R & B SEWING MACHINE & VACUUM CLEANER CO., ETC. 1463

1456 Syllabus

ity of chinchilla breeding stock; or that score sheets record-ing the grading of animals under that system are generally accepted by the chinchilla industry as proof of the quality of the chinchillas purchased from respondents.
11. Sales by respondents of their chinchilla breeding stock
are limited to a few persons in each locality.
12. Purchasers of respondents' chinchilla breeding stock are given training in the care and breeding of chinchillas or are furnished advice by respondents as to the breeding of chinchillas: Provided, however, That it shall be a defense in any enforcement proceeding instituted hereunder for respon-dents to establish that the represented training or advice is actually furnished.
13. Purchasers of respondents' chinchilla breeding stock will be furnished with inspection services by respondents twice each year or as often as such services may be required by the purchaser: Provided, however, That it shall be a de-fense in any enforcement proceeding instituted hereunder for
respondents to establish that the represented inspection serv-
ices are actually furnished.
14. Misrepresenting in any manner the assistance, train-
ing, services or advice supplied by respondents to purchasers
of their chinchilla breeding stock.
It is further ordered, That the respondents here9e9a. Tm 0469 Tc 3.7667.51 Tm (that 88d (a)Tj -0

1464 FEDERAL TRADE COMMISSION DECISIONS

Complaint 70 F.T.C.

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, hav'ing reason to believe that James R. Boarman, an individual, trading as R & B Sewing Machin~ & Vacuum Cleaner Co. and R & B Sewing Machine Co., hereinafter referred to as respondent, has viola_ted the provisions of said Act, and it appearing to the Commission that a proceeding by it in re-spect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows: PARAGRAPH 1. Respondent James R. Boarman is an individual who trades as R & B Sewing Machine & Vacuum Cleaner Co. and R & B Sewing Machine Co., with his office and principal place of business located at 4326½ Georgia Avenue, NW., Wash-ington, D.C. 20011.
PAR. 2. Respondent is now, and for some time last past has been, engaged in the advertising, offering for sale, sale and distri-bution of sewing machines and va,cuum cleaners at retail to the public.
PAR. 3. In the· course and conduct of his business, repondent maintains his principal place of business within the geographical confines of the District of Columbia and now causes and for some time last past has caused, his said products, when sold, to be shipped from his said place of business in the District of Colum-bia to purchasers thereof located within the District of Columbia and in various 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 of his products, respondent now makes, and has made, certain statements and representations in advertisements in newspapers of general circulation respecting the kind,

R & B SEWING MACHINE & VACUUM CLEANER CO., ETC. 1465

1463 Complaint

representations, and others of similar import and meaning but not specifically set out herein, and by the oral representations of respondent and his salesman, respondent represents, and has rep-resented, directly or by implication:
1. Through use of the statement "left in lay-away-bal. $26" and statements of similar import, that sewing machines partially paid for by previous purchaser have been left in lay-away and are being offered for the unpaid balance of the purchase price, af-fording savings in the amount paid on the merchandise by the previous purchaser.
2. That respondent is making a bona fide offer to sell the ad-vertised sewing machines and vacuum cleaners.
3. That the advertised machines are guaranteed without limi-tation or condition.
PAR. 6. In truth and in fact:
1. Said sewing machines had neither been partially paid for by previous purchasers left in lay-away nor were they being offered
for the unpaid balance of the purchase price, and the represented
savings were not afforded to purchasers.
2. Respondent's offers were not bona fide offers to sell the ad-
vertised machines as represented and on the terms and conditions
stated but were made for the purpose of obtaining leads as to per-
sons interested in the purchase of and to sewing lnasers. paid machines Resppose vertimeserms Respondeid o

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1466 FEDERAL TRADE COMMISSION DECISIONS

Initial Decision 70 F.T.C.

times mentioned herein, respondent has been in substantial com-petition, in commerce, with corpor_ationsf2d800.6 303.2 629.29 Tm0.0373 Tc

R & B SEWING MACHINE & VACUUM CLEANER CO., ETC. 1467

1463 Initial Decision

scheduled in Room 7314 of the 1101 Building, but respondent failed to appear, either in person, by counsel, or by other repre-sentative (Tr. 2-6). Accordingly, counsel supporting the com-plaint moved that respondent be found in default under the provi-sions of Rule 3.5 (c) (Tr. 3-4). That Rule reads as follows:

Failure of the respondent to file an answer within the time provided shall be deemed to constitute a waiver of his right to appear and contest the allegations of the complaint and to authorize the hearing examiner, without further notice to the respondent, to find the facts to be as alleged in the com-plaint and to enter an initial decision containing such findings, appropriate conclusions and order.

