

Complaint

70 F.T.C.

IN THE MATTER OF

ABINGTON SHOE COMPANY ET AL.

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

Docket C-1132. Complaint, Oct. 21, 1966—Decision, Oct. 21, 1966

Consent order requiring two affiliated Boston, Mass., manufacturers of men's shoes to cease deceptively representing their shoes as official, regulation or surplus United States Navy footwear.

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 Abington Shoe Company, a corporation, Jade Footwear Company, a corporation, and Herman Swartz and Sidney Swartz, individually and as officers of said corporations, 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. Respondents Abington Shoe Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Massachusetts, with its office and principal place of business located at 171 Camden Street, Boston, Massachusetts.

Respondent Jade Footwear Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Massachusetts, with its office and principal place of business located at 171 Camden Street, Boston, Massachusetts.

Respondents Herman Swartz and Sidney Swartz are officers of said corporate respondents. They formulate, direct and control the acts and practices of said corporate respondents including the acts and practices hereinafter set forth. Their business address is the same as that of respondent Abington Shoe Company.

The aforesaid respondents cooperate and act together in carrying out the acts and practices hereinafter set forth.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the manufacturing, offering for sale, sale and distribution of footwear, including men's shoes which closely re-

semble in appearance shoes issued to members of the United States Navy, which are sold to dealers and others 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, said shoes, when sold to be shipped from their place of business in the State of Massachusetts 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 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 shoes of the same general kind and nature as those sold by respondents.

PAR. 5. The said shoes sold and distributed by respondents, in the course and conduct of their business as aforesaid, closely resemble the shoes issued and furnished to members of the United States Armed Forces in color material, pattern and style. Respondents also cause to be affixed to said shoes certain markings, writing and phrases respecting their manufacture, construction, inspection and specifications.

Typical and illustrative are the following:

GENUINE U.S. NAVY LAST
U.S. NAVY LAST
INSPECTED BY #203.

PAR. 6. Through the use of the terms "U.S. NAVY" in conjunction with the other statements and representations set out above, respondents represent, and have represented, directly or by implication:

1. That said shoes are official, regulation or surplus United States Navy shoes and are manufactured in accordance with United States Navy or Government specifications.
2. That said shoes are inspected by United States Navy or Government inspectors and approved as meeting United States Navy or Government specifications.

PAR. 7. In truth and in fact:

1. Said shoes are not official, regulation, surplus United States Navy or Government shoes and are not manufactured in accordance with Navy or Government specifications.

2. Said shoes are not inspected by United States Navy or Government inspectors and are not approved as meeting United States Navy or Government specifications.

Therefore, the statements and representations set forth in Paragraphs Five and Six hereof were and are false, misleading and deceptive.

PAR. 8. By selling and distributing to dealers and others said shoes having affixed to them the markings, writings and phrases hereinabove described, respondents furnish to such dealers and others, the means and instrumentalities by and through which they may mislead and deceive the purchasing public as to the origin, type, construction, manufacture and quality of their said shoes.

PAR. 9. The use by respondents of the aforesaid false, misleading and deceptive 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' product by reason of said erroneous and mistaken belief.

PAR. 10. The aforesaid acts and practices of respondents, as herein alleged, were and are 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 Abington Shoe Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Massachusetts, with its office and principal place of business located at 171 Camden Street, Boston, Massachusetts.

Respondent Jade Footwear Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Massachusetts, with its office and principal place of business located at 171 Camden Street, Boston, Massachusetts.

Respondents Herman Swartz and Sidney Swartz are officers of said corporations and their address is the same as that of said corporations.

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 Abington Shoe Company, a corporation, and Jade Footwear Company, a corporation, and their respective officers, and Herman Swartz and Sidney Swartz, individually and as officers of said corporate respondents, and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of footwear in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that said footwear is official, regulation or surplus United States Navy or Armed Forces footwear or is manufactured in accordance with United States Navy or Government specifications.

2. Representing, directly or by implication, that said footwear has been inspected by United States Navy or Government inspectors or has been approved by said inspectors as meeting United States Navy or Government specifications.

3. Misrepresenting in any manner the parties, organizations, firms or corporations for whom said footwear was manufactured, or the specifications for or inspection of said footwear.

4. Furnishing or otherwise placing in the hands of retail-

Complaint

70 F.T.C.

ers of said products, or others, any means or instrumentalities by or through which they may mislead and deceive the public in the manner or as to the things hereinabove prohibited.

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.
