

TITLE 16—COMMERCIAL PRACTICES

CHAPTER I—FEDERAL TRADE COMMISSION

Subchapter A—Policies, Procedure, and Orders

PART 1—POLICIES

§ 1.4 *Reports of trial examiners.* The policy of the Commission is that reports of trial examiners on the evidence shall not be open to public inspection or to publication until after the publication of the Commission's decisions in the cases in which such reports are made. During this time they are open only to the Commission, to counsel and to parties respondent in such cases. (Sec. 6, 38 Stat. 721; 15 U.S.C. 46) [As added Oct. 14, 1941; 6 F.R. 6326]

§ 1.5 *Wool Products Labeling Act.* In the handling of cases arising under this Act, the practice and procedure of the Commission will be as provided in cases arising under the Federal Trade Commission Act. (Sec. 6, 38 Stat. 721; 15 U.S.C. 46) [As added Oct. 14, 1941; 6 F.R. 6326]

PART 2—RULES OF PRACTICE

AUTHORITY: §§ 2.1 to 2.28, inclusive, issued under sec. 6, 38 Stat. 721; 15 U.S.C. 46.

SOURCE: §§ 2.1 to 2.9, inclusive, and § 2.23, contained in Regulations, Oct. 14, 1941; 6 F.R. 6326, except for amendment noted in brackets following section affected.

§ 2.1 *The Commission—(a) Offices.* The principal office of the Commission is at Washington, D. C.

All communications to the Commission must be addressed to: Federal Trade Commission, Washington, D. C., unless otherwise specifically directed.

Branch offices are maintained at New York, Chicago, San Francisco, Seattle, and New Orleans.

Their addresses are: Federal Trade Commission, room 509, 45 Broadway, New York, N. Y.; Federal Trade Commission, 1118 New Post Office Building, 433

West Van Buren Street, Chicago, Ill.; Federal Trade Commission, 548 Federal Office Building, San Francisco, Calif.; Federal Trade Commission, 801 Federal Building, Seattle, Wash.; Federal Trade Commission, 321 Federal Office Building, New Orleans, La.

(b) *Hours.* Offices are open on each business day, except Saturday, from 9 a. m. to 4:30 p. m., and on Saturdays from 9 a. m. to 1 p. m.

(c) *Sessions.* The Commission may meet and exercise all its powers at any place, and may, by one or more of its members, or by such examiners as it may designate, prosecute any inquiry necessary to its duties in any part of the United States.

Sessions of the Commission for hearings will be held as ordered by the Commission.

Sessions of the Commission for the purpose of making orders and for transaction of other business, unless otherwise ordered, will be held at the principal office of the Commission at Pennsylvania Avenue at Sixth Street, Washington, D. C., on each business day at 10 a. m.

(d) *Quorum.* A majority of the members of the Commission shall constitute a quorum for the transaction of business.

§ 2.5 *Intervention.* Any person, partnership, corporation, or association desiring to intervene in a contested proceeding shall make application in writing, setting out the grounds on which he or it claims to be interested.

The Commission may, by order, permit intervention by counsel or in person to such extent and upon such terms as it shall deem proper.

§ 2.9 *Answers.* In case of desire to contest the proceeding the respondent shall,

within 20 days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

Four copies of answers shall be furnished. All answers shall be signed, in ink, by the respondent or by his attorney at law. Corporations or associations shall file answers through a bona fide officer or by an attorney at law. Answers shall show the office and post-office address of the signer.

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint. [As amended May 2, 1941; 6 F.R. 2348]

[Preceding section, in small type, superseded by following section during period covered by this Supplement]

§ 2.9 *Answers.* In case of desire to contest the proceeding the respondent shall, within 20 days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

Four copies of answers shall be furnished. All answers shall be signed, in ink, by the respondent or by his attorney at law. Corporations or associations shall file answers through a bona fide

officer or by an attorney at law. Answers shall show the office and post-office address of the signer.

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true.

Contemporaneously with the filing of such answer the respondent may give notice in writing that he desires to be heard on the question as to whether the admitted facts constitute the violation of law charged in the complaint. Pursuant to such notice, the respondent may file a brief, directed solely to that question, in accordance with § 2.23.

