

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

Docket C-1784. Complaint, Aug. 24, 1970—Decision, Aug. 24, 1970

Consent order requiring a Seattle, Wash., manufacturer of carvings, jewelry and curios to cease claiming that they are hand-made hand-carved or "Eskimo made."

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 Leonard F. Porter, Inc., a corporation, and Leonard F. Porter, 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

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public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Leonard F. Porter, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Washington with its office and principal place of business located at 600 Prefontaine Building, Seattle, Washington.

Respondent Leonard F. Porter 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 manufacture, sale, and distribution of ivory carvings, jewelry, curios, and similar products to retailers for resale to the public. Said products generally have an Eskimo theme or motif.

PAR. 3. In the course and conduct of their business as aforesaid, respondents cause, and for some time last past have caused, their products, when sold, to be shipped and transported from their place of business in the State of Washington to purchasers thereof located in the State of Alaska, 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 as aforesaid, and for the purpose of inducing the purchase of their products, respondents have affixed thereto gummed labels and tags bearing the terms "Eskimo made" and "carved by hand." By and through the use of such statements and representations, respondents represent that their products are shaped and formed from raw materials by Eskimos using exclusively hand labor and manually controlled methods of production.

PAR. 5. In truth and in fact, respondents' products are not made by Eskimos using exclusively hand labor and manually controlled methods of production, but are manufactured with the use of powered machinery.

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

PAR. 6. By and through the use of the aforesaid statements, representations, and practices, respondents place in the hands of retailers the means and instrumentalities by and through which such

retailers may mislead the public as to the nature and method of manufacture of respondents' products.

PAR. 7. In the course and conduct of their business as aforesaid, and at all times mentioned herein, respondents have been in substantial competition in commerce with corporations, firms, and individuals in the sale of merchandise of the same general kind and nature as that sold by respondents.

PAR. 8. The use by respondents 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 mistaken and erroneous belief that said statements and representations were, and are, true and into the purchase of substantial quantities of respondents' products by reason of said mistaken and erroneous belief.

PAR. 9. 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.

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 alleged in said complaint, and waivers and provisions as required by the Commission's Rules; and

The Commission, having considered the agreement and having accepted the same, and the agreement containing consent order having thereupon been placed on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34 of its Rules, the Commission hereby issues its

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complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Leonard F. Porter, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Washington with its office and principal place of business located at 600 Prefontaine Building, Seattle, Washington.

Respondent Leonard F. Porter is an officer of said corporation. He formulates, directs, and controls the policies, acts, and practices of said corporation and his address is the same as that of said corporation.

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 Leonard F. Porter, Inc., a corporation, and its officers, and Leonard F. Porter, 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 advertising, labeling, offering for sale, sale, or distribution of carvings, jewelry, curios, or other products 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 a product or part thereof is hand-made or hand-carved unless such product or part has been shaped and formed from raw materials exclusively through the use of hand labor and manually controlled methods of production; or misrepresenting in any manner the techniques or methods used in the manufacture of any product.

2. Using the term "Eskimo made," or any term of similar import and meaning, to designate, describe, or refer to any product, or part thereof unless such product or part has been shaped and formed from raw materials exclusively through the use, by Eskimos, of hand labor and manually controlled methods of production; or misrepresenting in any manner the national origin or racial or ethnic background of any person engaged in the manufacture of respondents' products.

3. Placing in the hands of retailers or others the means and instrumentalities by and through which they may deceive or mislead the purchasing public concerning any product or part thereof in the respects set out in Paragraphs 1 and 2, above.

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Order

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

It is further ordered, That respondent corporation notify the Commission at least thirty (30) days prior to any proposed change in its corporate structure such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered, That respondents 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