

Complaint

IN THE MATTER OF

HERZMAN SCARVES, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FLAMMABLE FABRICS ACTS

Docket 6373. Complaint, June 27, 1955—Decision, Jan. 5, 1956

Consent order requiring a New York City importer to cease violating the Flammable Fabrics Act through importing into the United States from Japan and selling silk scarves which were so highly inflammable as to be dangerous when worn.

Before *Mr. James A. Purcell*, hearing examiner.

Mr. Brockman Horne for the Commission.

Abrams & Cowan, of New York City, for respondents.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Herzman Scarves, Inc., a corporation, and Stanley Herzman, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts, and the rules and regulations promulgated thereunder, 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 Herzman Scarves, Inc., is a New York corporation. Respondent Stanley Herzman is president and treasurer of said corporation and formulates, directs, and controls the policies of said corporation. The business address of all respondents is 10 East 38th Street, New York, N. Y.

PAR. 2. Respondents, subsequent to July 1, 1954, the effective date of the Flammable Fabrics Act, have imported into the United States articles of wearing apparel, as the term "articles of wearing apparel" is defined in the Flammable Fabrics Act, which, under the provisions of Section 4 of said Act, as amended, were so highly flammable as to be dangerous when worn by individuals. Respondents have sold, offered for sale, introduced, delivered for introduction, and transported and caused to be transported in commerce, as "commerce" is defined in the Flammable Fabrics Act, the said articles of wearing apparel, imported as aforesaid. Respondents have also transported

and caused to be transported the said articles of wearing apparel, imported as aforesaid, for the purpose of sale and delivery after sale in commerce.

Among the articles of wearing apparel mentioned hereinabove were silk scarves manufactured in Japan.

PAR. 3. The acts and practices of respondents were and are in violation of the Flammable Fabrics Act and of the rules and regulations promulgated thereunder, and as such constitute an unfair method of competition and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

The complaint in this proceeding, issued on June 27, 1955, charges the respondents, Herzman Scarves, Inc., a corporation existing by virtue of the laws of the State of New York, and Stanley Herzman an individual and as President-Treasurer of the corporate respondent, with violation of the Federal Trade Commission Act and of the Flammable Fabrics Act and the Rules and Regulations promulgated thereunder, in connection with the importation, sale, offering for sale and transporting in interstate commerce of articles of wearing apparel which articles were so highly flammable as to be dangerous when worn by individuals.

After the issuance of said complaint and the filing of their answer thereto, the respondents entered into an agreement for consent order with counsel in support of complaint, disposing of all the issues in this proceeding, which agreement was duly approved by the Director of the Bureau of Litigation. It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

By the terms of said agreement, the respondents admitted all the jurisdictional allegations of the complaint and agreed that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with such allegations. By said agreement, the answer heretofore filed by respondents was withdrawn and the parties expressly waived 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 and oral argument before the Commission, and all further and other procedure before the hearing examiner and the Commission to which the respondents may be entitled under the Federal Trade Commission Act or the Rules of Practice of the Commission.

Order

By said agreement, respondents further agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if made after a full hearing, presentation of evidence and findings and conclusions thereon, and specifically waived any and all right, power or privilege to challenge or contest the validity of such order.

It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; that the complaint, herein may be used in construing the terms of the order issued pursuant to said agreement; and that the said order may be altered, modified or set aside in the manner provided by the statute for the orders of the Commission.

Said agreement recites that respondent Herzman Scarves, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at No. 10 East 38th Street, New York, New York. Respondent Stanley Herzman is an individual and also President-Treasurer of said corporate respondent and formulates, directs and controls the policies of the respondent corporation. His office and principal place of business coincides with that of the corporate respondent.

The hearing examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provides for an appropriate disposition of this proceeding, the same is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice, and in consonance with the terms of said agreement, the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents named herein, and that this proceeding is in the interest of the public, and issues the following order:

ORDER

It is ordered, That the respondent Herzman Scarves, Inc., a corporation, and its officers, and respondent Stanley Herzman, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from:

1. (a) Importing into the United States; or
- (b) Selling, offering for sale, introducing, delivering for introduction, transporting or causing to be transported, in commerce, as "commerce" is defined in the Flammable Fabrics Act; or

Decision

52 F.T.C.

(c) Transporting or causing to be transported, for the purpose of sale or delivery after sale in commerce; any article of wearing apparel, which, under the provisions of Section 4 of the said Flammable Fabrics Act, as amended, is so highly flammable as to be dangerous when worn by individuals.

DECISION OF THE COMMISSION AND ORDER TO FILE
REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 5th day of January, 1956, become the decision of the Commission; and, accordingly:

It is 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 the order to cease and desist.

Complaint

IN THE MATTER OF

LEBLANC MEDICINE COMPANY, INC., ET AL.

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

Docket 6390. Complaint, June 30, 1955—Decision, Jan. 5, 1956

Consent order requiring sellers in Lafayette, La., to cease falsely advertising through radio and television broadcasts, including quotations from testimonial letters, that their medicinal vitamin and mineral product "Kary-On" was an effective treatment and cure for a great variety of ailments and diseases, and that persons having false teeth or gray hair were deficient in vitamins and minerals and needed "Kary-On."

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

Mr. Daniel J. Murphy for the Commission.

Mr. J. Minos Simon, Sr., of Lafayette, La., 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 LeBlanc Medicine Company, Inc., a corporation, and Dudley J. LeBlanc, Dudley J. LeBlanc, Jr., and Onesta Marie Martin (sometimes known as Lulu Martin), individually and as officers 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. Respondent LeBlanc Medicine Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its office and principal place of business located at 901 Stewart Street, Lafayette, Louisiana. Respondents Dudley J. LeBlanc, Dudley J. LeBlanc, Jr. and Onesta Marie Martin (sometimes known as Lulu Martin) are the President, Vice President and Secretary-Treasurer, respectively, of the corporate respondent. These individual respondents control the policies, activities and practices of the corporate respondent, including the acts and practices hereinafter alleged. The address of these individual respondents is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and have been since October 1954, engaged in the sale and distribution of a preparation containing ingredients which come within the classification of drugs and food, as