

Docket C-848. Complaint, Oct. 9, 1964—Decision, Oct. 9, 1964.

Consent order requiring a concern in Lisle, Ill., engaged in repainting and labeling used golf balls, and in the purchase of golf balls recovered or re-

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constructed by others which they then painted and labeled, to cease selling such golf balls with no disclosure on the balls or their wrappers or containers of the fact that they were rebuilt or reconstructed.

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 Butterfield Golf Company, Inc., a corporation, and John H. Keller, 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 Butterfield Golf Company, Inc., 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 1705 Ogden Avenue, Lisle, Illinois.

Respondent John H. Keller, is an officer of said corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His business 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 washing, repainting and labeling of used golf balls and in the offering for sale, sale and distribution of said golf balls and used golf balls which have been recovered, rebuilt or reconstructed by others, then purchased by the respondents and painted and labeled by said respondents. Both of said types of balls are sold to the public and to dealers 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 and transported 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. In the course and conduct of their business, respondents wash and repaint golf balls and relabel them and also purchase recovered, rebuilt or reconstructed golf balls, portions of which balls

have been used and reclaimed, the latter of which are painted and labeled by the respondent.

Respondents do not disclose either on the balls, on the wrappers, on the bags or on the boxes in which the balls are packed, or in any other manner, that said golf balls are washed, repainted, re-covered, rebuilt or reconstructed. When such previously used golf balls are washed, repainted, re-covered, rebuilt or reconstructed and labeled, in the absence of any disclosure to the contrary, or in the absence of an adequate disclosure, such golf balls are understood to be and are readily accepted by the public as new balls, a fact of which the Commission takes official notice.

PAR. 5. By failing to disclose the fact as set forth in Paragraph Four, respondents place in the hands of uninformed or unscrupulous dealers means and instrumentalities whereby they may mislead and deceive the public as to the nature and construction of their said golf balls.

PAR. 6. 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 products of the same general kind and nature as those sold by respondents and with manufacturers, jobbers and retailers of new golf balls.

PAR. 7. The failure of respondents to disclose on the golf balls themselves, on the wrapper or on the box or bag in which they are packed or in any other manner, that they are previously used balls which have been washed, repainted, re-covered, rebuilt or reconstructed has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said golf balls were and are new in their entirety and into the purchase of substantial quantity 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 the 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 Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a

copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondents that the law has been violated as alleged in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having reason to believe that the respondents have violated the Federal Trade Commission Act, and having determined that the complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings and enters the following order:

1. Respondent Butterfield Golf Company, Inc., 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 1705 Ogden Avenue, Lisle, Illinois.

Respondent John H. Keller is an officer of said corporate respondent and his address is the same as that of the corporate respondent.

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 Butterfield Golf Company, Inc., a corporation, and its officers, and John H. Keller, 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 washed, repainted, re-covered, rebuilt or reconstructed golf balls in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Failing to clearly and conspicuously disclose on the bags or boxes in which respondents' washed, repainted, recovered, rebuilt or reconstructed golf balls are packaged, on the wrapper and on said golf balls themselves, that they are previously used balls which have been washed, repainted, recovered, rebuilt or reconstructed: *Provided, however*, That disclosure need not be made on

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the golf balls themselves if respondents establish that the disclosure on the bags, wrappers and/or boxes is such that retail customers, at the point of sale, are informed that the golf balls are previously used and have been washed, repainted, re-covered, rebuilt or reconstructed.

2. Placing any means or instrumentality in the hands of others whereby they may mislead the public as to the prior use and washed, repainted, re-covered, rebuilt or reconstructed nature and construction of their golf balls.

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.