[Docket C-1034]

PART 13—PROHIBITED TRADE PRACTICES

Nathaniel Feit et al.

Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1695 *Old, secondhand, reclaimed or reconstructed as new;* § 13.1745 *Source or origin:* 13.1745–60 Maker or seller.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply Sec. 5, 38 Stat. 719, as amended, 15 U.S.C. 45) [Cease and desist order, Nathaniel Feit et al., New York, N.Y., Docket C-1034, Jan. 20, 1966]

In the Matter of Nathaniel Feit, an Individual Trading and Doing Business as Durable Hat Co., Natco Hat Co., a Partnership and Nathaniel Feit and N. Courtman, Individually and as Partners Therein

Consent order requiring a New York City manufacturer engaged in the manufacture of men's hats from previously used or worn hat bodies to disclose affirmatively on the hats the true nature of their origin and composition and to cease falsely representing that the hat bodies were originally made by any particular manufacturer.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Nathaniel Feit, an individual, trading and doing business as Durable Hat Co. or under any other name or names, and Natco Hat Co., a partnership, and Nathaniel Feit and N. Courtman, individually and as partners therein, trading and doing business as Natco Hat Co. or under any other name or names, 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 hats 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 discarded, secondhand or previously used hats that have been rebuilt, reconstructed; reconditioned or otherwise made over, or hats that are composed in whole or in part of materials which have previously been worn or used, unless a statement that said hats are composed of secondhand, or used materials (e.g. "secondhand," "worn," "used," or "made-over") is stamped in some conspicuous place on the exposed surface of the inside of the hat in clearly legible terms which cannot be obliterated without mutilating the hat itself, provided that, if sweat bands or bands similar thereto are attached to said hats, such statement may be stamped upon the exposed surface of such bands providing that said stampings be of such a nature that they cannot be removed or obliterated without mutilating the band and the band itself cannot be removed without rendering the hat unserviceable.

(2) Representing, directly or by implication, in labeling or in any other manner, that the hats sold by respondents were or are made from hats originally manufactured by any particular hat manufacturer.

(3) Placing in the hands of others the means and instrumentalities by and through which they may mislead and deceive the public as to the matters and things set forth in paragraphs (1) and (2) of this order.

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.

Issued: January 20, 1966.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 66-2200; Filed, Mar. 2, 1966; 8:46 a.m.]

[Docket C-1028]

PART 13—PROHIBITED TRADE PRACTICES

Powernail Co. et al.

Subpart—Coercing and intimidating: § 13.358 *Distributors.* Subpart—Maintaining resale prices: § 13.1155 *Price schedules and announcements;* § 13.1160 *Refusal to sell;* § 13.1165 *Systems of espionage:* 13.1165–50 Identifying marks.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply Sec. 5, 38 Stat. 719, as amended, 15 U.S.C. 45) [Cease and desist order, Powernail Co. et al., Prairie View, Ill., Docket C-1028, Jan. 7, 1966]

In the Matter of Powernail Co., a Corporation, and Edgar P. Anstett, Individually, as General Partner, Trading and Doing Business as EPA Manufacturing Co.

Consent order requiring an Illinois manufacturer and distributor of power nailing equipment and nails, used in the installation of flooring and sheathing, to cease using coercive, intimidating, and harassing tactics to force their retail customers to maintain fixed resale prices for respondent's products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

I. *It is ordered,* That respondents Powernail Co., a corporation, and Edgar P. Ansett, individually, trading and doing business as EPA Manufacturing Co., and their officers, agents, representatives, employees, successors, and assigns, directly or through any corporate or other device in connection with the offering for sale, sale or distribution of nailing equipment, including but not limited to that used in connection with flooring and sheathing, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from hindering, suppressing, or eliminating competition, or attempting to hinder, suppress or eliminate competition between or among dealers handling respondents' nailing equipment by:

1. Requiring purchasers or prospective purchasers to agree that they will resell at prices specified by respondents, or that they will not resell below or above such specified prices: *Provided, however,* That upon proper showing by respondents that there are other commodities of the same general class produced by others in free and open competition with respondents' nailing equipment, the Commission will consider the terms of this order in the light of such conditions;

2. Utilizing Powernail salesmen, or any other agents, representatives or employees, directly or indirectly, as part of any plan or program for maintaining resale prices, to report dealers who do not observe such suggested resale prices, or to act on reports so obtained by refusing or threatening to refuse sales to dealers so reported;

3. Harassing, intimidating, and coercing dealers into observing and maintaining resale prices;

4. Harassing, intimidating, coercing or threatening to refuse or refusing to sell Powernail products to dealers for failure to observe and maintain the resale prices;

5. Requesting dealers, either directly or through Powernail salesmen, agents, representatives or employees, to report any persons or firms who do not observe the resale prices suggested by respondents, or acting on reports so obtained by refusing or threatening to refuse sales to dealers so reported;

6. Requiring from dealers charged with pricecutting, promises or assurances of the observance of respondents' resale prices as a condition precedent to future sales to said dealers;

7. Refusing or failing to reinstate any former dealer terminated for reason, in whole or in part, of his past pricing practices, where such dealer requests reinstatement pursuant to the provisions of paragraph III, infra, of this order;

8. Utilizing any other cooperative means of accomplishing the maintenance of resale prices fixed by respondents for their products.