Having failed to answer, to appear, or to otherwise respond, respondent is in default and is deemed to have waived his right to appear and contest the allegations of the complaint. Accordingly, this proceeding is now before the examiner for final consideration on the basis of the complaint and the proposed order attached thereto.
The examiner finds that the complaint states a cause of action ; that this proceeding is in the public interest; and that the Fed-eral Trade Commission has jurisdiction over respondent and the subject matter of the complaint. Therefore, in accordance with Rule 3.5 (c), the examiner further finds the facts to be as alleged in the complaint and issues this initial decision containing such findings, together with appropriate conclusions and the order to cease and desist that the Commission determined should issue on

the basis of such findings.

FINDINGS OF FACT

1. Respondent James R. Boarman is an individual who trades
as R & B Sewing Machine & Vacuum Cleaner Co. and R & B Sew-
ing Machine Co., with his office and principal place of business lo-
cated at 4326½ Georgia Avenue, NW., Washington, D.C. 20011.
2. Respondent is now, and for some time last past has been, en-
gaged in the advertising, offering for sale, sale and distribution of
sewing machine21 Tm (plau0 277.21 Tm (wi53081010.4 0 0 104vj 10.4335 0 0 su&)Tj5m (Was0 0 104v

1468 FEDERAL TRADE COMMISSION DECISIONS

Initial Decision 70 F.T.C.

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.
4. In the course and conduct of his business and for the pur-pose of inducing the purchase of his products, respondent now makes, and has made, certain statements and representations in advertisements in newspapers of general circulation respecting the kind, quality, price and the guarantee of his products. Among and typical, but not all inclusive of such statements and represen-tations are the following:
SEWING MACHINES-Singer Console left in lay away; zig-zag attach.; bal. $26. Portables $19.95. Terms. Will deliver. RA 3-6181. Dealer VACUUMS-Recond. Electrolux GE. Hoovers, $9.95 guar., will del., RA 3-6181.

5. By and through the use of the aforesaid statements and rep-resentations, and others of similar import and meaning but not specifically set out herein, and by the oral representations of re-spondent and his salesman, respondent represents, and has repre-sented, directly or by implication:
1. Through use of the statement "left inj 11.088

R & B SEWING MACHINE & VACUUM CLEANER CO., ETC. 1469

1463 Initial Decision

appearance and condition was on sight rejected by the prospective purchaser. Concurrently respondent presented a new or recondi-tioned high priced machine whose

1470 FEDERAL TRADE COMMISSION DECISIONS

Final Order 70 F.T.C.

ing machines, vacuum cleaners or any other product in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:
1. Representing, directly or by implication, that merchan-
dise has been left in lay away or that it is being offered for the balance of the purchase price which was unpaid by a pre-vious purchaser; or misrepresenting in any manner the sta-tus, kind, quality or price of the merchandise being offered.
2. Representing, directly or by implication, that purchas-ers save the paid in amount on unclaimed lay away merchan-dise; or misrepresenting in any manner the savings afforded to purchasers of respondent's products.
3. Disparaging, in any manner, or discouraging the pur-chase of any product advertised.
4. Representing, directly or by implication, that any prod-ucts or services are offered for sale when such offer is not a bona fide offer to sell said products or services; or using any advertising, sales plan or procedures involving the use of false, deceptive or misleading statements or representations to obtain leads or prospects for the sale of other merchan-dise.
5. Representing, directly or by implication, that respon-dent's products are guaranteed unless the nature, conditions and extent of the guarantee, and the manner in which the guarantor will perform thereunder are clearly and conspicu-ously disclosed.

FINAL ORDER

No appeal from the initial decision of the hearing examiner having been filed, and the Commission having determined that the case should not be placed on its own docket for review and that pursuant to Section 3.21 of the Commission's Rules of Prac-tice (effective August 1, 1963), the initial decision should be adopted and issued as the decision of the Commission :
It is ordered, That the initial decision of the hearing examiner shall, on the 7th day of December, 1966, become the decision of the Commission.
It is further ordered, That James R. Boarman, trading as R & B Sewing Machine & Vacuum Cleaner Co. and R & B Sewing Machine Co., shall, within sixty (60) days after service of this order upon him, file with the Commission a report in writing, set-ting forth in detail the manner and form of his compliance with the order to cease and desist.