

applies to WEAR-EVER ALUMINUM, INC., or to prior intervening successors to the aforementioned business of selling aluminum stock pots and pans.

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

IN THE MATTER OF

PROSPECT BRACELET COMPANY, INC., ET AL.

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

Docket 8611. Complaint, Dec. 27, 1963—Decision, Oct. 3, 1964

Order requiring a New York City distributor of watches and watchbands to cease failing to disclose adequately the foreign origin of its imported watchbands and preticketing said product with excessive prices.

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 Prospect Bracelet Company, Inc., a corporation, and Sheldon Parker, 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 Prospect Bracelet Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 188 West 4th Street in the city of New York, State of New York.

Respondent Sheldon Parker is an officer of the corporate 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

watchbands to manufacturers and distributors of watches as well as 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 product, when sold, to be shipped from their place of business in the State of New York to purchasers thereof located in various other States of the United States and in the District of Columbia, and maintain, and at all times herein mentioned have maintained, a substantial course of trade in said product in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Said watchbands consist in whole or in substantial part of components which were manufactured, in and imported from, Hong Kong and Japan. When offered for sale or sold by respondents, said watchbands do not bear disclosure showing that they are substantially of foreign origin.

PAR. 5. By the aforesaid practices, respondents place in the hands of watch manufacturers, distributors and retailers, means and instrumentalities by and through which they may mislead the public as to the place of origin of said watchbands or the substantial components thereof.

PAR. 6. In the absence of an adequate disclosure that a product, including watchbands, is of foreign origin, the public believes and understands that it is of domestic origin, a fact of which the Commission takes official notice.

As to the aforesaid articles of merchandise, a substantial portion of the purchasing public has a preference for said articles which are of domestic origin, of which fact the Commission also takes official notice. Respondents' failure to clearly and conspicuously disclose the country of origin of said articles of merchandise, or, substantial components thereof, is, therefore, to the prejudice of the purchasing public.

PAR. 7. Respondents, for the purpose of inducing the purchase of their watchbands, have engaged in the practice of using fictitious prices by attaching or causing to be attached to their watchbands, tickets or tags upon which certain amounts are printed, thereby representing, directly or by implication, that said amounts are the usual and regular retail prices of said watchbands. In truth and in fact, said amounts are not the usual and regular retail prices of said watchbands, but are in excess of prices at which said watchbands generally sell at retail in some of the trade areas where the representations are made.

PAR. 8. By the aforesaid practices, respondents place in the hands of watch manufacturers, distributors and retailers, means and instru-

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mentalities by and through which they may mislead the public as to the usual and regular price of said watchbands.

PAR. 9. 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 metal expansion watchbands of the same general kind and nature as that sold by the respondents.

PAR. 10. The use by respondents of the false, misleading and deceptive representations and practices hereinabove set forth, and the failure to disclose the foreign origin of their watchbands or of substantial components of their watchbands, have had, now have, the capacity and tendency to mislead and deceive purchasers or members of the buying public in the manner aforesaid, and thereby to induce them to purchase respondents' watchbands.

PAR. 11. 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.

Mr. Herbert L. Blume for the Commission.

Mr. B. Paul Noble of Washington, D.C., for the respondents.

INITIAL DECISION BY LEON R. GROSS, HEARING EXAMINER

AUGUST 25, 1964

The complaint in this proceeding charges respondents with failing to disclose adequately the foreign origin of watchbands imported in a finished state, or as components, and sold by them in interstate commerce. Respondents are further charged with deceptive pricing practices.

Respondents' failure to disclose adequately the foreign origin of their watchbands and components is alleged in the complaint to constitute a violation of Section 5 of the Federal Trade Commission Act because "* * * a substantial portion of the purchasing public has a preference for said articles which are of domestic origin, of which fact the Commission also takes official notice. Respondents' failure to clearly and conspicuously disclose the country of origin of said articles of merchandise, or, substantial components thereof, is, therefore, to the prejudice of the purchasing public."

Respondents, for the purpose of inducing the purchase of their watchbands, have engaged in the practice of using fictitious prices by attaching or causing to be attached to their watchbands, tickets or tags upon which certain amounts are printed, thereby representing, directly or by implication, that said amounts are the usual and regular retail prices of said watchbands. In truth and in fact, said amounts are not the usual and regular retail prices of said watchbands, but are in excess of prices at which said watchbands generally sell at retail in some of the trade areas where the representations are made.

The complaint asserts that respondents' said practices "* * * place in the hands of watch manufacturers, distributors and retailers, means and instrumentalities by and through which they may mislead the public as to the place of origin of said watchbands or the substantial components thereof * * *" and "* * * through which they may mislead the public as to the usual and regular price of said watchbands."

