

IN THE MATTER OF
AARON NEWMAN ET AL. DOING BUSINESS AS COLONY
FURNITURE CO.

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

Docket 6933. Complaint, Nov. 8, 1957—Decision, Apr. 15, 1958

Consent order requiring manufacturers in Linden, N.J., to cease representing falsely in advertising in trade journals and advertising mats and other material furnished to their dealer customers, that their furniture was advertised in *Life* and *House Beautiful*, and that certain of it was made entirely of mahogany, oak, maple, walnut, or fruitwood; furnishing customers with reproduction sheets, catalogs, etc., listing purported regular retail prices which were in fact fictitious and excessive; and furnishing them with "gift certificates" supposedly offering the consumer opportunity to buy furniture at less than the usual price when the prices to which the certificates applied were fictitious and inflated.

Mr. Kent P. Kratz for the Commission.

Mr. Joseph Harrison, of Newark, N.J. for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondents with violation of the Federal Trade Commission Act through the making of certain representations regarding furniture sold by them. An agreement has now been entered into by respondents and counsel supporting the complaint which provides, among other things, that respondents admit all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondents specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified, or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

The proposed order covers all of the representations referred to in

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the complaint with two exceptions. It appears from the agreement that these two representations were included in the complaint through inadvertence, and the agreement provides for the dismissal of the complaint as to these matters. In the circumstances such action appears appropriate. The agreement and proposed order are therefore accepted, the following jurisdictional findings made, and the following order issued:

1. Respondents Aaron Newman and Dan N. Newman are individuals and copartners, doing business as Colony Furniture Co., with their principal office and place of business located at 1125 West Elizabeth Avenue, Linden, N.J.

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 Aaron Newman and Dan N. Newman, individually and as copartners doing business as Colony Furniture Co., or under any other name, their agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of furniture or any other product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Misrepresenting in any manner, or by any means, directly or indirectly, the kind or nature of the wood or other materials used in the manufacture of their furniture or of any other product, or any part thereof.

2. Representing, directly or indirectly:

(a) That respondents' products, or any of them, have been advertised in any advertising media unless such advertising was recently and regularly run or unless the date thereof is set forth.

(b) That any amounts are the usual or regular retail prices of products which are in excess of the prices at which the products are usually and regularly sold at retail.

3. Furnishing any means or instrumentality to others by and through which the public may be misled as to the usual and regular prices of respondents' products, or the kind or nature of the wood or other materials used in the manufacture of respondents' furniture.

It is further ordered, That the complaint be, and the same hereby is dismissed insofar as it relates to the use of the terms "In Windsor Grey Mahogany Finish" and "fruitwood finish" set out in paragraph 4 thereof.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF
COMPLIANCE

Pursuant to section 3.21 of the Commission's rules of practice, the initial decision of the hearing examiner shall, on the 15th day of April 1958, become the decision of the Commission; and, accordingly:

It is 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 the order to cease and desist.

Decision

IN THE MATTER OF
ALBERT D. DILL ET AL. TRADING AS RAD-TEL TUBE CO.
CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 6954. Complaint, Nov. 25, 1957—Decision, Apr. 15, 1958

Consent order requiring mail order sellers in Newark, N.J., of radio parts and equipment to radio repair men and dealers, to cease representing "rejects" falsely in advertising as first quality radio tubes; failing to disclose in such advertising and on cartons, invoices, etc., the fact that they were seconds; and failing to disclose such fact adequately on the tubes themselves.

Mr. Charles W. O'Connell for the Commission.

Willkie, Farr, Gallagher, Walton & Fitz Gibbon, by *Mr. Sumner S. Kittelle*, New York, N.Y., for respondents.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on November 25, 1957, issued and subsequently served its complaint in this proceeding against respondents Albert D. Dill and Edward J. McGrath, individuals and co-partners trading as Rad-Tel Tube Co., with their office and place of business located at 604 Market Street, Newark, N.J.

On February 12, 1958, there was submitted to the undersigned hearing examiner an agreement between respondents and counsel supporting the complaint providing for the entry of a consent order. By the terms of said agreement, respondents admit all the jurisdictional facts alleged in the complaint and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. By such agreement, respondents waive any further procedural steps before the hearing examiner and the Commission; waive the making of findings of fact and conclusions of law; and waive all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement. Such agreement further provides that it disposes of all of this proceeding as to all parties; that the record on which this initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement; that the latter shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; that the agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint; and that the following order to cease and desist may be entered

in this proceeding by the Commission without further notice to respondents, and, when so entered, it shall have the same force and effect as if entered after a full hearing, and may be altered, modified, or set aside in the manner provided for other orders; and that the complaint may be used in construing the terms of the order.

The hearing examiner having considered the agreement and proposed order, and being of the opinion that they provide an appropriate basis for settlement and disposition of this proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued.

1. Respondents Albert D. Dill and Edward J. McGrath are individuals and copartners trading as Rad-Tel Tube Co., with their office and place of business located at 604 Market Street, Newark, N.J.

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 Albert D. Dill and Edward J. McGrath, as individuals and as copartners trading as Rad-Tel Tube Co., or under any other name, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or the distribution of radio tubes 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 radio tubes are first quality tubes, when such is not the fact.

2. Failing to reveal in advertising, invoices and shipping memoranda and on tubes and on the cartons in which the tubes are packed, by the use of the word "seconds" or "rejects" or other words or terms of the same import, that said tubes have been rejected by the manufacturers thereof, when such is the fact.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to section 3.21 of the Commission's rules of practice, the initial decision of the hearing examiner did, on the 15th day of April 1958, become the decision of the Commission; and, accordingly:

It is 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 the order to cease and desist.

