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Complaint

this order, file with the Commission, a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Commissioner Elman dissenting.

IN THE MATTER OF

WILLIAM D. YARNELL doing business as
NATIONAL ALUMINUM COMPANY

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

Docket C-1076. Complaint, June 24, 1966—Decision, June 24, 1966

Consent order requiring a Columbia, S.C., dealer in aluminum siding and related home improvement products to cease using fictitious pricing and savings claims, misrepresenting payment of commissions, source of products, business affiliation, and maintenance of such products.

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 William D. Yarnell, an individual trading and doing business as National Aluminum Company, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, William D. Yarnell, is an individual trading and doing business under the name of National Aluminum Company, with his principal place of business located at 2200 Main Street, in the city of Columbia, State of South Carolina.

PAR. 2. Respondent is now, and for some time last past been, engaged in the advertising, offering for sale, sale and distribution of aluminum siding and related home improvement products to the public.

PAR. 3. In the course and conduct of his business, respondent

now causes, and for some time last past has caused, his said products, when sold, to be shipped from his place of business in the State of South Carolina to purchasers thereof located in various other States of the United States and maintains, and at all times mentioned herein has 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 his business, and for the purpose of inducing the purchase or respondent's products, respondent's salesmen or representatives have represented, and now represent, directly or by implication, in oral solicitations to prospective purchasers that:

(1) Purchasers who allow materials installed by respondent to be used as models and for demonstration purposes will receive special or reduced prices for respondent's products and that savings will thereby be granted respondent's customers in reductions from respondent's established selling prices.

(2) Purchasers will receive a commission from respondent for each sale and installation of his materials made as a result of displaying or advertising their homes or as a result of referring other purchasers to respondent.

(3) Aluminum siding sold by respondent is manufactured by Reynolds Aluminum Company.

(4) Respondent is connected or affiliated with Reynolds Aluminum Company.

(5) Aluminum siding sold by respondent will never need any painting.

PAR. 5. In truth and in fact:

(1) For the reason that respondent does not sell his products at established selling prices, the prices represented as special or reduced prices at which respondent sells his products to purchasers who agree to have their homes used as models for demonstration purposes are not special or reduced prices and savings are not granted respondent's customers in reductions from any established selling price.

(2) Respondent does not in every instance display or advertise homes in accordance with its promises and representations; nor does it, in those instances in which sales are made as the result of the use of purchasers' homes for advertising or display purposes, pay commissions or other compensation to such purchasers. In the few instances where commissions are paid by respondent to purchasers for referring other purchasers to respondent, they are

not paid in accordance with respondent's promises and representations.

(3) Aluminum siding sold by respondent is not manufactured by Reynolds Aluminum Company.

(4) Respondent is not connected or affiliated with Reynolds Aluminum Company.

(5) Aluminum siding sold by respondent will require painting.

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

PAR. 6. In the conduct of his business, at all times mentioned herein, respondent has been in substantial competition, in commerce, with corporations, firms and individuals in the sale of aluminum siding and related home improvement products of the same general kind and nature as that sold by respondent.

PAR. 7. The use by respondent 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 erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondent's products by reason of said erroneous and mistaken belief.

PAR. 8. The aforesaid acts and practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public and of respondent's 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 respondent named in the caption hereof with violation of the Federal Trade Commission Act, and the respondent 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 respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondent 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 respondent that the law has been violated as set

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forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent William D. Yarnell is an individual trading and doing business under the name of National Aluminum Company, with his principal place of business located at 2200 Main Street, in the city of Columbia, State of South Carolina.

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 respondent William D. Yarnell, an individual trading and doing business as National Aluminum Company, or trading and doing business under any other name or names, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, distribution or installation of aluminum siding or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. (a) Representing, directly or by implication, that any price for respondent's products is a special or reduced price unless such price constitutes a significant reduction from an established selling price at which such products have been sold in substantial quantities by respondent in the recent regular course of his business.

(b) Representing, directly or by implication, that purchasers will receive commissions or other compensation, unless respondent provides an opportunity or program whereby purchasers can qualify for such commissions or other compensation, and provides such commissions or other compensation, in every instance, to those qualifying therefor; misrepresenting, directly or by implication, that a home will be used for display or advertising purposes; or misrepresenting in any manner commissions or any other compensation to be received by respondent's purchasers.

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(c) Representing, directly or by implication, that aluminum siding sold by respondent is manufactured by Reynolds Aluminum Company; or misrepresenting, in any manner, the identity of the manufacturer or the source of any of respondent's products.

(d) Representing, directly or by implication, that respondent is connected or affiliated with Reynolds Aluminum Company; or misrepresenting, in any manner, respondent's business connections or affiliations.

(e) Representing, directly or by implication, that aluminum siding sold by respondent will never need painting; or misrepresenting, in any manner, the painting or other maintenance required for respondent's products.

2. Misrepresenting, in any manner, the savings available to purchasers of respondent's products.

3. Supplying or placing in the hand of any distributor, dealer or salesman, brochures, sales manuals, charts, pamphlets or any other advertising material which are displayed or may be displayed, to the purchasing public which contain any of the false or misleading representations prohibited in Paragraphs 1 and 2 herein.

It is further ordered, That respondent deliver a copy of this order to every salesman or representative, now or at any time hereafter, engaged in selling or soliciting the sale of respondent's products.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

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IN THE MATTER OF

FURS BY VANITY, INC., ET AL.

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

Docket C-1077. Complaint, June 24, 1966—Decision, June 24, 1966

Consent order requiring a Philadelphia, Pa., retail furrier to cease misbranding and falsely invoicing its fur products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Furs By Vanity, Inc., a corporation, and Sol Shane and Elizabeth Diaco, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Furs by Vanity, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania.

Respondents Sol Shane and Elizabeth Diaco are officers of the corporate respondent and formulate, direct and control the acts, practices and policies of the said corporate respondent including those hereinafter set forth.

Respondents are manufacturers and retailers of fur products with their office and principal place of business located at 3226 West Cheltenham Avenue, Philadelphia, Pennsylvania.

PAR. 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 furs which have been shipped and received in commerce, as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act.

PAR. 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.

PAR. 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 inasmuch as required item numbers were not set forth on labels, in violation of Rule 40 of said Rules and Regulations.

PAR. 5. Certain of said fur products were falsely and deceptively invoiced by the respondents in that they were not invoiced as required by Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated under such Act.

Among such falsely and deceptively invoiced fur products, but not limited thereto, were fur products covered by invoices which failed:

1. To show the true animal name of the fur used in the fur product.
2. To disclose that the fur contained in the fur product was bleached, dyed or otherwise artificially colored, when such was the fact.

PAR. 6. Certain of said fur products were falsely and deceptively invoiced with respect to the name or designation of the animal or animals that produced the fur from which the said fur products had been manufactured, in violation of Section 5(b)(2) of the Fur Products Labeling Act.

Among such falsely and deceptively invoiced fur products, but not limited thereto, were fur products which were invoiced as "Broadtail" thereby implying that the furs contained therein were entitled to the designation "Broadtail Lamb" when in truth and in fact they were not entitled to such designation.

PAR. 7. 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 the following respects:

1. Information required under Section 5(b)(1) of the Fur products Labeling Act and the Rules and Regulations promulgated

