

Decision

IN THE MATTER OF
VELOX SERVICE, INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT

Docket 6622. Complaint, Aug. 28, 1956—Decision, Sept. 10, 1957

Consent order requiring a New York City family enterprise, doing business under many trade names, to cease misrepresenting in advertising the quality, properties, regular prices, etc., of a wide variety of merchandise it sold by mail order, and representing falsely that it operated its own factories; and dismissing, as not sustained by the evidence, charges relating to the use of the terms "Completely shock resistant" and "anti magnetic" with respect to watches, and the terms "importer" and "wholesaler."

Mr. Terral A. Jordan for the Commission.

Mr. George Landesman, of 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 August 28, 1956, issued and subsequently served its complaint in this proceeding against respondents Velox Service, Inc., a corporation existing and doing business under and by virtue of the laws of the State of New York; Caesar Torelli and Nelson Torelli, individually and as president, and vice president and secretary-treasurer, respectively, of the corporate respondent; and Charles Torelli, Hilda Torelli, Alice Jean Torelli and Marie A. Thoresen, individually. The office and principal place of business of each of the respondents is located at 352 Fourth Avenue, New York, New York.

After several hearings, at which considerable evidence in support of the complaint was introduced in the record, there was submitted to the 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

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provides that it disposes of all of this proceeding as to all parties, except those charges relating to the misuse of the terms "Completely shock resistant" and "anti magnetic" with respect to watches and the terms "importer" and "wholesaler" with respect to respondents' business status, which counsel supporting the complaint states he lacks evidence to prove; 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 the best and most 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 Velox Service, Inc., is a corporation existing and doing business under the laws of the State of New York, with its office and principal place of business located at 352 Fourth Avenue, New York, New York. Respondents Caesar Torelli and Nelson Torelli are individuals and are respectively, president, and vice president and secretary-treasurer of the said corporate respondent, and respondents Charles Torelli, Hilda Torelli, Alice Jean Torelli and Marie A. Thoresen are individuals. The office and principal place of business of the individual respondents is the same as that of the corporate respondent.

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.

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It is ordered, That respondents Velox Service, Inc., a corporation, and its officers, and Caesar Torelli and Nelson Torelli, as individuals and as officers of said corporate respondent, and Charles Torelli, Hilda Torelli, Alice Jean Torelli, and Marie A. Thoresen, as indi-

viduals, or any of the aforesaid individuals as individuals, or as copartners trading and doing business as Thoresen's Direct Sales, Consumers Mart, The International Binocular Company, Thoresen's, The Honor Company, the Rocket Wholesale Company, Moto-Matic Company, Trans-Kleer Co., or under any other trade name and respondents' agents, representatives, and employees, directly or through any corporate or other device, in the advertising for sale, offering for sale, sale or distribution of binoculars, watches, dolls, plastic storm windows, automobile seat covers or other articles of general merchandise, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from directly or indirectly, representing either through words or pictorial depictions that:

1. (a) A higher proportion of the air-to-glass lens surfaces of binoculars or other optical instruments are coated or treated to increase the passage of light through the lens than are in fact so coated or treated.

(b) The power of binoculars or other optical instruments is greater than the actual power thereof.

(c) Leather carrying cases for binoculars or other optical instruments or similar kinds of products are of a finer or more valuable grade, quality, design or workmanship than they are in fact.

(d) Watches or watch cases are moisture resistant when such is not the fact.

(e) A watch movement containing less than 7 jewels, each of which serves a mechanical purpose as a frictional bearing is a jewelled movement.

(f) The finish of watch cases or jewelry is of a designated karat fineness of gold unless the gold contained therein is in fact of the stated karat fineness or that said finish is rolled gold plate unless applied in the manner and to the thickness characteristic of gold plate or otherwise representing that said finish is other than what it is in fact.

(g) Dolls or similar products are made of a material having a skin-like texture and softness unless such is the fact or otherwise misrepresenting the characteristics and composition of such material.

(h) Doll clothing or similar products is of a finer or more valuable grade, quality, design or workmanship than it is in fact.

(i) The fabric, thread or other materials used in the manufacture of automobile seat covers or similar kinds of products are of a grade, weight, composition or otherwise different from that actually used therein.

(j) Automobile seat covers or similar kinds of products will not tear or will wear for a longer period of time under normal usage than is the fact.

(k) The fabric of automobile seat covers or the fabric contained in other products has been preshrunk or preshrunk by a particular process or will not shrink more than a designated amount when such is not the fact.

(l) Plastic storm windows or other products will withstand blows or forces of greater violence than they will in fact so withstand.

(m) The material for plastic storm windows or other products was developed by a designated person, firm or corporation which did not in fact develop said product or that said product was developed for the use of governmental or private organization when such is not the fact.

(n) Binoculars or other optical instruments have a prismatic optical system or any other kind of optical system unless such optical system is actually used in the construction thereof.