Respondents' acts and practices are asserted to 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." 15 U.S.C.A., Sec. 41, *et seq.*

After the instant complaint was released for service, the Federal Trade Commission issued a new set of Guides Against Deceptive Pricing, effective January 8, 1964. Commissioner Everette MacIntyre then issued a separate statement commenting upon the new Guides, in which he stated, *inter alia*:

The nub of the problem as I see it is that these Guides are not, as they purport, restatements of the law; the changes introduced here are too sweeping for that. It is fair to say that the Guides in many respects are sharply at variance with the body of law on this subject painfully built up by the Commission and courts over a number of decades. The result may well be the opposite of that intended—uncertainty for consumers, the businessman and the Commission's staff alike. Under the circumstances, there is a serious question that we can sustain the necessary vigour of enforcement even with the best of intentions.

On February 17, 1964, the Commission, as a result of the new Guides, took action in *Clinton Watch Company*, Docket No. 7434 [64 F.T.C. 1443], and Commissioner MacIntyre issued a separate statement at that time. After the United States Courts of Appeals had sustained the Commission's position in appeals from its pricing orders in *The Regina Corporation*, 322 F. 2d 765 (C.A. 3, 1963), and *Giant Food, Inc.*, 322 F. 2d 977 (C.A.D.C., 1963), the Commission conducted post-appeal proceedings in which the Commission modified its prior orders. On April 7, 1964, the Commission amended its *Regina* order (Docket No. S323) [65 F.T.C. 246], and on August 5, 1964 [p. 476 herein], the Commission amended its *Giant Food* order. Attached as an appendix are the pertinent portions of the amended orders.

After this hearing record was closed, respondents moved to dismiss on the grounds that Federal Trade Commission Administrative Bulletin No. 64-10, dated May 6, 1964, represented a change in the "foreign origin" policy of the Commission and that had such policy been in effect at the time the complaint issued, the instant complaint would not have issued. The hearing examiner determined that such motion should be acted upon only by the Federal Trade Commission itself, and certified respondents' motion to the Commission. On July 30, 1964, respondents' motion to dismiss based upon Administrative Bulletin 64-10 was denied by the Commission.

Several prehearing conferences were conducted. Pursuant to leave granted, respondents, on March 26, 1964, filed an amended answer in substitution for their original answer. Respondents' counsel represented at a prehearing conference convened on March 19, 1964 "The amended answer will admit everything, every substantial allegation in the complaint except public interest and will set up abandonment as a defense." Said amended answer filed March 26, 1964, in fact put in contest as many issues as the original answer. Sheldon Parker, respondent, sole stockholder of corporate respondent Prospect Bracelet Company, Inc., and policy maker for the corporation, was the only witness. He testified for both sides. Documentary evidence and physical exhibits have been received. Additional hearings, originally set for May 28, 1964, conditioned upon prior Federal Trade Commission approval, were cancelled because they were not requested by counsel.

Complaint counsel filed his proposed findings, conclusions and brief on June 29, 1964. Respondents' counsel moved on three separate occasions for extensions of time within which to file proposed findings, conclusions and brief. All such requested extensions were granted. However, as this initial decision is being written, respondents' counsel has not filed any proposed findings, conclusions or brief as he represented he would do.

Findings of fact not made herein in the form suggested, or in substantially that form, hereby are rejected. All motions heretofore made, which have not previously been specifically ruled upon, hereby are overruled and denied. Based upon the entire record, including the testimony, exhibits and proceedings of record, the examiner makes the following:

FINDINGS OF FACT

1. Corporate respondent Prospect Bracelet Company, Inc., was a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 188 West 4th Street, New York, New York.

2. Individual respondent Sheldon Parker was principal stockholder and an officer of the corporate respondent. Parker formulated, directed and controlled the acts and practices of the corporate respondent. Parker's address was the same as that of the corporate respondent.

3. Up to and including April 30, 1963, respondents had been engaged in advertising, offering for sale, selling and distributing watchbands to manufacturers, assemblers, and distributors of watches. Respondents also sold their watchbands to retailers for resale to the public for replacement of watchbands then being worn by retail customers.

4. In the course and conduct of their business, respondents caused their products, when sold, to be shipped from their place of business in the State of New York to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondents maintained, and at all times relevant to this proceeding, maintained a substantial course of trade in their products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

5. The Federal Trade Commission has jurisdiction over the parties to and the subject matter of this complaint. This proceeding is in the public interest.

