

IN THE MATTER OF
GREENGLASS DISTRIBUTING CORPORATION ET AL.

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

Docket 6533. Complaint, Mar. 21, 1956—Decision, July 18, 1956

Order requiring distributors in Jackson Heights, N.Y., of perfumes, toilet waters, and colognes, to cease representing falsely in advertisements in newspapers and circulars that excessive and fictitious prices were their customary retail prices, nationally advertised; and that certain cosmetics were compounded in France.

Mr. William R. Tinch for the Commission.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on March 21, 1956, issued and subsequently served its complaint in this proceeding upon the respondents Greenglass Distributing Corporation, a corporation, and Hyman Greenglass, individually and as an officer of said corporation and also trading as Greenglass Sales Company, charging them with the use of unfair and deceptive acts and practices and unfair methods of competition in commerce in violation of the provisions of said Act. Subsequent thereto, said respondents failed to file their answers in this proceeding or to appear before the hearing examiner on June 5, 1956, the date set for initial hearing in the complaint and were declared in default. At said initial hearing counsel in support of the complaint was present and submitted a proposed order for consideration by the hearing examiner. Respondents being in default both as to answering the complaint and as to appearance at the initial hearing, the hearing examiner proceeding under Rule 3.7 of the Commission's Rules of Practice, now issues his initial decision, finding the facts to be as alleged in the complaint and issuing an order considered by him to be warranted by such facts, the order being essentially that submitted at the hearing by counsel in support of the complaint.

FINDINGS AS TO THE FACTS

1. Respondent Greenglass Distributing Corporation is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York. Respondent Hyman Greenglass is president of said corporate respondent; he formerly did business under the trade name of Greenglass Sales Company. Said individual

respondent formulates, directs and controls the policies, acts and practices of said corporate respondent. The office and principal place of business of the respondents is located at 78-01 Roosevelt Avenue, Jackson Heights, New York.

2. Respondents are now, and have been for more than two years last past, engaged in the business of selling various perfumes, toilet waters and colognes which are "cosmetics" as that term is defined in the Federal Trade Commission Act. The cosmetics offered for sale and sold by respondents are designated as: Sable and Pearls, White Christmas, Faun, Pagoda, Muriel Hasbrouck, Scheme, Le Couturier, Lis'n Dear, Caprichio and La Vie En Rose.

3. Respondents cause their said products when sold to be transported from their place of business in the State of New York to purchasers thereof located in various other States of the United States. Respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce among and between the various states of the United States.

4. In the course and conduct of the aforesaid business, respondents have disseminated and caused the dissemination of advertisements concerning the aforesaid cosmetics by the United States mails, and by various means in commerce, including advertisements inserted in newspapers and by circulars for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of said cosmetics; and respondents have disseminated and caused the dissemination of advertisements by various means, including but not limited to the means aforesaid, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said cosmetics in commerce, as "commerce" is defined in the Federal Trade Commission Act.

5. Among and typical, but not all inclusive, of the statements and representations contained in said advertisements and circulars were the following:

(a) Represented that certain of their cosmetics were sold or had been sold at various prices; thereby representing that such prices were the usual and customary retail prices, and representing that said prices were nationally advertised prices.

(b) Represented through the use of such statements as "The fragrance created in France," "blended in the French Tradition," "New York to Paris," "From Paris to You;" and through the use of brand names such as Le Couturier "Paris Favorite," Lis'n Dear "Paris Daytime Favorite," and La Vie En Rose; that said cosmetics were compounded in France. Said representations are enhanced in many instances by the use of the word "Paris" appearing in pictorial depictions as the source of said cosmetics.

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6. The said advertisements are misleading and deceptive in material respects and constitute "false advertisements" as that term is defined in the Federal Trade Commission Act. In truth and in fact:

(a) The prices set out in the advertisements were and are fictitious and greatly in excess of the prices at which respondents' cosmetics usually or customarily sold at retail. Said prices were not nationally advertised prices.

