreign origin,

without affirmatively disclosing the country or place of foreign origin thereof on the exterior thereof on an exposed surface or on a label or tag affixed thereto of such degree of permanency as to remain thereon until consummation of consumer sale of the watches or watch cases and of such conspicuousness as likely to be observed and read by purchasers and prospective purchasers.

3. Representing that their watches are "Shock Protected"; or otherwise representing, directly or by implication, that their watches possess greater shock resistance than is the fact.

4. Representing in any manner, directly or by implication, including any use of a number in the name or names of their watches, that watches offered for sale or sold by them contain a designated number of jewels, unless such watches actually contain the stated number of jewels, each and every one of which serves a purpose of protecting against wear from friction by providing a mechanical contact with a moving part at a point of wear.

5. Using the term "Ruby Jewels" or any other term of similar import or meaning unless descriptive of natural ruby stones, or using the name of any other precious or semi-precious stone unless descriptive of natural stones: *Provided, however*. That the word "Ruby" or the name of any other precious or semi-precious stone may be used to refer to or describe a synthetic stone if such word or name is immediately preceded, with equal conspicuousness, by the word "synthetic" or some other word or term of like meaning.

6. Using the term "gold filled" or any other word or term of

similar import or meaning to describe watchbands, unless the term is immediately preceded, with equal conspicuousness, by a correct designation of the karat fineness of the alloy.

7. Supplying to, or placing in the hands of, any dealer or other purchaser means or instrumentalities by or through which he may deceive and mislead the purchasing public in respect to practices prohibited in paragraphs one through six above.

It is further ordered, That insofar as respondents' labeling practices are governed by prohibitions 1 and 4 above, the following labeling practices shall be accepted as satisfactory compliance therewith with respect to merchandise offered for sale or distributed during the period from date of service upon respondents of the Commission's decision to and including December 31, 1964, *Provided* such merchandise was in respondents' inventory at the time of service of the Commission's decision:

Paragraph 1.—Use of a label or tag affixed to watch cases or parts thereof to disclose the true metal composition thereof;

Paragraph 4.—Use of a label or tag affixed to watches marked "110" on the dials to disclose the true number of jewels contained therein.

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

THE ACADIA COMPANY, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE