

Complaint

the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder to describe fur products which are not pointed, bleached, dyed, tip-dyed or otherwise artificially colored.

4. Misrepresents in any manner the savings available to purchasers of respondents' fur products.

5. Falsely or deceptively represents in any manner that prices of respondents' fur products are reduced.

D. Making claims and representations of the types covered by subsections (a), (b), (c) and (d) of Rule 44 of the Rules and Regulations promulgated under the Fur Products Labeling Act unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims and representations are based.

It is further 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 this order.

 IN THE MATTER OF

WATCHBANDS, INC., ET AL.

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

*Docket 8596. Complaint, Sept. 20, 1963—Decision, Feb. 5, 1964**

Order requiring North Attleboro, Mass., distributors of metal expansion watchbands to manufacturers and distributors of watches and to retailers for resale, to cease selling watchbands manufactured in whole or in part in Hong Kong or Japan with no disclosure of their foreign origin or with such statements imprinted on the packages as "Made in USA"; and to cease preticketing their watchbands with fictitious prices.

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 Watchbands, Inc., a corporation, and Charles H. Dolansky and John I. Mushey, individually and as officers 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

* Order of May 21, 1964, denied respondents' motion to vacate default and reinstate case for trial on the merits.

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thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Watchbands, Inc., is a corporation organized, existing and doing business under and by virtue of the State of Massachusetts, with its office and principal place of business located at 380 East Washington Street in the city of North Attleboro, State of Massachusetts.

Respondents Charles H. Dolansky and John I. Mushey are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their 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 advertising, offering for sale, sale and distribution of metal expansion watchbands to manufacturers and distributors of watches as well as to retailers for resale to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said product, when sold, to be shipped from their place of business in the State of Massachusetts to purchasers thereof located in various other States of the United States and in the District of Columbia, and maintain, and at all times herein mentioned have maintained, a substantial course of trade in said product in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Said watchbands consist in whole or in substantial part of components which were manufactured in, and imported from Hong Kong or Japan. When offered for sale or sold by respondents, said watchbands do not bear disclosure showing that they are substantially of foreign origin. In some instances respondents also affirmatively represent, directly or by implication on the packages of said watchbands that said watchbands are made in the United States of America by imprinting thereon certain representations, of which the following is typical:

Made in USA.

Such affirmative representations are false, misleading and deceptive, as substantial portions of said products are manufactured in and imported from Hong Kong or Japan.

PAR. 5. In the absence of an adequate disclosure that a product, including metal expansion watchbands, is of foreign origin, the public believes and understands that it is of domestic origin, a fact of which the Commission takes official notice.

As to the aforesaid articles of merchandise, a substantial portion of the purchasing public has a preference for said articles which are of domestic origin, of which fact the Commission also takes official notice. Respondents' failure to clearly and conspicuously disclose the country of origin of said articles of merchandise, or substantial components thereof, is, therefore, to the prejudice of the purchasing public.

PAR. 6. Respondents, for the purpose of inducing the purchase of their watchbands, have engaged in the practice of using fictitious prices by attaching or causing to be attached to their watchbands, tickets or tags upon which certain amounts are printed, thereby representing, directly or by implication, that said amounts are the usual and regular retail prices of said watchbands. In truth and in fact, said amounts are not the usual and regular retail prices of said watchbands, but are in excess of prices at which said watchbands generally sell at retail in some of the trade areas where the representations are made.

PAR. 7. By the aforesaid practices, respondents place in the hands of watch manufacturers, distributors and retailers, means and instrumentalities by and through which they may mislead the public as to the usual and regular price of said watchbands and the place of origin of said watchbands or the substantial components thereof.

PAR. 8. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition in commerce, with corporations, firms and individuals in the sale of metal expansion watchbands of the same general kind and nature as that sold by the respondents.

PAR. 9. The use by respondents of the false, misleading and deceptive representations and practices hereinabove set forth, and the failure to disclose the foreign origin of their watchbands or of substantial components of their watchbands, have had, and now have, the capacity and tendency to mislead and deceive purchasers or members of the buying public in the manner aforesaid, and thereby to induce them to purchase respondents' watchbands.

PAR. 10. 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.

Mr. Herbert L. Blume supporting the complaint.

No appearance filed for respondents.

INITIAL DECISION BY JOSEPH W. KAUFMAN, HEARING EXAMINER

NOVEMBER 26, 1963

The complaint herein, charging respondents with violation of Section 5 of the Federal Trade Commission Act by the making of false and misleading representations, and the failure to disclose the foreign origin of their watchbands or of substantial components thereof, for the purpose of inducing the sale of merchandise, was issued September 20, 1963, and was duly served upon respondents by registered mail on October 10, 1963. The respondents have not filed their answers to this complaint within the time required and are now in default. Pursuant to the provisions of Rule 3.5(c) of the Commission's Rules of Practice for Adjudicative Proceedings, and on complaint counsel's motion, the hearing examiner hereby declares the respondents in default and now finds the facts to be as alleged in the complaint, and issues his initial decision containing such findings, appropriate conclusions drawn therefrom and order to cease and desist, as follows:

FINDINGS OF FACT

1. Respondent Watchbands, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Massachusetts, with its office and principal place of business located at 380 East Washington Street in the city of North Attleboro, State of Massachusetts.

