

Decision

IN THE MATTER OF
WERNET DENTAL MANUFACTURING COMPANY, INC.,
ET AL.

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

Docket 6473. Complaint, Nov. 21, 1955—Decision, July 31, 1956

Consent order requiring distributors in Jersey City, N.J., to cease advertising falsely that their drug preparation "Sentrol" was a new and different kind of pain-relieving preparation, would relieve headaches and pains other analgesics could not relieve, was three times more effective than aspirin, and could not cause stomach upset, and that its ingredient salicylamide was the most amazing pain-relieving discovery in modern medicine.

Mr. Daniel J. Murphy for the Commission.

Breed, Abbott & Morgan, of New York City, and *Mr. Aaron M. Weinstein*, of Jersey City, N.J., for respondents.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

The Federal Trade Commission issued its complaint November 21, 1955, against respondents Wernet Dental Manufacturing Company, Inc., a corporation existing under and by virtue of the laws of the State of Delaware, trading as Hudson Products, and Melvin A. Block, Leonard Block, and Alfred Roberts, individuals and as officers of the respondent corporation, charging them with unfair and deceptive acts and practices in commerce in the sale of a drug preparation designated "Sentrol," in violation of the Federal Trade Commission Act.

After the issuance of the said complaint and the filing of their answer thereto, respondents entered into an agreement for consent order with counsel in support of the complaint, disposing of all the issues in this proceeding, which agreement was duly approved by the Director 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 though findings of jurisdictional facts had been made 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 By said agreement, the answer heretofore filed by respondents was withdrawn and the parties expressly waived a hearing before the Hearing Examiner or

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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.

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 Wernet Dental Manufacturing Company, Inc., trading as Hudson Products, is a corporation existing under and by virtue of the laws of the State of Delaware; the respondents Melvin A. Block, Leonard Block, and Alfred Roberts are individuals and, respectively, are President, Vice President, and former Secretary of the corporate respondent and as such formulate, direct, and control the policies of the corporation. The office and principal place of business of all respondents is located at No. 257 Cornelison Avenue, Jersey City 2, New Jersey.

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. Therefore, 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, that this proceeding is in the interest of the public, and issues the following order.

ORDER

It is ordered, That the respondents, Wernet Dental Manufacturing Company, Inc., a corporation, trading as Hudson Products, or under any other trade name, and its officers, and Melvin A. Block, Leonard Block, and Alfred Roberts, individually and as officers of said cor-

poration, 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 the drug preparation "Sentrol" or of any product of similar composition or possessing similar properties, whether sold under the same name or under any other name, 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 that said preparation:

- a. Is a new or different kind of analgesic;
- b. Is more effective in any degree as an analgesic than aspirin;
- c. Is capable of relieving severe headaches or severe pains or will have any analgesic effect in excess of affording temporary relief of minor headaches or minor pains;
- d. Is capable of relieving headaches or pains which aspirin or other analgesics would be incapable of relieving;
- e. Cannot cause stomach upset;
- f. Contains or is composed of ingredients which are amazing or new discoveries or which are among the most effective pain-relievers yet discovered.

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 in commerce, as "commerce" is defined in the Federal Trade Commission Act, of respondents' said preparation, which advertisement contains any of the representations prohibited in Paragraph 1 hereof.

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 31st day of July, 1956, become the decision of the Commission; and, accordingly:

It is ordered, That the respondent 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
UNITED CIGAR-WHELAN STORES CORPORATION ET AL.

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

Docket 6525. Complaint, Mar. 6, 1956—Decision, July 31, 1956

Consent order requiring a corporate operator of a chain of some 1,350 retail drug stores and tobacco shops throughout the United States, together with its wholly owned advertising agency, to cease violating Sec. 5 of the Federal Trade Commission Act through "knowingly inducing or receiving" any payment from a supplier for television or radio programs they sponsored or which advertised or promoted their products when the supplier did not make such payment available on proportionally equal terms to all their competitors.

Mr. Donald R. Moore for the Commission.

Aranow, Brodsky, Bohlinger, Einhorn & Dann, of New York City, for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The respondents in this proceeding are alleged to have engaged in unfair methods of competition and unfair acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act. The complaint sets forth that respondent United Cigar-Whelan Stores Corporation (United-Whelan) operates a large chain of retail drug stores and tobacco shops, reselling to the consuming public drug, cosmetic and other products which it purchases from manufacturers, processors and handlers; and that respondent Product Advertising Corporation (PAC) is an advertising agency and a wholly-owned subsidiary of United-Whelan. Specifically, the complaint alleges that United-Whelan, directly or through PAC, has knowingly induced or received from many of its suppliers, as compensation for advertising their products through PAC on television programs, money or other things of value, or contracts for the payment thereof, such or similar payments not being made available by such suppliers on proportionally equal terms to all their other customers competing with United-Whelan in the sale and distribution of such products.

By answer the respondents denied the charges contained in the complaint, but thereafter 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 Com-