II. *It is further ordered,* That the respondents herein shall within sixty (60) days after service upon them of this order, serve by mail a copy of this order on all dealers of Powernail products.

III. *It is further ordered,* That the respondents herein shall: (1) Within sixty (60) days after service upon them of this order: (a) Submit to the Commission nated since January 1, 1960, a letter advising him that he may apply within thirty (30) days from receipt of that letter for reinstatement as a Powernail dealer; and (b) submit to the Commission a list of all dealers terminated since January 1, 1960; and, further that

(2) Within one hundred and twenty (120) days after service upon them of this order: (a) submit to the Commission a list of all dealers who have been reinstated since service upon respondents of this order; and (b) submit to the Commission a list of all dealers who have

not been reinstated and the reason or reasons therefor.

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.

Issued: January 7, 1966.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary*.

[F.R. Doc. 66-2201; Filed, Mar. 2, 1966; 8:46 a.m.]

[Docket C-1035]

PART 13—PROHIBITED TRADE PRACTICES

Woodbury Chemical Co. et al.

Subpart—Advertising falsely or misleadingly: § 13.170 *Qualities or properties of product or service:* 13.170-46 Insecticidal or repellent. Subpart—Misrepresenting oneself and goods—goods: § 13.1710 *Qualities or properties*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply Sec. 5, 38 Stat. 719, as amended, 15 U.S.C. 45) [Cease and desist order, Woodbury Chemical Co. et al., St. Joseph, Mo., Docket C-1035, Jan. 20, 1966]

In the Matter of Woodbury Chemical Co., a Corporation, and Herbert A. Woodbury, Vera L. Woodbury, Richard W. Douglas, and Leonard Everett, Individually and as Officers of Said Corporation

Consent order requiring a St. Joseph, Mo., manufacturer of insecticides to cease using language in its advertising which contradicts and negates the labeling on its packaging which warns the public as to the poisonous nature and hazardous use of its products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Woodbury Chemical Co., a corporation, and its officers, and Herbert A. Woodbury, Vera L. Woodbury, Richard W. Douglas, and Leonard Everett, individually and as officers of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of the product STATHION or any other economic poison in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Making any statements or representations or disseminating any advertisements which are inconsistent with, negate or contradict any statements set forth on the labeling of any such product or which in any way limit, qualify or detract from any statement appearing on the labeling of any such product.

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.

Issued: January 20, 1966.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary*.

[F.R. Doc. 66-2202; Filed, Mar. 2, 1966; 8:46 a.m.]

SUBCHAPTER D—TRADE REGULATION RULES

PART 410—DECEPTIVE ADVERTISING AS TO SIZES OF VIEWABLE PICTURES SHOWN BY TELEVISION RECEIVING SETS

The Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41 et seq., and the provisions of Subpart F, Part 1 of the Commission's procedures and rules of practice, 16 CFR §§ 1.61 to 1.67, has conducted a proceeding for the promulgation of a Trade Regulation Rule regarding deception as to the sizes of viewable pictures shown by television receiving sets. Notice of this proceeding, including a proposed rule, was published in the FEDERAL REGISTER (29 F.R. 12088). Interested parties were thereafter afforded opportunity to participate in the proceeding through the submission of written data, views, and arguments and to appear and orally express their views as to the proposed rule and to suggest amendments, revisions, and additions thereto.

The Commission has now considered all matters of fact, law, policy and discretion, including the views and arguments presented by interested parties in response to the notice and has determined that the Trade Regulation Rule and statement of its basis and purpose set forth herein is in the public interest and should be adopted.

Sec.
410.1 The practice involved.
410.2 Deceptive character of the practice.
410.3 The rule.

AUTHORITY: The provisions of this Part 410 issued under 38 Stat. 717, as amended; 15 U.S.C. 41-58.

§ 410.1 The practice involved.

Marketers of television receiving sets engaged in the sale of such products in commerce, as "commerce" is defined in the Federal Trade Commission Act, have represented, directly or by implication, the sizes of the pictures shown by such sets in various ways. Some have described such sizes in terms of the overall diagonal dimensions of rectangular picture tubes by the use of such phrases as "19 inch set," "16 incher," etc. Others have described the sizes of the pictures shown by their products in a similar fashion but with explanation that the measurements are diagonal, e.g., "19 inch set diagonal measure." Yet others have used similar size designations but with added disclosure that the dimensions are diagonal and additionally, that said dimensions represent the overall measurements, e.g., "19 inch set—overall diagonal measure." Still others have represented the sizes of the pictures shown by their sets in terms of the actual viewable areas of such pictures together with a statement of at least one of the above methods of size description, e.g., "21 inch overall diagonal—262 square inch picture."