6. In the conduct of their business, and at all times pertinent to this proceeding, respondents were in competition, in commerce, with firms and individuals in the sale of metal expansion watchbands of the same general kind and nature as those watchbands sold by respondents.

7. In the absence of adequate disclosure that a product, including watchbands, is of foreign origin, the public believes and understands that such product is of domestic origin.

8. The watchbands which respondents sold in interstate commerce consisted of substantial components which were manufactured in, and imported from Hong Kong and Japan. When offered for sale or sold by respondents the watchbands did not bear adequate disclosure showing that they were of foreign origin. Through their failure adequately to disclose the foreign origin of components or substantial parts of their watchbands, respondents placed in the hands of watch manufacturers, or assemblers, distributors and retailers, the means and instrumentalities by and through which such watch manufacturers, or assemblers, distributors and retailers, were able to mislead the public as to the place of origin of said watchbands and substantial component parts of the watchbands.

9. Respondents' counsel asserts Prospect Bracelet Company, Inc., ceased doing business as a corporation, and liquidated its inventory as of April 30, 1963. The best evidence of such fact would have been

a certification to that effect by the Secretary of State of New York. However, other evidence in the record supports the finding, and the examiner finds, that Prospect Bracelet Company, Inc., as of April 30, 1963, ceased to sell watchbands in interstate commerce. Although Prospect may have ceased to transact business, and may, as of now, be legally dissolved under the laws of the State of its incorporation, New York, the hearing examiner has taken and hereby takes official notice of public records which show that respondent Parker continues to conduct an importing business, as a partnership known as the W.M.R. Watch Case Company, and as a New York corporation, W.M.R. Watch Case Corp. (see Federal Trade Commission Docket No. 8573 [64 F.T.C. 1386] and Court of Appeals for the District of Columbia Docket No. 18670) [7 S.&D. 1098]. Parker testified on April 23, 1964:

* * * I am currently importing bracelets and they are properly marked. They are not being carded. They are being sold in bulk to the trade. They are sold to the watch assembler and what he does after I sell it, or it's sold to him legally as far as the Federal Trade Commission is concerned, or as far as I'm concerned morally, I don't care that [what] he does with it. He can throw them out the window. As long as I sell them and make my profit. I'm not concerned with it. (Tr. 66.)

Such defenses, therefore, as abandonment, or lack of public interest in this particular proceeding, which may have been asserted directly, or inferentially, on behalf of the respondents are rejected as being contrary to the evidence and the rulings of the Federal Trade Commission. Parker was the moving force behind Prospect and used the particular corporation, Prospect Bracelet Company, Inc., for the purpose of promoting his business interests and gain. If it suits his purpose Parker could revive Prospect Bracelet Company, or import watchbands into the United States through one of his other business enterprises. It is essential, therefore, that if a cease and desist order issues, it should bind Sheldon Parker, irrespective of the type of business organization (*i.e.*, a sole proprietorship, a partnership, or a corporation) which he may utilize to carry on his importing business.

10. Mr. Parker testified (Tr. 8, *et seq.*) that he lives at 84-55 Daniels Street, Briarwood 35, Queens, New York; is an importer; has been in the importing business about 14 years; that his business address is 62 W. 47th Street, New York, New York, and that he has been engaged in the importing business with Prospect Bracelet Company, Inc., and W.M.R. Watch Case Corporation.¹ Both companies were organized

¹ W.M.R. Watch Case Corporation and Sheldon Parker are respondents in Docket No. 8573, in which an order to cease and desist was issued by the Federal Trade Commission on March 24, 1964 [64 F.T.C. 1386]. Petition to review filed in the District of Columbia Circuit on June 5, 1964, No. 18670 [7 S.&D. 1098].

under the laws of the State of New York. Mr. Parker started in the watch business in 1938, and went into military service in January 1942. He resumed his importing business in 1946 (Tr. 11 and 12). From 1946 until the date of his testimony "I have been in the watch business and also in the importing business for the components" (Tr. 12). Parker is the sole owner of Prospect Bracelet Company, Inc. (Tr. 34).

11. Parker stated and the examiner finds that a watch consists of the movement, the case, and the strap or watchband. Most of the movements used to manufacture or assemble watches in the United States are imported from Switzerland. Some are imported from Japan, France and Germany. Some movements are imported inside the case; others are imported separately and must be placed in a case. Domestic watch "manufacturers" and assemblers also import completed watches.²

12. Parker stated "If I took the so-called bracelet off, the whole thing is called a head. * * * So that the head of a wrist watch, * * * would be everything other than the bracelet or watchband" (Tr. 17). Ordinarily, the manufacturer, in addition to providing a movement, inside a case, with a band or bracelet attached, also provides a box or package in which the watch is offered for sale. The bands or bracelets are made of metal, or a combination of metal and leather. If made of leather, they are referred to as straps. Domestic manufacturers and importers of watchbands sell such bands to (A) watch assemblers or manufacturers for attachment to the head and (B) to retailers for resale as replacement bands. Some businessmen import completed watchbands which they sell as such to manufacturers and retailers. They also import component parts of the bands, assemble them in the United States, and sell them as completed bands to manufacturers and to retailers (Tr. 20). Prospect imported its watchbands as a complete bracelet, and also as components.

