

Complaint

IN THE MATTER OF
V. LA ROSA & SONS, INC.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 6289. Complaint, Jan. 25, 1955—Decision, Apr. 14, 1955*

Consent order requiring a manufacturer with office in New York City and plants in Connecticut and Pennsylvania, to cease advertising falsely that its macaroni and spaghetti were low-calorie and non-fattening foods, especially when prepared with the sauces recommended.

Before *Mr. Frank Hier*, hearing examiner.
Mr. Joseph Callaway for the Commission.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and by reason of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that V. La Rosa & Sons, Inc., a corporation, 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 V. La Rosa & Sons, Inc., is a corporation organized and existing under and by virtue of the laws of the State of New York, with its office and principal place of business located at 473 Kent Avenue, Brooklyn, New York, New York, and with plants in Danielson, Connecticut, and Hatboro, Pennsylvania.

PAR. 2. The respondent is now and for several years last past has been engaged in the business of selling and distributing macaroni and spaghetti, which are food products as "food" is defined in the Federal Trade Commission Act. Said foods are sold and distributed under the trade names La Rosa macaroni and La Rosa spaghetti. The ingredients of La Rosa macaroni and La Rosa spaghetti are No. 1 Seminola flour to each 100 pounds of which is added one ounce of enrichment and less than 13% water. The amount of water originally added is 20 to 25% and the preparation is then dehydrated. The enrichment consists of vitamins B₁, B₂, iron and niacin.

The directions on the carton of the one pound package of macaroni are as follows:

To cook one pound of macaroni, bring six quarts of water to a violent boil. Add three tablespoonsful of salt. When water is boiling fast, add contents of

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this package. Stir often. Boil until tender. Drain and place on platter or in individual dishes. Pour over it whatever sauce or gravy you have prepared and mix well. Eat while hot.

The directions on the cartons of spaghetti are similar to those on the carton of macaroni.

PAR. 3. Respondent causes its said food products, when sold, to be transported from the place of business of respondent in the State of New York and from its plants in the States of Connecticut and Pennsylvania to purchasers thereof located in various other States of the United States, and maintains and at all times mentioned herein has maintained a course of trade in said food products between and among the various States of the United States.

PAR. 4. In the course and conduct of its said business respondent within the past three years has disseminated, and caused the dissemination of, certain advertisements concerning its said food products by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including advertisements inserted in newspapers of general circulation, in radio continuities broadcast from radio stations with sufficient power to cross State lines and in other advertising matter, for the purpose of inducing and which were likely to induce, directly or indirectly the purchase of respondent's said products and respondent has disseminated and caused the dissemination of advertisements concerning its said products, including but not limited to the advertising matter referred to above for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of its said products in commerce as "commerce" is defined in the Federal Trade Commission Act.

Among and typical, but not all inclusive of the statements, and representations, disseminated as aforesaid are the following:

FOOD RESEARCH PROVES
LA ROSA HAS LESS CALORIES

* * * * *
HAS LESS CALORIES, MORE PROTEIN
THAN OTHER IMPORTANT FOODS

Look better * * * * * feel younger!

AVOID EXCESS WEIGHT Don't let extra pounds hold you down.
You'll look more attractive—have a figure that people admire.
Medical science advises "count your calories!" Now nutritional research reveals that La Rosa Macaroni contains less fat-producing calories than many other important foods. La Rosa helps you keep trim—it's rich in health-building protein—supplies many essential food elements.

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A LONGER LIFE * * * A LARGER INCOME!

Doctors and insurance companies warn that overweight is one of America's greatest health dangers. The relationship between weight and life expectancy, between weight and heart trouble (as well as many other illnesses) are medically proven facts. Good health and vigor are most important for high earning capacity. You can't afford to ignore your waistline!

* * * * *

LESS CALORIES

Here's amazing proof!

LA ROSA CONTAINS LESS FAT-PRODUCING CALORIES THAN THESE IMPORTANT FOODS

(chart purporting to show calorie content of various foods)

Compare with other cooked foods
(calorie content per 4 oz. serving)

LA ROSA SPAGHETTI

OR MACARONI

Contains 103 calories!

