

Complaint

IN THE MATTER OF

SPENCER GIFTS, INC.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-1527. Complaint, Apr. 29, 1969—Decision, Apr. 29, 1969*

Consent order requiring an Atlantic City, N.J., retail jeweler to cease misrepresenting the identity or quality of its jewelry products.

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 Spencer Gifts, Inc., hereinafter referred to as respondent, has 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 Spencer Gifts, Inc., is a corporation duly organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its principal office and place of business located at 1601 Albany Avenue Boulevard, Atlantic City, New Jersey.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the advertising, offering for sale, sale and distribution of jewelry products to members of the purchasing public.

PAR. 3. In the course and conduct of its business as aforesaid, respondent has caused and does now cause said jewelry products when sold, to be shipped from its place of business in the State of New Jersey to purchasers thereof located in various other States of the United States, and in the District of Columbia, and maintains, and at all times mentioned herein has 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 its business as aforesaid, and for the purpose of inducing the purchase of said jewelry products, respondent has made, and is now making, statements and representations in advertisements inserted in newspapers,

magazines, mail-order catalogs, and other promotional material with respect to the quality of said jewelry.

Typical and illustrative of said statements and representations, but not all inclusive thereof, are the following:

Each child is represented by his sparkling birthstone * * * Set in double white or gold bands * * * .

PAR. 5. By and through the use of the above quoted statements, and others of similar import and meaning not expressly set out herein, respondent has represented and is now representing, directly or by implication, that:

1. Said jewelry contains genuine precious or semi-precious stones.

2. The metal in said jewelry is 24 karat gold throughout.

PAR. 6. In truth and in fact:

1. Said jewelry does not contain genuine precious or semi-precious stones, but contains imitations or simulations thereof.

2. The metal in said jewelry is not 24 karat gold throughout.

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

PAR. 7. In the course and conduct of its business as aforesaid, and at all times mentioned herein, respondent has been and is now in substantial competition in commerce with corporations, firms and individuals in the sale of jewelry products of the same general kind and nature as that sold by respondent.

PAR. 8. The use by respondent 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 such statements and representations were, and are, true and into the purchase of substantial quantities of the aforesaid products, because of said mistaken and erroneous belief.

PAR. 9. The aforesaid acts and practices of respondent, as herein alleged, were and are, all to the prejudice and injury of the public 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 respondent named in

the caption hereof, and the respondent 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 respondent with violation of the Federal Trade Commission Act; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent 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 respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Spencer Gifts, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 1601 Albany Avenue Boulevard, Atlantic City, New Jersey.

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, Spencer Gifts, Inc., a corporation, and its officers, and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of jewelry products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

- 1) Use of the words "stone," "birthstone," or the name

of any precious or semiprecious stone to describe any synthetic stone or imitation or simulated stone unless such word or name is immediately preceded, with equal conspicuity,

a) With the word "synthetic" or words of similar meaning and import, if the stones have essentially the same optical, physical, and chemical properties as those so described;

b) With the word "simulated" or "imitation," or words of similar meaning and import; if the stones are similar in appearance but do not have essentially the same optical, chemical and physical properties as those so described.

2) Use of the unqualified word "gold" to describe any product, unless such product, or any part thereof so described, is composed throughout of 24 karat gold.

3) Misrepresenting, in any manner, the metallic content of any jewelry product, or the nature or quality of the stones contained therein.

It is further ordered, That the respondent shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondent herein 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

BRAND & PURITZ, ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION, THE TEXTILE FIBER PRODUCTS IDENTIFI-
CATION, THE WOOL PRODUCTS LABELING AND THE FUR PRODUCTS