

IN THE MATTER OF
SCHLOSSMANS INC., ET AL.

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

Docket 6576. Complaint, June 22, 1956—Decision, Jan. 5, 1957

Consent order requiring an operator of department stores in New York City to cease representing falsely in bait advertising in newspapers that they were making bona fide offers to sell certain furniture and upholstery at greatly reduced prices, and to cease misrepresenting in such advertising the customary retail price of certain furniture and the foam rubber and hair content of upholstery.

Mr. Terral A. Jordan for the Commission.

Mr. Manuel Maxwell, of New York City, for respondents.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

This proceeding was initiated June 22, 1956 by the issuance of a Commission complaint, which charges the above named respondents with unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in connection with the business of offering for sale, selling and distributing household furniture, upholstering, slip covers, mattresses and other merchandise. After service of the complaint, and the filing of answer thereto respondents, on November 2, 1956, entered into an agreement containing a consent order to cease and desist which purports to dispose of all the issues in this proceeding as to all parties and which agreement has been approved by the Assistant Director and the Director of the Bureau of Litigation. This agreement has been submitted to the undersigned, heretofore duly designated as hearing examiner herein, for his consideration in accordance with Section 3.25 of the Rules of Practice of the Commission.

It is noted that said agreement provides that the name of the corporate respondent is correctly written as "Schlossmans Inc.," without a comma between "Schlossmans" and "Inc.," and that the correct spelling of the name of one of the respondents is Dorothy Pregoshen instead of Dorothy Pregashin as it is spelled in the complaint and caption to this proceeding.

By said agreement respondents have admitted all the jurisdictional facts alleged in the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. Said agreement further provides

that respondents waive all further procedural steps before the hearing examiner and the Commission, including the making of findings of fact or conclusions of law and the right to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. Said agreement also provides that the record herein shall consist solely of the complaint and the agreement, that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission, that said agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint, that the order to cease and desist entered in accordance with the agreement shall have the same force and effect as if entered after a full hearing and may be altered, modified or set aside in the manner provided for other orders and that the complaint may be used in construing the terms of the order.

This proceeding having now come on for final consideration upon the complaint and the aforesaid agreement containing the order to cease and desist and it appearing that the order and the agreement cover all the allegations of the complaint and provide for an appropriate disposition of this proceeding, the agreement is hereby accepted and ordered filed upon becoming a part of the Commission's decision pursuant to Sections 3.21 and 3.25 of the Commission's Rules of Practice and the hearing examiner makes the following findings for jurisdictional purposes and order:

1. Respondent Schlossmans 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 523-525 8th Avenue, in the City of New York, State of New York. Respondents Emanuel Schlossman, Sol Irwin, Louis Samet and Dorothy Pregoshen are individuals and are president, vice president, vice president and secretary-treasurer, respectively, of the corporate respondent. The address of each of the individual respondents is the same as that of the corporate respondent. The within named Dorothy Pregoshen is one and the same person as the person described in the complaint as Dorothy Pregashin, which name is incorrectly spelled. The name of the corporate respondent is correctly written as Schlossmans Inc.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of respondents. The complaint states a cause of action against said respondents under the Federal Trade Commission Act. The complaint, among other things charges false, misleading and deceptive statements and representations in offers

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to sell upholstery, while the order in the agreement does not refer to upholstery, but to reupholstering. The advertising quoted in the complaint as the basis of the above mentioned charge is in regard to reupholstery. It is therefore specifically found that the order is within the bounds of the complaint. This proceeding is in the public interest.

ORDER

It is ordered, That respondents Schlossmans Inc., a corporation, and its officers, and Emanuel Schlossman, Sol Irwin, Louis Samet and Dorothy Pregoshen, as individuals, and as officers of said corporate respondent, and respondents' agents representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of furniture, household furnishings, slip covers, mattresses, reupholstering, or any other articles of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or indirectly:

1. That the aforesaid merchandise is offered for sale when such offer is not a bona fide offer to sell the merchandise so offered.

2. That respondents' regular retail selling price is any amount in excess of that at which said merchandise has been sold by respondents in the recent regular course of their business.

3. That slip covers are composed of or contain foam rubber when such is not the fact.

4. That mattresses are upholstered with hair when in fact they do not contain hair, or contain a higher proportion of hair than is the fact.

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, 1957, 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.

Decision

IN THE MATTER OF
CRAFTSMAN INSURANCE COMPANY

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

Docket 6394. Complaint, July 18, 1955—Decision, Jan. 14, 1957

Order requiring a Boston, Mass., insurance company to cease misleading advertising over radio and television, in newspapers, circulars, etc., concerning the coverage and benefits of its health and accident policies.

Mr. Donald K. King for the Commission.

Mr. David S. Kunian, of Boston, Mass., for respondent.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

This proceeding involves alleged violations by respondent insurance corporation of Section 5 of the Federal Trade Commission Act (hereinafter for brevity referred to as the Act), as that Act is amended by and is applicable to the business of insurance under the provisions of Public Law 15, 79th Congress (Title 15, U.S. Code, Sections 1011 to 1015, inclusive) (hereinafter for brevity referred to as Public Law 15).

This initial decision sustains the allegations of the complaint, which, in substance, charges respondent insurance corporation with having disseminated in interstate commerce by divers means during the three years preceding July 18, 1955, certain false, misleading and deceptive advertising concerning its health and accident insurance policies to the prejudice and injury of the public. These charges are hereinafter more fully stated and discussed in connection with the evidence relating thereto.

Respondent in its answer, while admitting certain allegations of the complaint, which refer to its corporate charter, policies issued by it, and the jurisdictions wherein it is and has been licensed, denies that any of its advertising was false, misleading and deceptive. It also denies that this proceeding is to the public interest. It further objects to the Commission's jurisdiction over the subject matter and pleads that while it obtains leads for prospective purchasers of insurance through advertising, it does not sell insurance through advertising but through the solicitation of duly licensed local agents in the several States wherein it is licensed, which agents, respondent avers, use its advertising material in connection with personal interviews with prospective purchasers to whom they also explain the policy to be purchased in detail before the application