IN THE MATTER OF

MILLER-SCHULMAN CORPORATION ET AL.

COMPLAINT, SETTLEMENT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914, AND OF AN ACT OF CONGRESS APPROVED OCT. 14, 1940

Docket 6053. Complaint, Oct. 16, 1952–Decision, Jan. 13, 1953

Where a corporation and its two officers, engaged in the manufacture and interstate sale and distribution of wool products as defined in the Wool Products Labeling Act—

(*a*) Misbranded certain ladies' coats in that the interlinings thereof were not stamped, tagged or labeled as required by said Act and the Rules and Regulations promulgated thereunder;

(*b*) Misbranded said ladies' coats in that they were labeled or tagged "100 Percent Wool Interlining", notwithstanding the fact that said interlinings were not wool as defined by said Act but contained reused wool, together with substantial quantities of miscellaneous other fibers; and

(*c*) Misbranded certain ladies' coats used as samples to promote sales in commerce in that they were not labeled with the required information:

Held, that such acts and practices, under the circumstances set forth, were in violation of the Wool Products Labeling Act and the Rules and Regulations promulgated thereunder, and constituted unfair acts and practices in commerce.

Before *Mr. Everett F. Haycraft*, hearing examiner.

Mr. George E. Steinmetz for the Commission.

Jacobs, Leibowitz & Kahn, of New York City, for respondents.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Miller-Schulman Corporation, a corporation, and David Miller and David Schulman, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts, 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 Miller-Schulman Corporation is a corporation organized and existing under and by virtue of the laws of the

State of New York, with its principal place of business located at 263 West 38th Street, New York, New York.

The individual respondents, David Miller and David Schulman, are president and secretary-treasurer, respectively, of the corporate respondent, Miller-Schulman Corporation, and formulate, direct and control the affairs and policies of said corporate respondent. Said individual respondents have their offices at the same place as corporate respondent.

PAR. 2. Subsequent to the effective date of the said Wool Products Labeling Act and more especially since 1950, respondents have manufactured for introduction into commerce, introduced into commerce, sold, transported distributed, delivered for shipment, and offered for sale in commerce, as "commerce" is defined in the Wool Products Labeling Act, wool products, as "wool products" are defined therein.

PAR. 3. Certain of said wool products were misbranded in that the interlinings thereof were not stamped, tagged or labeled as required under the provisions of section 4(a) (2) of the Wool Products Labeling Act of 1939 and Rule 24 (a) and (c) of the Rules and Regulations promulgated under said Act.

PAR. 4. Certain of said wool products were misbranded within the intent and meaning of said Wool Products Labeling Act and the Rules and Regulations made thereunder in that they were falsely and deceptively labeled or tagged with respect to the character and amount of the constituent fibers contained therein. Among the misbranded wool products aforementioned were ladies' coats labeled or tagged by the respondent corporation as containing "100% Wool Interlining," when in truth and in fact the said interlinings were not wool as defined by the Wool Products Labeling Act of 1939, but contained reused wool together with substantial quantities of miscellaneous fibers other than wool.

Other wool products of respondent corporation, namely ladies' coats used as samples to promote sales in commerce were not labeled with the required information in violation of Rule 22 of the Commission Rules and Regulations.

PAR. 5. The acts and practices of respondents as herein alleged constitute misbranding of wool products and are in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and all of the aforesaid acts and practices as alleged herein are to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

CONSENT SETTLEMENT [1]

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, the Federal Trade Commission on October 16, 1952, issued and subsequently served its complaint on the respondents named in the caption hereof, charging them with the use of unfair and deceptive acts and practices in violation of the provisions of said Acts.

The respondents, desiring that this proceeding be disposed of by the consent settlement procedure provided in Rule V of the Commission's Rules of Practice, solely for the purposes of this proceeding, any review thereof, and the enforcement of the order consented to, and conditioned upon the Commission's acceptance of the consent settlement hereinafter set forth hereby:

1. Admits all the jurisdictional allegations set forth in the complaint.

2. Consents that the Commission may enter the matters hereinafter set forth as its findings as to the facts, conclusion, and order to cease and desist. It is understood that the respondents, in consenting to the Commission's entry of said findings as to the facts, conclusion, and order to cease and desist, specifically refrains from admitting or denying that it has engaged in any of the acts or practices stated therein to be in violation of law.