13. Ninety-eight percent of the bracelets that Prospect imported were resold to watch manufacturers and assemblers. Only two percent were sold for resale as retail replacements (Tr. 21). This two percent was usually sold to wholesalers who resold to retailers. The retailers wanted the watchbands mounted on cards. Prospect sometimes mounted the bracelets on a card, but frequently the watchbands were mounted by the wholesaler on cards which Prospect supplied to the wholesalers at the time it delivered the watchbands. Samples of the watchbands sold by respondents in interstate commerce are in evidence as CX 1-11, inclusive.

² See the testimony of General Omar Bradley before the Special Subcommittee of the Senate Armed Services Committee on August 17, 1964.

14. Commission exhibits in evidence (CX 1-CX 11, inclusive) are watchbands which respondents imported. All are marked with the name "Prospect". Some show; others do not show, country of origin.

15. According to Parker, prior to July 1960, the United States Customs authorities permitted an importer to bring in component parts of watchbands, without showing the country of origin on the components, if further manufacturing were done in the United States (Tr. 35). Respondents imported such components, assembled them here and sold them in commerce without showing the country of origin. After July 1, 1960, the United States Customs required the components to be marked with the country of origin.

16. Parker's records indicated that his instructions to the foreign suppliers of his components were that the first link should be blank, the second was to bear the country of origin, the third link was to be blank and the fourth link was to have "Prospect" on it. Foreign origin was indicated only once—on the second link. "Prospect" was to appear on the other links (Tr. 51).

17. The display cards to which respondents attached their bracelets by a transparent plastic bubble usually had the word "Prospect" and a retail price preticketed upon the cards. Such preticketed prices were either \$4.95 or \$5.95 (see CX 1-CX 11, inclusive). Respondents imported watchbands for ladies' and men's watches.

18. Respondents' watchbands were so affixed to the cardboard upon which they were displayed that a prospective purchaser was unable to see any foreign origin if it were stamped on the inside of the links. The purchaser would have to remove the bracelet from the plastic bubble and examine it carefully to see the foreign origin notation. Respondents printed in the United States the cards to which the watchbands were affixed, and it would involve no great additional trouble or expense for respondents to print the foreign origin on the display card where it would have been easily visible to a prospective purchaser. Respondents' failure so to do constituted a deceptive act and practice in violation of the Federal Trade Commission Act. *Brite Manufacturing Company*, Docket S325, Order of June 18, 1964 [65 F.T.C. 1067].

19. Components which respondents imported were assembled into completed watch bracelets on the premises at 188 West 4th Street, New York, New York. They were then sold to watch assemblers, to watch jobbers and general jewelry jobbers. Parker testified that general jewelry jobbers handle watches, gold jewelry and diamonds, among other things. (Tr. 49, *et seq.*) The watch bracelets in evidence

are typical of those which respondents sold in commerce prior to April 30, 1963 (Tr. 31).

20. Parker was not familiar with the prices at which his watchbands were resold at retail (Tr. 32). The prices which respondents printed on the cardboards to which their watchbands were affixed did not represent the prices at which respondents' watchbands were usually and customarily sold in the trade areas involved. Parker testified:

Now, with your description, you, of course have noticed that with respect to this series of exhibits C-X 1 through 11, that most of these consist of Prospect bracelets, which are placed on a card and on that card appears a dollar sign and the price of either \$4.95 or \$5.95. Am I correct?

A. You are correct.

Q. Now, let me ask you these qualifying questions, as far as your knowledge of the retail markets.

At the time you offered these for sale through your jobbers and distributors, there's no question you were familiar with the retail market at the time you sold these as to prices, prevailing prices.

Mr. NOBLE. I object.

The WITNESS. I'll answer that. I don't know, no, sir.

Mr. NOBLE. I withdraw my objection.

By Mr. BLUME:

Q. Now, is that unfamiliarity as to all markets?

A. You asked for retail prices and I'm not familiar with retail prices.

Q. Not at all?

A. Not at all, no, sir.

Q. When you say you're not familiar with it, does that mean that you are not familiar with retail prices in the markets in which your merchandise was retailed?