Decision

IN THE MATTER OF

HARTLEY FURS, INC., ET AL.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING
ACTS

Docket 6959. Complaint, Nov. 25, 1957—Decision, Apr. 15, 1958

Order requiring furriers in Minneapolis, Minn., to cease violating the Fur Products Labeling Act by failing to label and invoice fur products as required; and by advertising in newspapers which failed to disclose the country of origin of imported furs, used comparative prices and percentage savings claims and represented that the selling prices were reduced from regular prices without maintaining adequate records upon which the pricing claims were based.

Mr. Harry E. Middleton, Jr., for the Commission.

No appearance for respondents.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, the Federal Trade Commission on November 25, 1957, issued and subsequently served its complaint in this proceeding upon the respondents Hartley Furs, Inc., a corporation, and Bernard Oksengorin, Raja Oksengorin, and Mike Engel, individually and as officers of said corporation, charging them with the use of unfair and deceptive acts and practices and unfair methods of competition in commerce in violation of the provisions of said acts. Subsequent thereto, said respondents failed to file their answers in this proceeding or to appear before the hearing examiner on February 10, 1958, the date set for the initial hearing in the complaint, and were declared in default. At said initial hearing counsel in support of the complaint was present and submitted a proposed order for consideration by the hearing examiner. Respondents being in default both as to answering the complaint and as to appearance at the initial hearing, and the hearing examiner having considered the proposed order submitted by counsel in support of the complaint and the record herein and being now duly advised in the premises makes the following findings as to the facts, conclusions drawn therefrom and order pursuant to rule 3.7 of the Commission's rules of practice:

1. Hartley Furs, Inc., is a corporation organized and doing business under and by virtue of the laws of the State of Minnesota. Respondents Bernard Oksengorin, Raja Oksengorin, and Mike Engel are officers of the said corporate respondent and they formulate, direct, and

control the acts, policies, and practices of said corporate respondent. The said corporate respondent and said individual respondents have their office and principal place of business at 1500 West Lake Street, Minneapolis, Minn.

2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondents have been, and are now, engaged in the introduction into commerce, and in the manufacture for introduction into commerce, and in the sale, advertising, and offering for sale in commerce, and in the transportation and distribution in commerce of fur products, and have manufactured for sale, sold, advertised, offered for sale, transported, and distributed fur products which have been made in whole or in part of fur which had been shipped and received in commerce, as "commerce," "fur," and "fur product" are defined in the Fur Products Labeling Act.

3. Certain of said fur products were misbranded in that they were not labeled as required under the provisions of section 4(2) of the Fur Products Labeling Act, and in the manner and form prescribed by the rules and regulations promulgated thereunder.

4. Certain of said fur products were misbranded in violation of the Fur Products Labeling Act in that they were not labeled in accordance with the rules and regulations promulgated thereunder in the following respects:

(a) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations thereunder was set forth in abbreviated form in violation of rule 4 of the aforesaid rules and regulations.

(b) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations thereunder was mingled with nonrequired information in violation of rule 29(a) of the aforesaid rules and regulations.

(c) Information required under section 4(2) of the Fur Products Labeling Act, and the rules and regulations thereunder was set forth in handwriting on labels in violation of rule 29(b) of the aforesaid rules and regulations.

(d) Required item numbers were not set forth on labels in violation of rule 40 of the aforesaid rules and regulations.

5. Certain of said fur products were falsely and deceptively invoiced in violation of the Fur Products Labeling Act in that they were not invoiced in accordance with the rules and regulations promulgated thereunder in that:

(a) Information required under section 5(b)(1) of the Fur Products Labeling Act and the rules and regulations thereunder was set forth

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in abbreviated form in violation of rule 4 of the aforesaid rules and regulations.

(b) Required item numbers or marks were not set forth on invoices in violation of rule 40 of the aforesaid rules and regulations.

6. Certain of said fur products were falsely and deceptively advertised in violation of the Fur Products Labeling Act in that respondents caused the dissemination in commerce, as "commerce" is defined in said act, of certain newspaper advertisements concerning said products which advertisements were not in accordance with the provisions of section 5(a) of the said act and the rules and regulations promulgated thereunder; and which advertisements were intended to aid and did aid, promote and assist, directly or indirectly, in the sale and offering for sale of said fur products.

7. Among and included in the said advertisements, but not limited thereto, were advertisements of the respondents published in the Minneapolis Star, a newspaper published in the city of Minneapolis, State of Minnesota, and having a substantial circulation in the said State and various other States of the United States. By means of such advertisements, as well as others of similar import not specifically referred to herein, respondents falsely and deceptively advertised their fur products in that said advertisements failed to disclose the name of the country of origin of any imported furs contained in fur products in violation of section 5(a)(6) of the Fur Products Labeling Act.

8. In advertising and offering the said fur products for sale, as aforesaid, respondents used comparative prices and percentage savings claims and represented that the prices at which said fur products were offered for sale were reduced prices from the regular or usual prices of the said fur products. Respondents in making such pricing claims and representations failed to maintain full and adequate records disclosing the facts upon which these claims and representations were based, in violation of rule 44(e) of the aforesaid rules and regulations.

CONCLUSION

The aforesaid acts and practices of respondents, as herein found are in violation of the Fur Products Labeling Act and the rules and regulations promulgated thereunder and constitute unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

ORDER

It is ordered, That respondents, Hartley Furs, Inc., a corporation, and its officers, and Bernard Oksengorin, Raja Oksengorin and Mike Engel, individually and as officers of said corporation, and respondents'