3. Agrees that this consent settlement may be set aside in whole or in part under the conditions and in the manner provided in paragraph (f) of Rule V of the Commission's Rules of Practice.

The admitted jurisdictional facts, the statement of the acts and practices which the Commission had reason to believe were unlawful, the conclusion based thereon, and the order to cease and desist, all of which the respondents consent may be ordered herein in final disposition of this proceeding are as follows:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Miller-Schulman Corporation is a corporation organized and existing under and by virtue of the laws of the State of New York, with its principal place of business located at 263 West 38th Street, New York, New York.

[1] The Commission's "Notice" announcing and promulgating the consent settlement as published herewith, follows:

The consent settlement tendered by the parties in this proceeding, a copy of which is served herewith, was accepted by the Commission on January 13, 1953, and ordered entered of record as the Commission's findings as to the facts, conclusion, and order in disposition of this proceeding.

The time for filing report of compliance pursuant to the aforesaid order runs from the date of service hereof.

The individual respondents, David Miller and David Schulman, are president and secretary-treasurer, respectively, of the corporate respondent, Miller-Schulman Corporation, and formulate, direct and control the affairs and policies of said corporate respondent. Said individual respondents have their offices at the same place as corporate respondent.

PAR. 2. Subsequent to the effective date of the said Wool Products Labeling Act and more especially since 1950, respondents have manufactured for introduction into commerce, introduced into commerce, sold, transported, distributed, delivered for shipment, and offered for sale in commerce, as "commerce" is defined in the Wool Products Labeling Act, wool products, as "wool products" are defined therein.

PAR. 3. Certain of said wool products were misbranded in that the interlinings thereof were not stamped, tagged or labeled as required under the provisions of section 4 (a) (2) of the Wool Products Labeling Act of 1939 and Rule 24 (a) and (c) of the Rules and Regulations promulgated under said Act.

PAR. 4. Certain of said wool products were misbranded within the intent and meaning of said Wool Products Labeling Act and the Rules and Regulations made thereunder in that they were falsely and deceptively labeled or tagged with respect to the character and amount of the constituent fibers contained therein. Among the misbranded wool products aforementioned were ladies' coats labeled or tagged by the respondent corporation as containing "100 per cent Wool Interlining," when in truth and in fact the said interlinings were not wool as defined by the Wool Products Labeling Act of 1939, but contained reused wool together with substantial quantities of miscelllaneous fibers other than wool.

Other wool products of respondent corporation, namely ladies' coats used as samples to promote sales in commerce were not labeled with the required information in violation of Rule 22 of the Commission Rules and Regulations.

CONCLUSION

The acts and practices of respondents as herein found constitute misbranding of wool products and are in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and all of the aforesaid acts and practices herein found are to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

It is ordered, That the respondents, Miller-Schulman Corporation, a corporation, and its officers, and David Miller and David Schulman, 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 introduction or manufacture for introduction into commerce or the sale, transportation or distribution in commerce as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939 of ladies' coats or other "wool products" as such products are defined in and subject to the Wool Products Labeling Act of 1939, which products contain, purport to contain or in any way are represented as containing "wool," "reprocessed wool" or "reused wool," as those terms are defined in said Act, do forthwith cease and desist from:

1. Falsely or deceptively stamping, tagging, labeling or otherwise identifying such products as to the character or amount of the constituent fibers contained therein;

2. Failing to securely affix to or place on each such product a stamp, tag, label or other means of identification showing in a clear and conspicuous manner:

(*a*) The percentage of the total fiber weight of such wool product, exclusive of ornamentation not exceeding five percentum of said total fiber weight of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber is five percentum or more, and (5) the aggregate of all other fibers;

(*b*) The maximum percentages of the total weight of such wool product of any nonfibrous loading, filling, or adulterating matter;

(*c*) The name or the registered identification number of the manufacturer of such wool product or of one or more persons engaged in introducing such wool product into commerce, or in the offering for sale, sale, transportation, distribution or delivering for shipment thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939.

3. Failing to separately set forth on the required stamp, tag or label or other means of identification the character and amount of the constituent fibers of the interlinings of any such wool product.

