

IN THE MATTER OF
VITASAFE CORPORATION ET AL.

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

Docket 6736. Complaint, Mar. 6, 1957—Decision, June 18, 1957

Consent order requiring sellers in New York City to cease representing falsely in advertising in newspapers, magazines, etc., that a 30-day supply of their vitamin and mineral product, "VITASAFE C. F. CAPSULES," would be sent free to persons responding to the advertisements and that such persons were under no obligation to purchase additional supplies; when in fact they were required to remit 25¢ in order to secure such "free" supply, and the offer was part of a scheme under which, after the 30-day supply, respondents shipped additional monthly supplies to persons answering the advertisements, mailed them statements requesting payment therefor and, when payment was not received, placed the accounts in the hands of a collecting agency and attorney to enforce collection—continuing this practice even after receiving notification from recipients to discontinue sending the monthly supplies.

Mr. Michael J. Vitale for the Commission.

Mr. James W. Cassidy, of Washington, D.C., for respondents.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

The complaint in this proceeding charges the respondents with violating the Federal Trade Commission Act through advertising in newspapers, magazines, and other national advertising media, what is alleged to be a deceptive "30 day free trial" offer as an inducement to purchasers of their vitamin capsules, designated as "Vitasafe C.F. Capsules."

An agreement has been entered into between respondents, their counsel, and counsel supporting the complaint which provides, among other things, the following: Respondents admit all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and the said agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission; respondents waive the requirements that the decision must contain a statement of facts and conclusions of law; respondents waive further procedural steps before the hearing examiner and the Commission, and the order may be altered, modified, or set aside in the manner provided by statute for other orders; respondents waive any right to challenge

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or contest the validity of the order entered in accordance with the agreement; and the signing of 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.

The examiner having considered the agreement and proposed order and being of the opinion that the acceptance of the agreement will be in the public interest, hereby accepts such agreement, makes the following jurisdictional findings, and issues the following order:

JURISDICTIONAL FINDINGS

1. Respondents Vitasafe Corporation, is a corporation organized and doing business under the laws of the State of New York, with its office and principal place of business located at 43 West 61st Street, New York, New York. Respondents David Josefowitz and Samuel Josefowitz are individuals and officers of said corporation with their office and principal place of business the same as that of the corporate respondent.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent Vitasafe Corporation, a corporation, and its officers, and respondents David Josefowitz and Samuel Josefowitz, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of their Vitasafe C.F. Capsules or any other article of merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that merchandise is free when payment of any nature is required before the merchandise will be delivered and the necessity for such payment not clearly disclosed at the outset.

2. Representing, directly or by implication, that a supply of respondents' product is offered free, when the offer is used as a means of enrolling those who accept the offer in a plan whereby additional supplies of the product are shipped monthly to such persons at an additional charge, unless the conditions of the plan are clearly set out in the offer.

3. Shipping additional merchandise and attempting to collect the price thereof, when the right of refusing such merchandise has been

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granted, after the required notification of refusal has been given to respondents.

4. Refusing to cancel orders for undelivered merchandise when the right of cancellation exists and the required notice of cancellation has been given to respondents.

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 June, 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.

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IN THE MATTER OF

MARCUS & SMITH BROS., INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS

Docket 6714. Complaint, Jan. 22, 1957—Decision, June 19, 1957

Consent order requiring a furrier in New York City to cease violating the Fur Products Labeling Act by failing to comply with its requirements in branding and invoicing fur products.

Mr. Ross D. Young for the Commission.

Mr. Manfred H. Benedek, of New York City, for respondents.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

The complaint in this proceeding charges that Marcus & Smith Bros., Inc., Ben Smith and Barney Marcus, hereinafter called respondents, have violated the provisions of the Federal Trade Commission Act, the Fur Products Labeling Act, and the rules and regulations promulgated thereunder, in stated particulars.

After issuance and service of the complaint, the respondents, their counsel, and counsel supporting the complaint entered into an agreement for a consent order which will dispose of all of the issues in the proceeding. This agreement has been approved by the Director and Assistant Director of the Bureau of Litigation.

The pertinent provisions of said agreement are as follows: The respondents admit all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and the said agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission; respondents waive the requirement that the decision must contain a statement of findings of fact and conclusions of law; examiner and the Commission, and the order may be altered, modified or set aside in the manner provided by statute for other orders; respondents waive any right to challenge or contest the validity of the order entered in accordance with the agreement; and the signing of 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.