A. The merchandise I was selling, I was familiar with, but not the markets. You see, when you say markets, I assume you are referring to Jacoby-Bender, Spiedel, Chrysler and other people who are selling merchandise in the retail market. It's a big market with 40 people selling into it, so I didn't—if you were referring to Prospect, I——

Q. Prospect exclusively.

A. Prospect itself, these items were priced after discussion with a number of people that wanted these things priced and that's how the price was arrived at, competitive price.

Q. Would you want to explain that a little better? Did I understand that these prices that were put on the merchandise at the factory were prices which the customers requested? Just so there's so [no] misunderstanding.

A. That's correct.

Q. So that to this day, it would be a fair and honest statement that you have no conception of what that merchandise was sold for?

A. Absolutely, that's correct. I wouldn't. I wouldn't know if they gave it away.

HEARING EXAMINER GROSS. If they gave it away?

The WITNESS. That's right. I'm not concerned with it once they have it.

HEARING EXAMINER GROSS. By the same token, you don't know whether they did or did not sell it at the price it was tagged with.

The WITNESS. That's right, sir. (Tr. 31. *et seq.*)

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21. The January 8, 1964, Guides Against Deceptive Pricing, *inter alia*, provide:

* * * * *

On the other hand, a manufacturer or other distributor who does business on a large regional or national scale cannot be required to police or investigate in detail the prevailing prices of his articles throughout so large a trade area. If he advertises or disseminates a list or preticketed price in good faith (i.e., as an honest estimate of the actual retail price) which does not appreciably exceed the highest price at which substantial sales are made in his trade area, he will not be chargeable with having engaged in a deceptive practice. * * *

* * * * *

It bears repeating that the manufacturer, distributor or retailer must in every case act honestly and in good faith in advertising a list price, and not with the intention of establishing a basis, or creating an instrumentality, for a deceptive comparison in any local or other trade area. For instance, a manufacturer may not affix price tickets containing inflated prices as an accommodation to particular retailers who intend to use such prices as the basis for advertising fictitious price reductions.

22. Federal Trade Commission investigators obtained from Yumark Watch Company of New York City the names and addresses of sixty-two (62) retail establishments to which Yumark sold respondents' bracelets (Tr. 43). The Federal Trade Commission wrote a letter³ to these various retailers with a random geographical spread and purchased the various Prospect watchbands at the prices indicated (Tr. 45):

Place of purchase	Pre-ticketed price	Price paid
Dave's Hole-in-the-Wall, Hot Springs, Ark. (CX 2).....	\$5.95	\$1.25
Martin A. Taylor Co., Philadelphia, Pa. (CX 3).....	(1)	1.00
Alamo Loan & Jewelry Co., Corpus Christi, Tex. (CX 4).....	5.95	1.39
Lenoir, N.C. (CX 5).....	5.95	3.00
Ypsilanti, Mich. (CX 6).....	5.95	1.30
Oklahoma City, Okla. (CX 7).....	5.95	2.50
A personal over-the-counter purchase by an F.T.C. investigator was made in New Britain, Conn. (CX 8).....		
St. George, Maine (CX 9).....	5.95	2.95
Pottineau, N. Dak. (CX 10).....	5.95	1.50
Wilkes Barre, Pa. (CX 11).....	5.95	1.50

¹ \$4.95 in one instance and \$5.95.

23. The evidence in this record bearing upon the deception in respondents' pricing practices would have been more helpful had it shown, among other things: (1) the cost of the watchbands to respondents, (2) respondents' selling price to the replacement trade, (3) the industry pricing pattern, (4) whether the \$4.95 and \$5.95 prices which were pre-printed upon respondents' display cards were in fact the

³ RX 3 A and B is a carbon copy of the original two-page letter on Federal Trade Commission letterhead which was used to buy the watchbands.

prices at which they were sold in any given trade area, and (5) whether the \$4.95 and \$5.95 preticketed price bear any relation to the usual and customary retail selling price in the trade areas involved of other imported watch bracelets of like grade and quality to those sold by respondents. This examiner understands that the Federal Trade Commission intends that manufacturers or importers situated similarly to respondents shall not preticket a retail price upon an article in total disregard of, or in ignorance of, or in total indifference to, the prices at which such articles are sold at retail in any given trade area. Manufacturers or distributors below the retail level may not furnish the means and instrumentality by which a retail seller deceives a retail buyer as to the savings effected in purchasing a preticketed item below the preticketed price. Where, as here, respondents were preticketing a retail price upon their display cards they had a legal responsibility to find out the price at which their watch bracelets were usually and customarily sold in the regular course of business by retailers in any given trade area. It was their further responsibility to decline to preticket their watchbands at any preticketed price substantially above the price at which watchbands were being ordinarily sold in the usual course of business in any given trade area. Parker's testimony (see Finding 20, *supra*) reflects complete indifference to and total unconcern about the actual prices at which his preticketed watchbands were usually sold at retail in the ordinary course of business in any trade area.