§ 2.20 *Trial examiner's report.* The trial examiner shall, within 15 days after receipt by him of the complete stenographic transcript of all testimony in a proceeding, make his report upon the evidence.

A copy of such report shall forthwith be served upon each attorney for the Commission, upon each attorney for respondents, and upon each respondent not represented by counsel.

The trial examiner's report is not a report or finding of the Commission. Such report is advisory only and is not binding upon the Commission. [As amended Feb. 4, 1941; 6 F.R. 832]

§ 2.21 *Exceptions.* Attorneys or other persons served with a copy of the report of the trial examiner may, within 10 days after receipt of such copy of report, file, in writing, their exceptions, if any, to the report.

They shall specify the particular part or parts of the report to which exception is made, and the exceptions shall include any additional facts which the person filing the exception may deem proper.

Citations to the record shall be made in support of the exceptions.

Seven copies of the exceptions, signed, in ink, shall be filed.

A copy of such exceptions shall forthwith be served upon each of the other attorneys and respondents who were served with a copy of the trial examiner's report.

If exceptions are to be argued, they shall be argued at the time of final argument upon the merits. [As amended Feb. 4, 1941; 6 F.R. 832]

§ 2.23 *Briefs*—(a) *Filing*. Any party to a proceeding may file a brief with the Secretary of the Commission, in support of his contentions, within the time limits fixed by these rules.

Briefs not filed on or before the time fixed in the rules will be received only by special permission of the Commission.

Appearance of additional counsel in a case will not constitute grounds for extending time for filing briefs.

(b) *Time*. Opening brief in support of the complaint shall be filed by the trial attorney of the Commission within 20 days after service upon him of copy of the report of the trial examiner.

Brief on behalf of respondent shall be filed within 20 days after service upon respondent or respondent's attorney of copy of brief in support of the complaint.

Where respondent shall have filed an answer admitting all material allegations of fact, the time so limited shall begin to run at the time of filing such answer.

Reply briefs in support of the complaint, if any, shall be filed within 10 days after filing of brief on behalf of respondent.

(c) *Number*. Twenty copies of each brief shall be filed.

(d) *Contents*. Briefs, except the reply brief in support of the complaint, shall contain, in the following order:

(1) A concise abstract or statement of the case;

(2) A brief of the argument, exhibiting a clear statement of the points of fact or law to be discussed, with references to the pages of the record and the authorities relied upon in support of each point;

(3) The exceptions, if any, to the report of the trial examiner.

(e) *Index*. Briefs comprising more than 10 pages shall contain on their top fly leaves a subject index with page references. The subject index shall be supplemented by an alphabetical list of all cases referred to, with references to pages where references are cited.

(f) *Reply briefs*. Reply brief in support of the complaint shall be filed only with permission of the Commission, and shall be strictly in answer to brief on behalf of respondent.

No further reply brief on behalf of respondent shall be filed.

(g) *Form*. Briefs on behalf of respondent shall be printed or lithographed on good unglazed white paper in type not smaller than 10 point double leaded, citations and quotations single leaded; footnotes not less than 8 point single leaded. Type page shall not be more than 29 picas wide by approximately 48 picas deep and trimmed page shall be 7 inches by 10 inches, with an inside margin of not less than 1 inch.

(h) *Signing*. At least one copy of each brief shall be signed in ink, by the respondent or his duly authorized attorney, as prescribed in § 2.4.

§ 2.28 *Confidential records and information*. The records and files of the Commission, and all documents, memoranda, correspondence, exhibits and information of whatever nature coming into the possession or within the knowledge of the Commission or any of its officers or employees in the discharge of their official duties, are confidential, and none of such material or information may be disclosed, divulged, or produced for inspection or copying except under the following circumstances:

(a) Information concerning the activities of the Commission will be released from time to time under the direction or pursuant to the authority of the Commission.

(b) In proceedings instituted by the issuance of formal complaint, the plead-

ings, transcript of testimony, exhibits, and all documents received in evidence or made a part of the record therein shall be available for inspection and copying by the public at the convenience of the Commission.

