

and Maxwell Auslander and Elena Auslander, individually and as officers of said corporation, shall, within sixty (60) days after service of this order upon them, file with the Commission a report in writing, signed by each respondent named in this order, setting forth in detail the manner and form of their compliance with the order to cease and desist.

IN THE MATTER OF
NATIONAL GOLF BALL COMPANY ET AL.

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

Docket C-863. Complaint, Dec. 16, 1964—Decision, Dec. 16, 1964

Consent order requiring a Chicago, Ill., seller and distributor of previously used golf balls, to cease selling said golf balls without clearly disclosing 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 National Golf Ball Company, a partnership, and Michael Coglianese and Albert B. Coglianese, individually and as copartners trading and doing business as National Golf Ball Company, 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 National Golf Ball Company is a general partnership comprised of the subsequently named individuals who formulate, direct and control the acts and practices of said partnership, including the acts and practices hereinafter set forth. The office and principal place of business of said partnership is located at 3700 West 38th Street, Chicago, Ill.

Respondents Michael Coglianese and Albert B. Coglianese are individuals and copartners trading and doing business as National Golf

Ball Company with their office and principal place of business located at the same address as that of the said partnership.

PAR. 2. Respondents are now, and for sometime last past have been, engaged in the offering for sale, sale and distribution of previously used golf balls which have been rebuilt or reconstructed to dealers for resale to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for sometime 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 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 conduct of their business, and 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 the respondents and with manufacturers, jobbers and retailers of new golf balls.

PAR. 5. In the course and conduct of their business, respondents rebuild or reconstruct golf balls, using in said process portions of the balls which have been previously used.

Respondents do not disclose either on the balls, on the wrapper or on the box in which the balls are packed, or in any other manner, that said golf balls are previously used balls which have been rebuilt or reconstructed.

When previously used golf balls are rebuilt or reconstructed, 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. 6. By failing to disclose the facts as set forth in Paragraph Five, 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. 7. The failure of the respondents to disclose on the golf ball itself, on the wrapper and on the box in which they are packed, or in any other manner, that they are previously used balls which have been rebuilt or reconstructed has had, and now has, the capacity and tendency to mislead members of the purchasing public into the errone-

ous and mistaken belief that said golf balls were, and are, new in their entirety and into the purchase of substantial quantities of respondents' products by means 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 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 National Golf Ball Company is a general partnership comprised of respondents Michael Coglianese and Albert B. Coglianese, with its office and principal place of business located at 3700 West 38th Street, Chicago, Illinois.

Respondents Michael Coglianese and Albert B. Coglianese are individuals and copartners trading and doing business as said partnership, and their address is the same as that of said partnership.

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.

Complaint

66 F.T.C.

ORDER

It is ordered, That respondents National Golf Ball Company, a partnership, and Michael Coglianese and Albert B. Coglianese, individually and as copartners trading and doing business as National Golf Ball Company, or any other name or names, 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 used, 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 boxes in which the respondents' 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 rebuilt or reconstructed. *Provided, however,* That disclosure need not be made on the golf balls themselves if respondents establish that the disclosure on the boxes and/or wrappers is such that retail customers, at the point of sale, are informed that the golf balls are previously used and have been rebuilt or reconstructed.

2. Placing any means or instrumentalities in the hands of others whereby they may mislead the public as to the prior use and rebuilt 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.

IN THE MATTER OF

WEST FOREST CORPORATION ET AL.

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