The hearing examiner makes the following:

CONCLUSIONS OF LAW

A. Complaint counsel has sustained the burden of proof imposed upon him with reference to the allegations in the complaint filed herein. The Federal Trade Commission has jurisdiction over the parties to and the subject matter of this complaint. This proceeding is in the public interest.

B. Respondents have failed adequately to disclose the foreign origin of merchandise imported by them from foreign countries. They have thereby led the purchasing public to believe, contrary to the fact, that such merchandise is of domestic origin when such merchandise, of foreign origin, may be of a character as to which the purchasing public in the United States prefers goods of domestic manufacture. This constitutes a deceptive act or practice and unfair method of competition proscribed by the Federal Trade Commission Act.

C. Respondents have furnished an instrumentality to their retail sellers by which the retail buyers may be deceived as to the savings,

if any, effected by purchasing respondents' watch bracelets at less than the \$4.95 and \$5.95 preticketed upon respondents' retail display cards. This constitutes a deceptive act and practice and an unfair method of competition prohibited by the Federal Trade Commission Act and interpretations thereof.

D. Although the corporate respondent Prospect Bracelet Company, Inc., may have ceased to function as a business, its sole owner, Sheldon Parker, is currently in the importing business, and unless enjoined from continuing the deceptive acts and practices in which he has engaged, individually, and through the medium of his various business enterprises in the past, may continue to do so in the future.

Now, therefore,

ORDER

It is ordered, That respondents Prospect Bracelet Company, Inc., a corporation, and its officers, and Sheldon Parker, individually, and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or any other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of any imported article or product imported as a completed item, or as principal components thereof, including but not limited to watchbands, do forthwith cease and desist from:

1. Offering for sale, selling or distributing said article or product in packages or containers in such a manner that the name of the country or place of origin on the article or product is concealed without clearly disclosing the country or place of origin of the article or product in a conspicuous place on the package or container.

2. Offering for sale, selling or distributing said article or product mounted on, or affixed to cards in such manner as to conceal the name of the country or place of origin without disclosing on such cards the name of the country or place of origin.

It is further ordered, That respondents Prospect Bracelet Company, Inc., a corporation, and its officers, and Sheldon Parker, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of any article or product in commerce, as "commerce" is defined in the Federal Trade Commission Act, including but not limited to imported watchbands, and the principal components thereof, do forthwith cease and desist from:

1. Supplying to or placing in the hands of any distributor or retailer of any such article or product any preticketed display card, or any other device, which furnishes the means by which such retail seller of any such article or product may misrepresent to any retail buyer the price at which said item is usually and customarily sold at retail in the trade area in which said display card or other instrumentality is used.

APPENDIX

Original REGINA Order:

Supplying to, or placing in the hands of, any distributor or retailer any tabulation of figures, sales literature, price list or other material containing "manufacturer's list prices," "manufacturer's suggested list prices," "suggested list prices," or "suggested retail prices," when said respondent knows, or has reason to know, that such figures are in excess of the price or prices at which the items of merchandise to which they refer are usually and customarily sold at retail in the trade area or trade areas where the figures are supplied.

Amended REGINA Order:

"Advertising or disseminating any list or preticketed price unless such price is a good faith estimate of the actual retail price and does not appreciably exceed the highest price at which substantial sales are made in respondent's trade area."

Original GIANT Order:

(2) Using the words "manufacturer's list price," "suggested list price," "factory suggested retail price," or words of similar import, to refer to any amount which is in excess of the price or prices at which such merchandise is usually and customarily sold in the trade area where the representation is made; or otherwise misrepresenting the usual and customary retail selling price or prices of such merchandise in the trade area:

(3) Representing in any manner that, by purchasing any of its merchandise, customers are afforded savings amounting to the difference between respondent's stated selling price and any other price used for comparison with that selling price, unless the comparative price used represents the price at which the merchandise is usually and customarily sold at retail in the trade area involved, or is the price at which such merchandise has been usually and regularly sold by respondent at retail in the recent, regular course of its business.