(c) Documents, records and reports made public by the Commission, including stipulations to cease and desist, certain trade practice conference records, and certain papers filed under the Wool Products Labeling Act, shall be available for inspection and copying at the convenience of the Commission.

(d) Upon good cause shown, the Commission may by order direct that certain records, files, papers or information be disclosed to a particular applicant.

(1) Application by a member of the public for such disclosure shall be in writing, under oath, setting forth (i) the interest of the applicant in the subject matter, (ii) a description of the specific information, files, documents or other material inspection of which is requested, (iii) whether copies are desired, and (iv) the purpose for which the information or material, or copies, will be used if the application is granted. Upon receipt of such an application the Commission will take such action thereupon as it shall deem expedient in the public interest.

(2) In the event that confidential material is desired for inspection, copying or use by some agency of the Federal or a State government, a request therefor may be made by the administrative head of such agency. Such request shall be in writing, and shall describe the information or material desired, its relevancy to the work and function of such agency and, if the production of documents or records or the taking of copies thereof is asked, the use which is intended to be made of them. The Commission will consider and act upon such requests, having due regard to the public interest and questions of expediency.

(e) In cases in which an officer or employee of the Commission has been lawfully served with a subpoena duces tecum, material designated herein as confidential shall be produced only when and as authorized by the Commission. Service of such a subpoena shall immediately be reported to the Commission with a statement of all relevant facts.

The Commission will thereupon enter such order or give such instructions as it shall deem advisable in the premises. If the officer or employee so served has not received instructions from the Commission prior to the return date of the subpoena, he shall appear in response thereto and respectfully decline to produce the documents or records subpoenaed (pointing out that he is not permitted to do so under this rule), and request a continuance pending action by or instructions from the Commission. If, notwithstanding, the court or other body orders the production of any of the material subpoenaed, the officer or employee shall immediately report the facts to the Commission. [As added Dec. 4, 1941; 6 F.R. 6327]

PART 3—DIGEST OF CEASE AND DESIST ORDERS¹

§ 3.6 Advertising falsely or misleadingly.

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Business status, advantages or connections of advertiser. * * *

AUTHORITIES AND PERSONAGES CONNECTED WITH: Air Conditioning Training Corp., et al., 1941, D. 4182, 6 F.R. 1840; Kidder Oil Co., 1941, D. 3026, 6 F.R. 2902.

AUTHORIZED DISTRIBUTOR: Grand Rapids Exchange, Inc., etc., 1941, D. 3703, 6 F.R. 3314.

BUSINESS CONNECTIONS OR ARRANGEMENTS WITH OTHERS: Consolidated Book Publishers, Inc., 1941, D. 4440, 6 F.R. 1793; Air Conditioning Training Corp., et al., 1941, D. 4182, 6 F.R. 1840; Consumers Bureau of Standards, 1941, D. 3718, 6 F.R. 2475; Grand Rapids Exchange, Inc., etc., 1941, D. 3703, 6 F.R. 3314; Diesel Engines Training, et al., 1941, D. 3417, 6 F.R. 3630; Refrigeration & Air Conditioning Institute, Inc., 1941, D. 3811, 6 F.R. 3796; Lincoln Chair & Novelty Co., 1941, D. 4445, 6 F.R. 3882; Majestic China Company, Inc., et al., 1941, D. 3748, 6 F.R. 3978; American Institute of Business Administration, Inc., et al., 1941, D. 4195, 6 F.R. 3979; Nomis Corp., et al., 1941, D. 4580, 6 F.R. 6475.

BUSINESS METHODS AND POLICIES: Weaver Real Estate Appraisal Training Service, 1941, D. 4353, 6 F.R. 3632.

FINANCIAL CONDITION: Universal Industries, Inc., et al., 1941, D. 3882, 6 F.R. 2411.

FOREIGN STATUS, BRANCHES, ETC.: Edwin Cigar Co., Inc., et al., 1941, D. 4085, 6 F.R. 2785; Normandie, et al., 1941, D. 3341, 6 F.R. 5201.

¹ Supplement to the summarized and annotated subject index of the Commission's cease and desist orders covering all orders published in the FEDERAL REGISTER which were filed during the calendar year 1941.