§ 410.2 Deceptive character of the practice.

(a) It is a practice in the industry, when installing a picture tube in a television receiving set, to mask or cover the walls of such tube and a minimal amount of the actual picture area thereof. The overall size of a picture tube as installed in a television receiving set includes measurements of the actual picture area of the tube plus the thickness of the tube walls which does not display a picture. Thus, the overall dimensions are invariably larger than the dimensions of the picture shown.

(b) Some marketers have argued that deception does not result from the use of unqualified size representations solely in terms of the overall diagonal dimension of the picture tube. The record does not support the assertion that this method of measuring television sizes has acquired a secondary meaning and thus is not deceptive.

(c) Other industry representatives have asserted that they have had no consumer complaints as a result of the use of size designations in terms of the overall diagonal dimensions of picture tubes when the size of the actual picture shown by the set is stated. In 1956, during the course of a compliance program initiated under the Trade Practice Rules for the Radio and Television Industry (Part 142 of this chapter), particularly with regard to Rule 9 thereof, entitled "Deception as to Size of Picture," the industry was advised that the staff would not object to size representations in terms of overall diagonal measurements of picture tubes provided disclosure also was made of the sizes of the actual picture areas and additional disclosure was made of the fact that such dimensions were overall and diagonal when so measured. However, the record of this proceeding is replete with television advertisements wherein the overall sizes of the advertised sets are emphasized in large figures or print. The record further shows that wherever the size of the actual picture shown by the set appears in such advertisements it is either inadequate or so inconspicuous as to be of no value in removing or curing the inherent deceptive tendency present when the overall dimensions are emphasized. The first impression gained by a casual reading of such advertisements is that such sets display a larger picture than is the fact. This is deceptive.

(d) The consuming public customarily thinks of sizes of rectangular shaped objects in terms of the length or the length and width of such objects. The sizes of blankets, for example, are invariably stated in terms of the width and length, e.g., "76 x 107 inches." The sizes of rugs are generally stated in terms of the number of inches or feet in length and width,

e.g., "9 ft. x 12 ft." Except in the matter under consideration, the Commission is not aware of any rectangular shaped object the size of which is stated in terms of the diagonal measurement.

(e) On the basis of the entire record and the Commission's accumulated experience with television size representations, it is concluded that size representations in terms of overall measurements of picture tubes are misleading because such sizes are invariably larger than those of the actual pictures shown. The Commission further concludes that such representations in terms of diagonal dimensions of rectangular picture tubes, e.g., "19 inch set," are misleading because consumers would believe that television sets so described would show a picture measured 19 inches horizontally unless adequate explanation is given to the contrary.

(f) The Commission further concludes that the deception resulting from the use of unqualified size representations in terms of the diagonal dimensions of rectangular tubes would be removed and the public interest fully protected by a statement clearly showing that such dimensions are diagonal.

§ 410.3 **The rule.**

(a) On the basis of the foregoing, the Commission concludes that the practice of unqualifiedly representing, directly or by implication, the sizes of pictures shown by television receiving sets in terms of the diagonal (in the case of rectangular tubes) and/or the overall dimensions of the picture tubes in such sets, has the capacity and tendency to mislead and deceive purchasers and prospective purchasers as to the sizes of pictures shown by the sets so described and to divert business from competitors who do not represent the sizes of their products in such manner. The Commission further concludes that this practice is violative of section 5 of the Federal Trade Commission Act, and that the public interest in preventing its use is specific and substantial.

(b) Accordingly, for the purpose of preventing such unlawful practice, the Commission hereby promulgates, as a Trade Regulation Rule, its conclusion and determination that in connection with the sale of television receiving sets in commerce, as "commerce" is defined in the Federal Trade Commission Act, it is an unfair method of competition and an unfair and deceptive act or practice to use any figure or size designation to refer to the size of the picture shown by a television receiving set or the picture tube contained therein unless such indicated size is the actual size of the viewable picture area measured on a single plane basis. If the indicated size is other than the horizontal dimension of the actual viewable picture area such size designation shall be accompanied by a statement, in close connection and conjunction therewith, clearly and conspicuously showing the manner of measurement.

(c) Examples of proper size descriptions when a television receiving set shows a 20 inch picture measured diagonally, a 19 inch picture measured horizontally, a 15 inch picture measured vertically, and a picture area of 262 square inches include:

"20 inch picture measured diagonally" or
"19 inch x 15 inch picture" or
"19 inch picture" or
"19 inch" or
"262 square inch picture."