4. Failing to label or mark sample wool products used to promote or effect sales in commerce with the respective fiber contents and other information required by law. *Provided*, That the foregoing provisions concerning misbranding shall not be construed to prohibit acts permitted by paragraphs (a) and (b) of section 3 of the Wool Prod-

ucts Labeling Act of 1939, and provided further, that nothing contained in this order shall be construed as limiting any applicable provisions of said Act or the Rules and Regulations promulgated thereunder.

It is further ordered, That the respondents 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 said order.

[S] MILLER SCHULMAN CORP.
Miller-Schulman Corporation, a corporation

By [S] DAVID MILLER
(Name)

[S] PRES.
(Title)

[S] DAVID MILLER
David Miller, individually and as president, Miller-Schulman Corporation, a corporation.

[S] DAVID SCHULMAN
David Schulman, individually and as Secretary-treasurer, Miller-Schulman Corporation, a corporation.

DECEMBER 12, 1952
(Date)

The foregoing consent settlement is hereby accepted by the Federal Trade Commission and ordered entered of record on this 13th day of January, A. D., 1953.

IN THE MATTER OF

MAURICE J. LENETT AND LEONARD STOLZBERG DOING BUSINESS AS LENCO SPRING COMPANY

COMPLAINT, DECISION, FINDINGS, AND ORDERS IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 5964. Complaint, Mar. 14, 1952—Decision, Jan. 15, 1953

When articles assembled or manufactured in whole or in part from previously used materials so that they have the appearance of being assembled or manufactured from new and unused materials, are offered to the purchasing public not clearly or conspicuously marked or labeled as assembled or manufactured from used materials, they are readily accepted by members of the purchasing public as assembled or manufactured entirely from new and unused materials.

Where two individuals engaged in assembling automobile springs composed of some new and of some old and previously used parts, and in the interstate sale thereof to dealers in various parts of the United States in substantial competition with concerns engaged in the manufacture and sale in commerce of automobile springs made entirely from new and previously unused parts;

In carrying on their said business in the course of which they purchased old springs theretofore used in any make of car, inspected them for wear, flaws or possible imperfections, assembled five of such old springs with three new springs, together with a new center bolt, new bushings, and a new metal cover, and caused the same to be mechanically wrapped in paper together with certain labeling and markings which included the capital letter "S", in immediate conjunction with certain numerals identical with catalog numbers used by the manufacturers of Chevrolet and Chrysler automobiles, to springs for which makes they confined their output—

(*a*) Offered and sold their said springs to dealers with no labeling, marking or designation to indicate to the purchasing public or to dealers that said springs, which were resold to said public with no such disclosure, were assembled in part from old and used parts; and

(*b*) In some instances sold to dealers as and for new, such automobile springs which had the appearance of having been assembled or manufactured from new and unused parts;

With the result of thereby placing in the hands of dealers means whereby they might mislead or deceive members of the purchasing public into the erroneous belief that they were buying springs made entirely from new and previously unused parts; and with tendency and capacity to mislead and deceive a substantial portion of said public into the mistaken belief that such springs were new springs assembled entirely from new and unused parts, and thereby induce its purchase of substantial quantities of their said product; whereby substantial trade in commerce was diverted to them from their said competitors, to the injury of competition in commerce:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public, and of competitors of respondents, and constituted unfair methods of competition in commerce and unfair and deceptive acts and practices therein.

Before *Mr. James A. Purcell*, hearing examiner.
Mr. Edward F. Downs for the Commission.
Halfpenny, Hahn & Cassedy, of Washington, D. C., for respondents.

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 Maurice J. Lenett and Leonard Stolzberg, individuals, doing business as Lenco Spring Company, 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 thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondents Maurice J. Lenett and Leonard Stolzberg are individuals doing business as Lenco Spring Company, with their office and principal place of business at Rear 578 Millbury Street, Worcester, Massachusetts.

PAR. 2. Respondents are now and for more than one year last past have been engaged in the business of assembling automobile springs composed of some new and some old and previously used parts, and the sale thereof to dealers located in various parts of the United States who purchase for resale.

PAR. 3. In the course and conduct of their business as aforesaid, respondents have caused and now cause their said automobile springs, when sold by them, to be transported from their place of business in the State of Massachusetts to purchasers located in States other than the State of Massachusetts and in the District of Columbia.

Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said automobile springs in commerce as "commerce" is defined in the Federal Trade Commission Act. The volume of business of respondents in said commerce is and has been substantial.