* * * * *

MORE PROTEIN

La Rosa enriched Macaroni contains

MORE MUSCLE-BUILDING PROTEIN THAN THESE IMPORTANT, HEALTHFUL FOODS:

(Chart purporting to show protein
content of other foods)

IMPORTANT HEALTH NEWS, LA ROSA HAS LESS CALORIES

plus

MORE PROTEIN

than other

important foods.

High in Protein * * * low in calories, enriched with extra vitamins and minerals * * * La Rosa Grade A * * * America's largest selling macaroni, spaghetti and egg noodles * * * La Rosa * * * internationally famous for that *real* Italian taste.

PAR. 5. Through the use of said advertisements and others similar thereto, not set out specifically herein, respondent has represented directly and by inference that a four ounce portion of its macaroni or its spaghetti, prepared for consumption as directed on the cartons or containers of said products, and as recommended and pictured in its advertising, will provide only 103 calories; that said products are low calorie foods and may be eaten as desired without increasing the body weight; that its said products prepared in accordance with directions on the cartons or containers of said products, and as recommended and pictured in its advertising will furnish more protein and at the same time less calories than other foods with which said products are compared.

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PAR. 6. The said advertisements are misleading in material respects and constitute "false advertisements" as that term is defined in the Federal Trade Commission Act. In truth and in fact, a four ounce portion of respondent's spaghetti or macaroni prepared for human consumption in a manner so as to be palatable provides considerably more than 103 calories. Furthermore, the directions for preparation on the carton or containers of said products include pouring over the cooked macaroni, "whatever sauce or gravy you have prepared" before serving. Such sauce or gravy would ordinarily add more calories. La Rosa spaghetti with meatballs, La Rosa macaroni with shrimp, La Rosa spaghetti with tomato-beef sauce, La Rosa macaroni with American cheese, and other combinations mentioned in respondent's advertising would add still more calories. Respondent's products prepared for human consumption are not low calorie foods. They cannot be eaten as desired, without the risk of increasing body weight, since increase in body weight normally depends on whether more calories have been consumed than are used in energy expended over a given period of time. Respondent's said products prepared for human consumption in accordance with directions on the cartons or containers and as recommended and as pictured in its advertising will not furnish more protein and at the same time less calories than many of the other foods with which respondent's said products are compared in the advertising, either in four ounce portions or as said foods are ordinarily served. Respondent's said products prepared for human consumption are not higher in protein than are many of the foods with which said products are compared in respondent's advertising. The protein content of respondent's cooked macaroni and spaghetti is far below that of those foods which are consumed primarily as sources of protein such as meat, fish, eggs, and even bread. When served with rich sauces or as components of mixed dishes which contain meat or cheese or both, the complete dish may be relatively high in protein by virtue of the other foods added to the macaroni or spaghetti. At the same time the calorie content of the complete dish is correspondingly increased.

PAR. 7. The use by respondent of the foregoing false and misleading representations disseminated as aforesaid 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 all of such statements are true, and to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief to purchase respondent's said products.

PAR. 8. The aforesaid acts and practices of respondent, as herein alleged, are all 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.

DECISION OF THE COMMISSION

Pursuant to Rule XXII of the Commission's Rules of Practice, and as set forth in the Commission's "Decision of the Commission and Order to File Report of Compliance", dated April 14, 1955, the initial decision in the instant matter of hearing examiner Frank Hier, as set out as follows, became on that date the decision of the Commission.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on January 25, 1955, issued and subsequently served its complaint on respondent herein, who has its principal place of business at 473 Kent Avenue, Brooklyn, New York, New York, and is engaged in the manufacture and sale of macaroni and spaghetti.

