

Decision

IN THE MATTER OF
UNITED CIGAR-WHELAN STORES CORPORATION
CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket 6808. Complaint, May 23, 1957—Decision, Sept. 28, 1957

Consent order requiring a corporation in Brooklyn, N.Y., operating a large number of company-owned retail stores and selling also to individually owned stores operating under franchise agreements, to cease representing falsely in advertising in newspapers and on display cards and circulars furnished its said dealers that its "Imported Precision-made Food Slicer" was of a value greatly in excess of the advertised selling price and was unexcelled for safety.

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

Mr. Alvah K. Parent, of Brooklyn, N.Y., and *Aranow, Brodsky, Bohlinger, Einhorn & Dann*, by *Mr. Herbert A. Einhorn*, of New York, N.Y., for respondent.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

On May 23, 1957, complaint herein was issued, charging Respondent with the use of false, misleading and deceptive representations in connection with the distribution and sale in commerce of its "Imported Precision-made Food Slicer," which representations constitute unfair methods of competition and unfair and deceptive acts and practices in commerce, in violation of the Federal Trade Commission Act.

On August 14, 1957, Respondent, its counsel, and counsel supporting the complaint entered into an Agreement Containing Consent Order To Cease And Desist, which was approved by the Director and the Assistant Director of the Commission's Bureau of Litigation, and thereafter submitted to the Hearing Examiner for consideration.

Respondent is identified in the agreement as a Delaware corporation, with its office and principal place of business located at 82 39th Street, Brooklyn, New York.

Respondent admits all the jurisdictional facts alleged in the complaint and agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

Respondent, in the agreement, waives any further procedure before the Hearing Examiner and the Commission; the making of findings

of fact or conclusions of law; and all the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist as contained in the agreement 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; that the complaint herein may be used in construing the terms of said order; and that the agreement is for settlement purposes only and does not constitute an admission by Respondent that it has violated the law as alleged in the complaint.

After consideration of the allegations of the complaint and the provisions of the agreement and the proposed order, the Hearing Examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the Hearing Examiner accepts the Agreement Containing Consent Order To Cease And Desist; finds that the Commission has jurisdiction over the Respondent and over its acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That Respondent United Cigar-Whelan Stores Corporation and its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of food slicers, or other merchandise, do forthwith cease and desist from:

1. Representing, directly or by implication, that imported food slicers or other merchandise have a specific value when such stated value (a) is in excess of the price at which said imported food slicers or other merchandise are regularly and usually sold in the normal course of business at retail by other persons or firms; or (b) is in excess of the prevailing market price at the time of such representation;
2. Representing, directly or by implication, that a certain amount is Respondent's usual or regular retail price for its imported food slicers or any other merchandise when such amount is in excess of the price at which said merchandise is usually and regularly sold at retail by Respondent;
3. Representing, directly or by implication, that its said food slicer is safe, or misrepresenting in any manner, the safety with which any mechanical cutting device may be used.

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 28th day of September, 1957, become the decision of the Commission; and, accordingly;

It is ordered, That respondent United Cigar-Whelan Stores Corporation, a corporation, 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 the order to cease and desist.

IN THE MATTER OF
ALLIED STORES OF OHIO, INC., TRADING AS THE
ROLLMAN SONS COMPANY

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

Docket 6805. Complaint, May 20, 1957—Decision, Oct. 1, 1957

Consent order requiring a furrier in Cincinnati, Ohio, to cease violating the Fur Products Labeling Act by failing to comply with the labeling and invoicing requirements; and by advertising which failed to disclose the names of animals producing the fur in certain products or that certain fur was artificially colored, and failed to set forth the description "dyed mouton processed lamb" as required.

Mr. S. F. House for the Commission.

Sullivan & Cromwell, by *Mr. Robert A. McDowell* of New York, N.Y., for respondent.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, the Federal Trade Commission on May 20, 1957, issued and subsequently served its complaint in this proceeding against respondent Allied Stores of Ohio, Inc., a corporation, trading as The Rollman Sons Company, existing and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at Fifth and Vine Streets, Cincinnati, Ohio.