PAR. 4. In the course and conduct of their business respondents buy old automobile springs that have been previously used which they disassemble and using certain parts thereof and certain new and previously unused parts assemble complete automobile springs in such a manner that such springs have the appearance of having been assembled or manufactured entirely from new and previously unused parts.

PAR. 5. Respondents sell their automobile springs as above described to dealers, who purchase for resale to the purchasing public, without any label, marking or designation stamped thereon or otherwise attached thereto, to indicate to the purchasing public or to the dealers that said automobile springs are assembled in part from old and previously used parts, and such automobile springs are resold to the purchasing public without any disclosure that they are assembled in part from old parts that have been previously used.

In some instances respondents sell such automobile springs to dealers as and for new automobile springs assembled or manufactured entirely from new and previously unused parts.

PAR. 6. When articles which are assembled or manufactured in whole or in part from previously used materials in such a manner that they have the appearance of being assembled or manufactured from new and previously unused materials, are offered to the purchasing public, and such articles are not clearly and conspicuously marked or labeled as having been assembled or manufactured from previously used materials, they are readily accepted by members of the purchasing public as having been assembled or manufactured entirely from new and previously unused materials.

PAR. 7. In the course and conduct of their business respondents have been at all times mentioned herein in substantial competition with individuals, corporations and firms engaged in the business of manufacturing and selling automobile springs manufactured entirely from new and previously unused parts in commerce among and between the various States of the United States.

PAR. 8. By the aforesaid acts and practices, the respondents place in the hands of dealers the means and instrumentalities whereby said dealers may deceive or mislead members of the purchasing public into the erroneous and mistaken belief that they are purchasing automobile springs manufactured entirely from new and previously unused parts, when in fact said springs are composed in part of old and previously used parts.

PAR. 9. The failure of respondents to mark their said springs showing that they contain old and previously used parts has had and now has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that the automobile springs sold by them were and are new springs assembled or manufactured entirely from new and previously unused parts, and to induce a substantial portion of the purchasing public to purchase substantial quantities of respondents' automobile

springs because of such erroneous and mistaken belief. As a direct result of the practices of respondents, as aforesaid, substantial trade in commerce has been diverted to respondents from their said competitors and injury has been done to competition in commerce between and among the various States of the United States.

PAR. 10. The acts and practices of respondents, as herein alleged, are all to the prejudice and injury of the public and of the competitors of respondents, and constitute unfair methods of competition and unfair and deceptive acts and practices, in commerce, within the intent and meaning of the Federal Trade Commission Act.

DECISION OF THE COMMISSION

Pursuant to Decision and Order of the Commission dated January 15, 1953, the initial decision of hearing examiner James A. Purcell became on that date the order of the Commission.[1]

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on March 14, 1952, issued and subsequently served its complaint in this proceeding upon respondents, Maurice J. Lenett and Leonard Stolzberg, individuals, doing business as Lenco Spring Company, charging them with the use of unfair methods of competition and unfair and deceptive acts and practices in commerce in violation of the provisions of said Act. After the issuance of said complaint and the filing of respondents' answers thereto, hearings were held at which testimony and other evidence in support of and in opposition to the allegations of said complaint were introduced before the above-named Hearing Examiner theretofore duly designated by the Commission, and said testimony and other evidence were duly recorded and filed in the office of the Commission.

Thereafter, the proceeding regularly came on for final consideration by said Hearing Examiner on the complaint, the answers thereto, testimony and other evidence, proposed findings as to the facts and

[1] Said "Decision," etc., dated January 15, 1953, reads as follows, omitting the formal Order of Compliance, set forth infra at page 922.

This matter coming on to be heard by the Commission upon its review of the initial decision of the hearing examiner herein; and

The Commission having considered the entire record and being of the opinion that said initial decision is adequate and appropriate to dispose of the proceeding:

It is ordered, That the initial decision of the hearing examiner, copy of which is attached hereto, shall on the 15th day of January, 1953, become the decision of the Commission.

conclusions presented by counsel in support of the complaint (none such having been filed by the respondents), oral argument thereon not having been requested; and said Hearing Examiner, having duly considered the record herein, finds that this proceeding is in the interest of the public and makes the following findings as to the facts, conclusions drawn therefrom, and order:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondents Maurice J. Lenett and Leonard Stolzberg are individuals doing business as Lenco Spring Company, with their office and principal place of business at Rear 578 Millbury Street, Worcester, Massachusetts.