Amended GIANT Order:

"2. Using the words 'manufacturer's list price,' 'suggested list price,' 'factory suggested retail price,' or words of similar import, unless the merchandise so described is regularly offered for sale at this or a higher price by a substantial number of the principal retail outlets in the trade area; provided, however, that this order shall not apply to point-of-sale offering and display of merchandise which is preticketed by the manufacturer or distributor thereof and the obliteration or removal of which preticketed price is impossible or impractical.

"3. Representing in any manner that by purchasing any of its merchandise, customers are afforded savings amounting to the difference between respondent's stated price and any other price used for comparison with that price, unless a substantial number of the principal retail outlets in the trade area regularly offer the merchandise for sale at the compared price or some higher price or unless respondent has offered such merchandise for sale at the compared price in good faith for a reasonably substantial period of time in the regular recent course of its business."

FINAL ORDER

On August 25, 1964, the hearing examiner filed his initial decision in the above-captioned proceeding. No appeal from the initial decision has been filed. Upon consideration of the matter, the Commission has determined that the findings and conclusions in the initial decision are appropriate, but that the order contained therein should be amended in certain respects.

Accordingly, *It is ordered*, That the order contained in the initial decision be amended to read as follows:

It is ordered, That respondents Prospect Bracelet Company, Inc., a corporation, and its officers, and Sheldon Parker, individually, and as an officer of said corporation, and respondents' agents, representatives and employees directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of any imported article or product imported as a completed item, or as principal components thereof, including but not limited to watchbands, do forthwith cease and desist from:

1. Offering for sale, selling or distributing any such products which are substantially, or which contain a substantial

part or parts, of foreign origin or fabrication without affirmatively disclosing the country or place of foreign origin or fabrication thereof on the products themselves, by marking or stamping 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 products, and of such conspicuousness as to be likely observed and read by purchasers and prospective purchasers making casual inspection of the products.

2. Offering for sale, selling or distributing any such products packaged or mounted in a container, or on a display card, without disclosing the country or place of foreign origin of the product or substantial part or parts thereof, on the front or face of such packaging, container, or display card, so positioned as to clearly have application to the product so packaged or mounted, and of such degree of permanency as to remain thereon until consummation of consumer sale of the product, and of such conspicuousness as to be likely observed and read by purchasers and prospective purchasers making casual inspection of the product as so packaged or mounted.

It is further ordered, That respondents Prospect Bracelet Company, Inc., a corporation, and its officers, and Sheldon Parker, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of any article or product in commerce, as "commerce" is defined in the Federal Trade Commission Act, including but not limited to imported watchbands, and the principal components thereof, do forthwith cease and desist from:

1. Advertising or disseminating any list or preticketed price unless such price is a good faith estimate of the actual retail price and does not appreciably exceed the highest price at which substantial sales are made in respondents' trade area.

It is further ordered, That the hearing examiner's initial decision, as amended, be, and it hereby is, adopted as the decision of the Commission, effective October 8, 1964.

It is further ordered, That respondents Prospect Bracelet Company, Inc., a corporation, and Sheldon Parker, individually and as an officer of said corporation, shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing,

Complaint

66 F.T.C.

setting forth in detail the manner and form of their compliance with the order to cease and desist.

IN THE MATTER OF

ROBERT F. BRUNS TRADING AS BRUNS-TRAVERS FURS

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS

Docket C-843. Complaint, Oct. 5, 1964—Decision, Oct. 5, 1964

Consent order requiring an Omaha, Nebr., furrier to cease misbranding and falsely invoicing his fur products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act and by virtue of the authority vested in it by said Acts, the Federal Trade Commission having reason to believe that Robert F. Bruns, an individual, trading as Bruns-Travers Furs, hereinafter referred to as respondent has violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling 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 Robert F. Bruns is an individual trading as Bruns-Travers Furs.

The respondent is a retailer of fur products with his office and principal place of business located at 1825 Farnam, Omaha, Nebraska.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondent has been and is now engaged in the introduction into commerce, and in the sale, advertising, and offering for sale in commerce, and in the transportation and distribution in commerce, of fur products; and has sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of furs which have been shipped and received in commerce, as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act.

PAR. 3. Certain of said fur products were misbranded in that they were not labeled as required under the provisions of Section 4(2) of the Fur Products Labeling Act and the manner and form described by the Rules and Regulations promulgated thereunder.

Among such misbranded fur products, but not limited thereto, were fur products without labels and fur products with labels which failed to show that the fur product contained or were composed of used fur, when such was the fact.

PAR. 4. Certain of said fur products were misbranded in violation of the Fur Products Labeling Act in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder in the following respects:

(a) The disclosure "secondhand," where required, was not set forth on labels, in violation of Rule 23 of said Rules and Regulations.

(b) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was not completely set out on one side of labels, in violation of Rule 29(a) of said Rules and Regulations.