(d) Examples of improper size descriptions of a television set showing a picture of the size described above include:

"21 inch set" or
"21 inch diagonal set" or
"21 inch over-all diagonal—262 square inch picture" or
"Brand Name 21."

Effective date of the rule. This rule becomes effective on July 1, 1966.

Adopted: February 24, 1966.

NOTE: Simultaneously with this action the Commission took steps to rescind Rule 9 (Deception as to Size of Picture) of the Trade Practice Rules for the Radio and Television Industry promulgated on June 28, 1955 (see F.R. Doc. 66-2218 under Proposed Rule Making section entitled "Radio and Television Industry" of this FEDERAL REGISTER).

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 66-2217; Filed, Mar. 2, 1966; 8:48 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 202—ANCHORAGE REGULATIONS

PART 207—NAVIGATION REGULATIONS

Los Angeles—Long Beach Harbors, Calif.

Pursuant to the provisions of section 7 of the River and Harbor Act of March 4, 1915 (38 Stat. 1053; 33 U.S.C. 471) and section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C 1), § 202.214 is hereby amended with respect to paragraph (a) revising subparagraphs (3), (4), and (5) redesignating the boundaries of Anchorages C and E, and changing the designation and boundaries of Anchorage D, and § 207.616 (a) is hereby amended redesignating the boundaries of a restricted area in Los Angeles-Long Beach Harbors, Calif., effective upon publication in the FEDERAL REGISTER, as follows:

§ 202.214 **Los Angeles and Long Beach Harbors, Calif.**

(a) *The anchorage grounds.* * * *

(3) *Commercial Anchorage C (Los Angeles and Long Beach Harbors).* An area north of a line 200 feet from and parallel to the axis of the Middle Breakwater; northeast of a line about 3,600 feet long, bearing 302° from Los Angeles Entrance East Light; northeast of a line bearing 152° from Fish Harbor 2 Light; south of a westerly prolongation of the southern side of the Naval Base Mole; west of the Los Angeles-Long Beach City boundary; south of, and at various distances from, the Naval Base Mole; and southwest of the southwest side of the Long Beach Entrance Channel. This area is basically outlined as follows:

Latitude	*Longitude*
33°42'40.0''	118°14'40.0''
33°43'00.0''	118°15'18.0''
33°43'45.0''	118°15'46.5''
33°43'52.5''	118°15'39.0''
33°44'15.0''	118°14'25.0''
33°43'45.5''	118°14'12.0''
33°43'54.0''	118°13'40.5''
33°44'12.5''	118°13'11.0''
33°44'34.0''	118°13'20.0''
33°44'40.0''	118°13'00.0''
33°44'00.0''	118°12'14.0''
33°43'25.5''	118°11'13.0''
33°43'25.5''	118°12'22.0''
33°42'40.0''	118°14'40.0''

* * * * *

(4) Commercial Anchorage D (Long Beach Harbor). An area east of Long Beach Entrance Channel extending about 10,000 feet easterly and south and east of Pier J. This area is basically outlined as follows:

Latitude	*Longitude*
33°43'59.0''	118°11'41.0''
33°43'59.0''	118°09'46.0''
33°44'32.5''	118°10'08.5''
33°44'32.5''	118°11'04.5''
33°44'13.0''	118°10'57.5''
33°44'13.0''	118°12'01.5''
33°43'59.0''	118°11'41.0''

(i) In this area the requirements of commercial ships will predominate.

(ii) Fixed mooring piles or stakes and floats or buoys for marking anchors or moorings in place are prohibited.

(iii) In case of Navy requirements, see subdivision (iv) of subparagraph (1) of this paragraph.

(5) *Naval Anchorage E (Long Beach Harbor).* An area north of a line 200 feet from and parallel to the axis of the Long Beach Breakwater; northeast of the northeast side of Long Beach Channel; south of a line 2,000 feet from and parallel to the south side of Pier J; east of a line 5,000 feet from the east side of Pier J; east of a line 600 feet from and parallel to a line from the center of the Long Beach Arena (latitude 33°45'50.6'', longitude 118°11'14.8'') to its intersection with the northeast corner of Pier J (latitude 33°45'10'', longitude 118°11'-25.5''); south of a line 1,500 feet from and parallel to the newly developed shoreline; and west of a line bearing due north from the east end of the Long Beach Breakwater. This area is basically outlined as follows:

Latitude	*Longitude*
33°43'25.0''	118°10'51.0''
33°43'59.0''	118°11'41.0''
33°43'59.0''	118°09'46.0''
33°44'32.5''	118°10'08.5''
33°44'32.5''	118°11'04.5''
33°45'11.0''	118°11'18.0''
33°45'21.0''	118°11'16.0''