PAR. 2. Respondents are now and for more than one year last past have been engaged in the business of assembling automobile springs composed of some new and some old and previously used parts, and the sale thereof to dealers located in various parts of the United States who purchase for resale.

PAR. 3. In the course and conduct of their business as aforesaid, respondents have caused and now cause their said automobile springs when sold by them, to be transported from their place of business in the State of Massachusetts to purchasers thereof located in States other than the State of Massachusetts and in the District of Columbia.

Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said automobile springs in commerce as "commerce" is defined in the Federal Trade Commission Act. The volume of business of respondents in said commerce is and has been substantial, to wit, for the years 1949, $35,000.00; 1950, $108,000.00; and 1951, $274,000.00.

PAR. 4. In the course and conduct of their business respondents buy old automobile springs, that have been previously used, which they disassemble and, using certain parts thereof, combined with certain new and previously unused parts, assemble complete automobile springs in such a manner that the springs thus assembled or produced have the appearance of having been assembled or manufactured entirely from new and previously unused parts.

The methods or processes employed by respondents are specifically as follows: All springs are of the semi-elliptic type for automobile usage; respondents purchase old springs theretofore used in any make of automobile, regardless of the year of manufacture, transport same to their premises where the center bolt is broken open, all leaves taken therefrom, inspected for wear, flaws or possible imperfections and those found acceptable after testing are cut to the measurement of the type spring sought to be produced; in assembling respondents pro-

vide a new main leaf (i. e. the top or longest leaf in the assembly), adaptable for use on the particular automobile for which the spring is intended, and also a bottom leaf (i. e. the shortest leaf in the assembly), and at times, where necessary, add a third leaf so that the spring as finally sold consists of five old or reclaimed leaves and three replacements. Also supplied are a new center bolt and new bushings, and the assembly, having been painted, is encased in a new metal cover. The center bolt, replaced leaves as aforedescribed, bushings and the metal cover are the only new parts, all others having been previously used. Thereafter, the springs are mechanically wrapped in paper, labeled and ready for the market. Respondents confine their output to springs for Chevrolet and Chrysler automobiles.

Upon leaving the hands of respondents there is nothing on the springs proper, or attached thereto, which would indicate that previously used parts had entered into the product; that affixed by glue to the paper wrapper encasing the spring is a label which bears the capital letter "S" in immediate conjunction with certain numerals, such numerals being identical with those used by the manufacture of Chevrolet and Chrysler automobiles to indicate the catalog numbers of their springs to be used as replacement parts; the aforesaid letter "S," respondent Lenett testified, indicates "substitute" and that this, coupled with respondents' catalog, is sufficient to apprise the ultimate consumer, i. e. the owner of the automobile on which the spring is installed, although such catalogs are placed only with automobile dealers, repairers, garage mechanics and the like, but have no general distribution or circulation to the public; upon the direct question to respondent Lenett as to whether or not he had any assurance that such information was passed on by his customers to the ultimate consumer, replied that this was a matter "over which he had no control."

PAR. 5. Respondents sell their automobile springs to dealers who purchase for resale to the purchasing public, without any label, marking or designation stamped thereon or otherwise attached thereto, to indicate to the purchasing public or to dealers that said automobile springs are assembled in part from old and previously used parts, and such automobile springs are resold to the purchasing public without any disclosure that they are assembled in part from old parts that have been previously used.

In some instances respondents sell such automobile spring to dealers as and for new automobile springs assembled or manufactured entirely from new and previouly unused parts. A specific instance of such was testified to by an automobile dealer who purchased several dozen springs under the impression they were new because of appearance and the further fact they bore the automobile manufacturer's replacement

part number, and that he sold them to his customers as new, but sometimes later learned the true facts when, because of a complaint he made to respondents, a representative of the latter contacted him and imparted the true facts; this witness was never told by respondents or their representatives that the springs were new nor was he initially informed that they were rebuilt. Witness had been selling springs for eight years but could not "tell" that respondents' springs were other than new. Subsequent to being advised of the facts witness has continued to purchase from respondents but now informs his customers of the truth.