2. (a) The price at which the aforesaid or other articles of merchandise are advertised for sale, offered for sale or sold by respondents is a reduced price unless such price is in fact a reduction from the price at which respondents have advertised, offered or sold said articles of merchandise in the recent regular course of their business.

(b) The aforesaid or other articles of merchandise advertised, offered or sold by respondents have a retail selling price in excess of the retail selling price of similar articles of merchandise of like grade, quality, design and workmanship advertised for sale, offered for sale and regularly selling or having been sold, contemporaneously, in the same general trade area as that supplied by respondents, by other persons, firms, or corporations engaged in the same kind of business.

(c) The price at which the aforesaid or other articles of merchandise are advertised, offered, or sold by respondents affords a saving to the purchaser where said price constitutes respondents' regular retail selling price.

3. (a) Respondents own, operate or control a factory, plant or manufacturing establishment wherein are manufactured the articles of merchandise advertised for sale, or sold by them unless and until respondents shall in fact own, operate or control such a manufacturing establishment, or that the nature of respondents business operations are other than what they are in fact.

It is further ordered, That the complaint be, and the same hereby is, dismissed as to those charges relating to the misuse of the terms

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"Completely shock resistant" and "anti magnetic" with respect to watches and the terms "importer" and "wholesaler" with respect to respondents' business status.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The hearing examiner, on July 1, 1957, having filed an initial decision in this proceeding, accepting an agreement containing an order to cease and desist executed by the respondents and counsel supporting the complaint, and the Commission, on August 22, 1957, having issued its order extending, until further order by it, the date on which said initial decision would otherwise become the decision of the Commission; and

The Commission having now determined that the initial decision is adequate and appropriate in all respects to dispose of this proceeding:

It is ordered, That the aforesaid initial decision be, and it hereby is, adopted as the decision of the Commission.

It is further ordered, That the respondents, Velox Service, Inc., a corporation, and Caesar Torelli and Nelson Torelli, individually and as officers of said corporation, and Charles Torelli, Hilda Torelli, Alice Jean Torelli, and Marie A. Thoresen, 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 contained in said initial decision.

IN THE MATTER OF
THE HALLE BROS. CO.

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

Docket 6778. Complaint, Apr. 16, 1957—Decision, Sept. 10, 1957

Consent order requiring a furrier in Cleveland, Ohio, to cease violating the Fur Products Labeling Act by falsely identifying on labels and invoices the animals producing certain furs and by failing to comply with labeling and invoicing requirements of the Act; and, in advertising, failing to disclose the name of animals producing certain furs and that certain products contained artificially colored furs, and naming other animals than those producing the same furs.

Mr. S. F. House supporting the complaint.

Henderson, Quail, Schneider & Peirce of Cleveland, Ohio, for respondent.

INITIAL DECISION BY JOHN LEWIS, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondent on April 16, 1957, charging it with having violated the Fur Products Labeling Act and the Rules and Regulations issued thereunder, and the Federal Trade Commission Act through the misbranding of certain products and the false and deceptive invoicing and advertising thereof. After being served with said complaint, respondent appeared by counsel and subsequently entered into an agreement, dated July 2, 1957, containing a consent order to cease and desist purporting to dispose of all this proceeding as to all parties. Said agreement, which has been signed by respondent, by counsel for said respondent, and by counsel supporting the complaint, and approved by the Director and Assistant Director of the Commission's Bureau of Litigation, has been submitted to the above-named hearing examiner for his consideration, in accordance with Section 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings.

Respondent, pursuant to the aforesaid agreement, has admitted all the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. Said agreement further provides that respondent waives any further procedural steps before the hearing examiner and the Commission, the making of findings of fact or conclusions of law and all of the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with such agreement. It

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has been agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if entered after a full hearing and that the complaint may be used in construing the terms of said order. It has also been agreed that the record herein shall consist solely of the complaint and said agreement, and that said 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.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing consent order, and it appearing that the order provided for in said agreement covers all the allegations of the complaint and provides for an appropriate disposition of this proceeding as to all parties, said agreement is hereby accepted and is ordered filed upon this decision's becoming the decision of the Commission pursuant to Sections 3.21 and 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and the hearing examiner, accordingly, makes the following jurisdictional findings and order:

1. Respondent The Halle Bros. Co., 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 1228 Euclid Avenue, in the City of Cleveland, State of Ohio.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent hereinabove named. The complaint states a cause of action against said respondent under the Fur Products Labeling Act and the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That the respondent The Halle Bros. Co., a corporation and its officers, and respondent's representatives, agents, and 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 fur products, or in connection with the sale, advertising, offering for sale, transportation or distribution of 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, do forthwith cease and desist from:

1. Misbranding fur products by:

(a) Falsely or deceptively labeling or otherwise identifying any such product as to the name or names of the animal or animals that produced the fur from which such product was manufactured.