(c) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was set forth in handwriting on labels, in violation of Rule 29(b) of said Rules and Regulations.

(d) Required item numbers were not set forth on labels, in violation of Rule 40 of said Rules and Regulations.

PAR. 5. Certain of said fur products were falsely and deceptively invoiced by the respondent in that they were not invoiced as required by Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated under such Act.

Among such falsely and deceptively invoiced fur products, but not limited thereto, were fur products covered by invoices which failed:

1. To show the true animal name of the fur used in the fur product.
2. To disclose that the fur contained in the fur product was bleached, dyed, or otherwise artificially colored, when such was the fact.
3. To show the country of origin of imported furs used in fur products.

PAR. 6. Certain of said fur products were falsely and deceptively invoiced in violation of the Fur Products Labeling Act in that they were not invoiced in accordance with the Rules and Regulations promulgated thereunder in the following respects:

(a) Information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was set forth on invoices in abbreviated form, in violation of Rule 4 of said Rules and Regulations.

(b) The term "Persian Lamb" was not set forth on invoices in the manner required by law, in violation of Rule 8 of said Rules and Regulations.

(c) The term "natural" was not used on invoices to describe fur products which were not pointed, bleached, dyed, tip-dyed or otherwise artificially colored, in violation of Rule 19(g) of said Rules and Regulations.

(d) Required item numbers were not set forth on invoices, in violation of Rule 40 of said Rules and Regulations.

PAR. 7. Respondent in introducing, selling, advertising, and offering for sale, in commerce, and in processing for commerce, fur products; and in selling, advertising, offering for sale and processing fur products which have been shipped and received in commerce, has misbranded such fur products by substituting thereon, labels which did not conform to the requirements of Section 4 of the Fur Products Labeling Act, for the labels affixed to said fur products by the manufacturer or distributor pursuant to Section 4 of said Act, in violation of Section 3(e) of said Act.

PAR. 8. The aforesaid acts and practices of respondent, as herein alleged, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and constitute unfair and deceptive acts and practices and unfair methods of competition in commerce under 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 Fur Products Labeling 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 Robert F. Bruns is an individual trading as Bruns-

Travers Furs with his office and principal place of business located at 1825 Farnam, Omaha, Nebraska.

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 Robert F. Bruns, an individual, trading as Bruns-Travers Furs, or under any other trade name, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the sale, advertising, offering for sale, transportation or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act do forthwith cease and desist from:

A. Misbranding fur products by:

1. Failing to affix labels to fur products showing in words and in figures plainly legible all of the information required to be disclosed by each of the Subsections of Section 4(2) of the Fur Products Labeling Act.

2. Failing to disclose that fur products contain or are composed of secondhand used fur.

3. Failing to completely set out information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder on one side of the labels affixed to fur products.

4. Setting forth information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in handwriting on labels affixed to fur products.

5. Failing to set forth on labels the item number or mark assigned to a fur product.

B. Falsely and deceptively invoicing fur products by:

1. Failing to furnish invoices as the term "invoice" is defined in the Fur Products Labeling Act showing in words and figures plainly legible all the information required to be disclosed in each of the subsections of Section 5(b)(1) of the Fur Products Labeling Act.

2. Setting forth information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules

and Regulations promulgated thereunder in abbreviated form.

3. Failing to set forth the term "Persian Lamb" in the manner required where an election is made to use that term instead of the word "Lamb."

4. Failing to set forth the term "Natural" as part of the information required to be disclosed on invoices under the Fur Products Labeling Act and Rules and Regulations promulgated thereunder to describe fur products which are not pointed, bleached, dyed, tip-dyed or otherwise artificially colored.

5. Failing to set forth on invoices the item number or mark assigned to fur products.

It is further ordered, That respondent Robert F. Bruns, an individual trading as Bruns-Travers Furs or under any other trade name and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introducing, selling, advertising or offering for sale, in commerce, or the processing for commerce, of fur products; or in connection with the selling, advertising, offering for sale, or processing of fur products which have been shipped and received in commerce, do forthwith cease and desist from misbranding fur products by substituting for the labels affixed to such fur product pursuant to Section 4 of the Fur Products Labeling Act, labels which do not conform to the requirements of the aforesaid Act and the Rules and Regulations promulgated thereunder.

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.

IN THE MATTER OF

HOOSIER TARPAULIN & CANVAS GOODS COMPANY,
INC., ET AL.

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

Docket C-844. Complaint, Oct. 5, 1964—Decision, Oct. 5, 1964

Consent order requiring an Indianapolis, Ind., manufacturer of tarpaulins, tents,