Another Chevrolet automobile dealer, who also dealt in automobile parts, including springs, purchased from respondents twelve springs which were represented as new springs. Discovery was subsequently made upon his attention being called by one of respondents' competitors; witness made discovery prior to selling to his customers and thereafter disposed of the springs with full disclosure; that said springs bore nothing to indicate they were reclaimed or rebuilt but on the contrary bore a number identical with the automobile manufacturer's replacement part number for a genuine new spring.

PAR. 6. When articles which are assembled or manufactured in whole or in part from previously used materials in such a manner that they have the appearance of being assembled or manufactured from new and previously unused materials, are offered to the purchasing public, and such articles are not clearly and conspicuously marked or labeled as having been assembled or manufactured from previously used materials, they are readily accepted by members of the purchasing public as having been assembled or manufactured entirely from new and previously unused materials.

PAR. 7. In the course and conduct of their business respondents have been at all times mentioned herein in substantial competition with individuals, corporations and firms engaged in the business of manufacturing and selling automobile springs, made entirely from new and previously unused parts, in commerce among and between the various States of the United States.

PAR. 8. By the aforesaid acts and practices, the respondents place in the hands of dealers the means and instrumentalities whereby said dealers may deceive or mislead members of the purchasing public into the erroneous and mistaken belief that they are purchasing automobile springs manufactured entirely from new and previously unused parts, when in fact said springs are composed partially of old and previously used parts.

PAR. 9. The failure of respondents to mark their said springs showing that they contain old and previously used parts has had and

now has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that the automobile springs sold by them were and are new springs assembled or manufactured entirely from new and previously unused parts, and to induce a substantial portion of the purchasing public to purchase substantial quantities of respondents' automobile springs because of such erroneous and mistaken belief. As a direct result of the practices of respondents, as aforesaid, substantial trade in commerce has been diverted to respondents from their said competitors and injury has been done to competition in commerce between and among the various States of the United States.

The respondents, to maintain the issues on their part joined, offered testimony and evidence which may be fairly and fully summarized as follows: That their product is meritorious and of "much higher value than 'rebuilt' springs"; they described their methods of production; explained in detail, and compared, the relative value of "refashioned," "rebuilt" and "remanufactured" springs (none of which types of springs are here in issue), with particular emphasis on the value of "butt-cut" leaf ends (the type used in respondents' product), over that of the "tapered" leaf (being the type used by manufacturers of automobiles as original equipment); that to those initiated in, or familiar with, the mechanics and construction of automobiles, the respondents' product would be recognizable as something other than new or original equipment; that their springs are superior to original equipment and that the replacements which respondents have had to make good under their guarantee, because of failure of their springs, has been negligible; that respondents have never represented to any purchaser that their springs were new or original equipment nor have they ever authorized another to make such representations on their behalf, nor have such representations been ever made with the approval of respondents. Thereupon the respondents rested.

Careful consideration and analysis of all of the foregoing offered by way of defense, fails wholly to sustain an adequate defense to any of the charges of the complaint, nor to render untenable any of the findings of fact hereinabove found, or the conclusion hereinafter arrived at on the basis of such findings.

CONCLUSION

The acts and practices of respondents, as herein found are all to the prejudice and injury of the public and of the competitors of respondents, and constitute unfair methods of competition and unfair and deceptive acts and practices, in commerce, within the intent and meaning of the Federal Trade Commission Act.

ORDER

It is ordered, That respondents Maurice J. Lenett and Leonard Stolzberg, individually and doing business as Lenco Spring Company, or doing business under any other name or names, jointly or severally, their representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of automobile springs in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Offering for sale, selling or delivering to others for sale to the public, any automobile spring which is composed in whole or in part of previously used parts unless a disclosure that said automobile spring is composed, in whole or in part, as the case may be, of previously used parts, is permanently stamped or fixed on each such automobile spring in a clear and conspicuous manner and in such location as to be clearly legible to the purchaser thereof, and unless there is plainly printed or marked on the box, carton, wrapper or other container in which said automobile spring is sold or offered for sale, a notice that said automobile spring is composed, in whole or in part, as the case may be, of previously used parts.

2. Representing, by failure to reveal or otherwise, that an automobile spring composed in whole or in part of previously used parts is composed entirely of new and previously unused parts.

ORDER TO FILE REPORT OF COMPLIANCE

It is further ordered, That the respondents, Maurice J. Lenett and Leonard Stolzberg, 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 [as required by said decision and order of January 15, 1953].