Respondents Charles H. Dolansky and John I. Mushey are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of metal expansion watchbands to manufacturers and distributors of watches as well as to retailers for resale to the public.

3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said product, when sold, to be shipped from their place of business in the State of Massachusetts to purchasers thereof located in various other States of the United States and in the District of Columbia, and maintain, and at all times herein mentioned have maintained, a substantial course of trade in said product in commerce, as "commerce" is defined in the Federal Trade Commission Act.

4. Said watchbands consist in whole or in substantial part of components which were manufactured in, and imported from Hong Kong or Japan. When offered for sale or sold by respondents, said watchbands do not bear disclosure showing that they are substantially of foreign origin. In some instances respondents also affirmatively represent, directly or by implication on the packages of said watchbands that said watchbands are made in the United States of America by imprinting thereon certain representations, of which the following is typical:

Made in USA.

Such affirmative representations are false, misleading and deceptive, as substantial portion of said products are manufactured in and imported from Hong Kong or Japan.

5. In the absence of an adequate disclosure that a product, including metal expansion watchbands, is of foreign origin, the public believes and understands that it is of domestic origin, a fact of which the Commission takes official notice.

As to the aforesaid articles of merchandise, a substantial portion of the purchasing public has a preference for said articles which are of domestic origin, of which fact the Commission also takes official notice. Respondents' failure to clearly and conspicuously disclose the country of origin of said articles of merchandise, or substantial components thereof, is, therefore, to the prejudice of the purchasing public.

* * * * *

6. Respondents, for the purpose of inducing the purchase of their watchbands, have engaged in the practice of using fictitious prices by attaching or causing to be attached to their watchbands, tickets or tags upon which certain amounts are printed, thereby representing, directly or by implication, that said amounts are the usual and regular retail prices of said watchbands. In truth and in fact, said amounts are not the usual and regular retail prices of said watchbands, but are in excess of prices at which said watchbands generally sell at retail in some of the trade areas where the representations are made.

7. By the aforesaid practices, respondents place in the hands of watch manufacturers, distributors and retailers, means and instrumentalities by and through which they may mislead the public as to the usual and regular price of said watchbands and the place of origin of said watchbands or the substantial components thereof.

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8. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition in commerce, with corporations, firms and individuals in the sale of metal expansion watchbands of the same general kind and nature as that sold by the respondents.

* * * * *

9. The use by respondents of the false, misleading and deceptive representations and practices hereinabove set forth, and the failure to disclose the foreign origin of their watchbands or of substantial components of their watchbands, have had, and now have, the capacity and tendency to mislead and deceive purchasers or members of the buying public in the manner aforesaid, and thereby to induce them to purchase respondents' watchbands.

CONCLUSION

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.

ORDER

It is ordered, That respondents Watchbands, Inc., a corporation, and its officers, and Charles H. Dolansky and John I. Mushey, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of watchbands or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Offering for sale, selling or distributing any such products which are substantially, or which contain a substantial part or parts, of foreign origin or fabrication without affirmatively disclosing the country or place of foreign origin or fabrication thereof on the products themselves, by marking or stamping on an exposed surface, or on a label or tag affixed thereto, of such degree of permanency as to remain thereon until consummation of consumer sale of the products, and of such conspicuousness as to be likely observed and read by purchasers and prospective purchasers making casual inspection of the products.

2. Offering for sale, selling, or distributing any such product packaged, or mounted in a container, or on a display card, without disclosing the country or place of foreign origin of the prod-

uct, or substantial part or parts thereof, on the front or face of such packaging, container, or display card, so positioned as to clearly have application to the product so packaged or mounted, and of such degree of permanency as to remain thereon until consummation of consumer sale of the product, and of such conspicuousness as to be likely observed and read by purchasers and prospective purchasers making casual inspection of the product as so packaged or mounted.

3. Representing, directly or indirectly, in any manner or by any means, that their products are of domestic origin when said products or substantial portions thereof are of foreign origin.

4. The act or practice of preticketing merchandise at an indicated retail price when the indicated retail price is in excess of the generally prevailing retail price for such merchandise in the trade area or when there is no generally prevailing retail price for such merchandise in the trade area.

5. Placing in the hands of jobbers, retailers, dealers, and others, means and instrumentalities by and through which they may deceive and mislead the purchasing public concerning any merchandise in the respects set out above.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, effective August 1, 1963, the initial decision of the hearing examiner shall on the 5th day of February, 1964, become the decision of the Commission; and accordingly:

It is ordered, That 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.

IN THE MATTER OF

RETAILERS MARKETING GUILD, INC., ET AL.

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

Docket C-704. Complaint, Feb. 5, 1964—Decision, Feb. 5, 1964

Consent order requiring three associated Chicago distributors of various articles of merchandise to cease such unfair practices as supplying credit furniture and jewelry stores with "traffic builders"—consisting of adver-