(b) Respondents' cosmetics were not compounded in France, but were manufactured or compounded in the United States. While some imported ingredients may have been contained in the essence used in compounding some of respondents' cosmetics, the major portion of ingredients was of domestic origin.

7. There is a preference on the part of the buying public for perfumes, colognes and toilet waters manufactured or compounded in foreign countries and imported into the United States. This is particularly true regarding said cosmetics which are manufactured or compounded in France.

8. In the course and conduct of their said business, respondents are now and have been at all times mentioned herein in substantial competition in commerce with other corporations, firms, and individuals likewise engaged in the sale and distribution of perfumes, colognes and toilet waters.

9. The use by respondents of the foregoing false, misleading and deceptive statements and representations, disseminated as aforesaid, has, and has had, the tendency and capacity to mislead and deceive the purchasing public into the erroneous and mistaken belief that such representations and statements were true and to cause substantial numbers of the purchasing public, because of such erroneous and mistaken belief, to purchase substantial quantities of the respondents' cosmetics. As a result, trade has been unfairly diverted to respondents from their competitors and substantial injury has been done and is being done to competition in commerce.

CONCLUSION

The aforesaid acts and practices as herein found are all to the prejudice and injury of the public and of respondents' competitors and constitute unfair and deceptive acts and practices and unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER

It is ordered, That respondents Greenglass Distributing Corporation, a corporation; and Hyman Greenglass, individually and as an

officer of said corporation and trading as Greenglass Sales Company, or trading under any other name; their agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of perfumes, colognes, toilet waters, and allied products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

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

(a) That the prices at which said products are offered for sale or sold are in excess of the prices customarily and usually charged for said products.

(b) That the prices at which said products are offered for sale or sold are nationally advertised prices.

(c) That products offered for sale or sold are compounded or manufactured in France or in any other foreign country.

2. Disseminating or causing to be disseminated any advertisement, by any means, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of respondents' cosmetic preparations or allied products in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations prohibited in paragraph 1 of this order.

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 18th day of July, 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.

IN THE MATTER OF
RAVEL PERFUME CORPORATION ET AL.

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

Docket 6435. Complaint, Nov. 1, 1955—Decision, July 21, 1956

Consent order requiring two associated corporations, with offices in New York City and Rego Park, L.I., respectively, to cease ticketing their perfumes, colognes, and toilet waters and containers thereof with fictitious prices, publishing advertisements showing excessive amounts as the usual prices of certain products, and furnishing to dealers facsimiles of newspaper advertisements which represented falsely that various retail stores were currently selling their products at the prices set out; to cease representing falsely in advertising and on certain products and their cartons that such products were compounded in France and that the essences used in compounding them were imported; and requiring one of said corporations to cease representing itself falsely as the manufacturer of their products.

Mr. William L. Taggart for the Commission.

Mr. Samuel J. Ernstoff and *Mr. Martin J. Forgang*, of New York City, for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges that respondents, in the sale and distribution, among other things, of perfumes, colognes and toilet waters in commerce, as "commerce" is defined in the Federal Trade Commission Act, have misrepresented, in their advertisements and on tags or price tickets placed on certain of their products, the usual and customary retail prices of such products and the origin of such products and of certain ingredients used therein, in violation of the provisions of said Act.

After the issuance of the complaint and the filing by respondents of an answer thereto, respondents, their counsel, and counsel supporting the complaint entered into an Agreement Containing Consent Order To Cease And Desist, which was approved by the Director and Assistant Director, Bureau of Litigation of the Commission, and thereafter transmitted to the Hearing Examiner for consideration.

The agreement identifies respondents Ravel Perfume Corporation and Merchandise Purchasing Corporation as corporations organized, existing and doing business under and by virtue of the laws of the State of New York, with their offices and principal places of business located at 5 East 35th Street, New York, New York, and sets forth