On August 9, 1957, there was submitted to the undersigned hearing examiner an agreement between respondent and counsel supporting the complaint providing for the entry of a consent order. By the terms of said agreement, respondent admits all the jurisdictional facts alleged in the complaint and agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. By such agreement, respondent waives any further procedural steps before the hearing examiner and the Commission; waives the making of findings of fact and conclusions of law; and waives all of the rights it 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 respondent that it has 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 respondent, 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. Respondent Allied Stores of Ohio, Inc., trading as The Rollman Sons Company, is a corporation existing and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at Fifth and Vine Streets, in the City of Cincinnati, State of Ohio.

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 the respondent Allied Stores of Ohio, Inc., a corporation, and its officers, whether trading as The Rollman Sons Company or any other trade name or in any other manner, and respondent's representatives, agents or employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce of any fur product, or in connection with the sale, advertising, offering for sale, transportation or distribution of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Misbranding fur products by:

(a) Failing to affix labels to fur products showing:

(1) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations;

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- (2) That the fur product contains or is composed of used fur, when such is the fact;
 - (3) That the fur product contains or is composed of bleached, dyed, or artificially colored fur, when such is the fact;
 - (4) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;
 - (5) The name, or other identification issued and registered by the Commission, of one or more persons who manufactured such fur product for introduction into commerce, introduced it into commerce, sold it in commerce, advertised or offered it for sale in commerce, or transported or distributed it in commerce;
 - (6) The name of the country of origin of any imported furs used in the fur product;
 - (7) The item number or mark assigned to a fur product in violation of Rule 40 of the Rules and Regulations.
- (b) Setting forth on labels attached to fur products:
- (1) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form;
 - (2) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder which is intermingled with non-required information;
 - (3) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in handwriting.
2. Falsely or deceptively invoicing fur products by:
- (a) Failing to furnish invoices to purchasers of fur products showing:
 - (1) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations;
 - (2) That the fur product contains or is composed of used fur, when such is the fact;
 - (3) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;
 - (4) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;
 - (5) The name and address of the person issuing such invoices;
 - (6) The name of the country of origin of any imported furs contained in the fur product;
 - (7) The item number or mark assigned to the fur product in violation of Rule 40 of the Rules and Regulations.

(b) Setting forth information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form.

3. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement, or notice which is intended to aid, promote, or assist, directly or indirectly, in the sale or offering for sale of fur products, and which:

(a) Fails to disclose the name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the said Rules and Regulations;

(b) Fails to disclose that the fur products are bleached, dyed, or otherwise artificially colored, when such is the fact in violation of Section 5(a)(3) of the Fur Products Labeling Act.

(c) Fails to use the complete term "Mouton-processed Lamb" when an election is made to use the description provided for in Rule 9, instead of merely the animal name "Lamb."

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Sec. 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 1st day of October, 1957, become the decision of the Commission; and, accordingly:

It is 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 the order to cease and desist.

IN THE MATTER OF

R. H. BEST, INC., ET AL.

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

Docket 6814. Complaint, June 3, 1957—Decision, Oct. 3, 1957

Consent order requiring a concern in Rockville, Md., engaged in selling pre-cut houses, building materials, home equipment, and supplies, and in contracting for the construction of houses and pre-cut houses, to cease representing falsely in newspapers and by circular letters and catalogs that it was making a bona fide offer to sell and construct complete houses of specific design and size, at a specific price and at a designated saving over the usual cost of a comparable home; among a variety of false claims as in the order below set forth.

Mr. Harry E. Middleton, Jr., for the Commission.
Respondents, *pro se*.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on June 3, 1957, issued and subsequently served its complaint in this proceeding against respondents R. H. Best, Inc., a corporation existing and doing business under and by virtue of the laws of the State of Maryland, and R. H. Best, individually and as an officer of the corporate respondent. The office and principal place of the business of said respondents is at 1545 Rockville Pike, in the City of Rockville, State of Maryland.

On August 16, 1957, 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 and that there is no provision in the order respecting the charge relating to the use of the term "custom

