

Decision

IN THE MATTER OF
APOLLO COMPANY, INC., ET AL.

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

Docket 6741. Complaint, Mar. 12, 1957—Decision, June 26, 1957

Consent order requiring a manufacturer in Detroit, Mich., to cease preticketing its boys' and men's belts with fictitious and exaggerated price figures, thereby placing in the hands of retail outlets a means for deceiving the purchasing public as to the usual retail price.

Mr. Harry E. Middleton, Jr., for the Commission.

Mr. Irwin I. Cohn, of Detroit, Mich., for respondents.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

In this proceeding, Apollo Company, Inc., a corporation, and Henry L. Ziff, hereinafter called respondents, are charged with fictitious pre-ticketing of boys' and men's belts which it manufactures.

After issuance and service of the complaint, the respondents, their counsel, and counsel supporting the complaint entered into an agreement for a consent order. The order disposes of the matters complained about. The agreement has been approved by the Director and Assistant Director of the Bureau of Litigation.

The pertinent provisions of said agreement are as follows: 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 conclusion 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 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 Hearing Examiner having considered the agreement and proposed order and being of the opinion that the acceptance thereof will

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be in the public interest, hereby accepts such agreement, makes the following jurisdictional findings, and issues the following order:

JURISDICTIONAL FINDINGS

1. The respondent, Apollo Company, Inc., is a corporation organized and doing business under the laws of the State of Michigan, with its office and principal place of business located at 3341 E. Jefferson Avenue, Detroit, Michigan. The individual respondent Henry L. Ziff is the president of said corporation and his office and principal place of business is the same as that of the corporation.

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 the respondents, Apollo Company, Inc., a corporation, and its officers and Henry L. Ziff, individually and as an officer and director 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, or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act of men's and boys' belts, do forthwith cease and desist from:

1. Representing, by pre-ticketing or in any manner, that certain amounts are the usual and regular retail price of their products when such amounts are in excess of the prices at which their products are usually and regularly sold at retail.

2. Putting into operation any plan whereby retailers or others may misrepresent the regular and usual retail price of merchandise.

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 26th 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
KENNETH W. SHAFE TRADING AS
O-JIB-WA MEDICINE CO. ET AL.

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

Docket 6548. Complaint, Apr. 30, 1956—Decision, June 27, 1957

Order requiring two individuals in Flint, Mich., to cease representing falsely in advertisements in newspapers that their medicinal preparation "O-Jib-Wa Bitters", and the similar product "Oscoda Bitters" prepared for out-of-State distribution, constituted effective treatments for rheumatism, arthritis, and other diseases and their symptoms, and requiring one of them to cease making the same representations for the latter product on order sheets and in letters.

Mr. Harold A. Kennedy supporting the complaint.

Mr. Edward J. Neithercut, of Flint, Mich., for respondents.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

Formal complaint issued April 30, 1956 charged both respondents with disseminating and causing the dissemination of false advertisements for two drug products called O-Jib-Wa Bitters and Oscoda Bitters. Respondent Morrish was also separately charged with disseminating and causing the dissemination of false advertisements for Oscoda Bitters. The allegations of the complaint in effect charge violations of Section 12(a) of the Federal Trade Commission Act which is by Section 12(b) made an unfair and deceptive Act within the meaning of Section 5.

After the filing of separate answers by the respondents, the undersigned hearing examiner was on June 19, 1956, by authority of the Commission duly appointed to hear this proceeding in the place and stead of hearing examiner Robert L. Piper, who had been previously appointed. Thereafter, pursuant to notice and agreement of counsel, hearings were held for the taking of evidence before the undersigned in Flint, Port Huron and Detroit, Michigan.

All parties were represented by counsel, participated in the hearings and afforded full opportunity to be heard, to introduce evidence pertinent to the issues and to examine and cross-examine witnesses. Proposed findings of fact, conclusions of law and orders were submitted by all parties.

The facts found, the conclusions reached and the order entered herein are based upon the entire record and hearing the witnesses