On February 21, 1955, there was filed with the Federal Trade Commission a stipulation between the parties providing for entry of a consent order, which stipulation appears of record. By the terms thereof respondent admits all the jurisdictional allegations set forth in the complaint; stipulates that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with such allegations; stipulates that the agreement is for settlement purposes only and does not constitute an admission by respondent that it has engaged in any violation of law. The parties to such stipulation expressly waive the filing of an answer; a hearing before the hearing examiner or the Commission; the making of findings of fact or conclusions of law by the hearing examiner or the Commission; the filing of exceptions or oral arguments before the Commission, and all other and further procedure before the hearing examiner and the Commission to which respondent may be entitled under the Federal Trade Commission Act or the Rules of Practice of the Commission. Respondent further agrees therein that the order hereinafter entered shall have the same force and effect as if made after a full hearing, presentation of evidence, and findings and conclusions thereon and specifically waives any and all right, power or privilege to challenge or contest the validity of the order entered in accordance with the stipulation. The stipulation further provides that it, together

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with the complaint, shall constitute the entire record herein and that the complaint may be used in construing the terms of the afore-mentioned order, which order may be altered, modified or set aside in the manner provided by the statute for the orders of the Commission and such stipulation further provides that it is subject to approval in accordance with Rules V and XXII of the Commission's Rules of Practice and that said order shall have no force and effect unless and until it becomes the order of the Commission.

On the basis of the foregoing, the undersigned hearing examiner concludes that this proceeding is in the public interest and in conformity with the action contemplated and agreed upon by such stipulation makes the following order:

ORDER

It is ordered, That the respondent, V. La Rosa & Sons, Inc., a corporation and its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of the food products La Rosa spaghetti and La Rosa macaroni or of any product of substantially similar composition, whether sold under the same names or under any other name or names, do forthwith cease and desist from:

1. Disseminating or causing to be disseminated by means of United States mails or by any means in commerce as "commerce" is defined in the Federal Trade Commission Act, any advertisement which represents directly or by implication:

(a) that any portion or serving of its products will provide an amount of calories other than that which will be, in fact, provided when such portion or serving is prepared in accordance with respondent's directions or recommendations;

(b) that said products are low calorie foods or may be eaten as desired without increasing body weight;

(c) that said products will at the same time provide more protein and fewer calories than other foods with which said products are compared, unless said representation be true;

(d) that said products are both high in protein and low in calories.

2. Disseminating or causing to be disseminated by means of United States mails or by any means in commerce as "commerce" is defined in the Federal Trade Commission Act, any advertisement which misrepresents the amount of calories or protein provided by respondent's products in comparison with other foods, or in any other manner.

3. Disseminating or causing to be disseminated any advertisement, by any means for the purpose of inducing or which is likely to induce

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directly or indirectly the purchase in commerce as "commerce" is defined in the Federal Trade Commission Act, of respondent's said products, which advertisement contains any of the representations prohibited in Paragraph One hereof or any misrepresentation forbidden in Paragraph Two hereof.

ORDER TO FILE REPORT OF COMPLIANCE

It is ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist [as required by said declaratory decision and order of April 14, 1955].

IN THE MATTER OF
NATIONAL TRAINING SERVICE, INC., ET AL.

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

Docket 6283. Complaint, Jan. 10, 1955—Decision, Apr. 19, 1955

Consent order requiring a correspondence school in Greenwich, Conn., selling home-study courses for passing Civil Service examinations, to cease representing falsely that it was connected with the U. S. Government or the U. S. Civil Service Commission and that its agents were representatives thereof, that passing its courses was the only way to obtain a Government job and that it guaranteed civil service positions near the homes of enrollees, that persons solicited were specially selected, etc.

Before *Mr. Abner E. Lipscomb*, hearing examiner.

Mr. William L. Pencke for the Commission.

Mr. Abraham Berkowitz, of Philadelphia, Pa., 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 National Training Service, Inc., a corporation, and Michael F. Bell, individually and as an officer of said corporation, 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. National Training Service, Inc., is a corporation, organized and existing under the laws of the State of Connecticut, with its principal office and place of business at 34 East Putnam Street, Greenwich, Connecticut.

Respondent Michael F. Bell is an individual and president of said corporation. This individual formulates all the policies and controls and manages all of the affairs of said corporation. His principal office and place of business is the same as that of the corporate respondent.

Prior to the date of incorporation of said corporate respondent, said individual respondent was President of National Training Service, Inc., a New Jersey corporation, with its principal office in Camden, New Jersey. Said corporation was dissolved in January, 1953, and