

IN THE MATTER OF
M & A INC. TRADING AS PHILIPSON'S
AND MRS. GLENNA RICE

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

Docket 6766. Complaint, Apr. 8, 1957—Decision, Aug. 15, 1957

Consent order requiring a furrier in Dallas, Tex., to cease violating the Fur Products Labeling Act by labeling certain fur products with fictitious prices; by invoicing which abbreviated required information; by advertising in newspapers, etc., which failed to disclose that certain fur products were artificially colored or composed of cheap or waste fur, and which misrepresented prices; and by failing to maintain adequate records as the basis for the claims of savings.

Mr. John J. Mathias and *Mr. Morton Nesmith* supporting the complaint.

Donalson, Bullard & Kucera, by *Mr. E. F. Kucera*, of Dallas, Tex., for respondents.

INITIAL DECISION BY JOHN LEWIS, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on April 8, 1957, charging them with having violated the Fur Products Labeling Act and the Rules and Regulations issued thereunder, and the Federal Trade Commission Act, through the misbranding of certain fur products and the false and deceptive invoicing and advertising thereof. After being served with said complaint, respondents appeared by counsel and subsequently entered into an agreement, dated May 29, 1957, containing a consent order to cease and desist purporting to dispose of all this proceeding as to all parties. Said agreement, which has been signed by all respondents, by counsel for said respondents, and by counsel supporting the complaint, and approved by the Director and Assistant Director of the Commission's Bureau of Litigation, has been submitted to the above-named hearing examiner for his consideration, in accordance with Section 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings.

Respondents, pursuant to the aforesaid agreement, have admitted all the jurisdictional allegations of 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 any further procedural steps before the hearing examiner and the Commission, the making

of findings of fact or conclusions of law and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with such agreement. It has been agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if entered after a full hearing and that the complaint may be used in construing the terms of said order. It has also been agreed that the record herein shall consist solely of the complaint and said agreement, and 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.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing consent order, and it appearing that the order provided for in said agreement covers all the allegations of the complaint and provides for an appropriate disposition of this proceeding as to all parties, said agreement is hereby accepted and is ordered filed upon this decision's becoming the decision of the Commission pursuant to Sections 3.21 and 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and the hearing examiner, accordingly, makes the following jurisdictional findings and order:

1. Respondent M & A Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Texas, and trading as Philipson's at 1907 Elm Street, Dallas, Texas. The home office of the corporate respondent is c/o Marie Antoinette, 504 Congress Avenue, Austin, Texas.

Respondent Mrs. Glenna Rice is the store manager at Philipson's and, acting in cooperation with the corporate respondent, formulates, directs and controls all of the policies and acts of the aforesaid Philipson's. The address of said individual respondent is the same as that of Philipson's.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named. The complaint states a cause of action against said respondents under the Fur Products Labeling Act and the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That respondents M & A Inc., a corporation, trading under its own name, or as Philipson's or under any other name or names, and its officers, and Mrs. Glenna Rice, individually and as manager of Philipson's and respondents' agents, representatives and employees, directly or through any corporate or other device in

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connection with the introduction, into commerce, or the sale, advertising or offering for sale, transportation or distribution of fur products in commerce, or in connection with the sale, advertising, offering for sale, transportation or distribution of fur products which have been made in whole or in part of fur which has been shipped and received in commerce, as "commerce," "fur," and "fur products," are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by setting forth on labels attached to fur products prices represented to be the regular or usual price of any fur products which are in excess of the prices at which the respondents have usually or customarily sold such fur products in the recent regular course of their business;

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices to purchasers of fur products showing:

a. The name or names of the animal or animals producing the fur or furs contained in the fur product, as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations;

b. That the fur contains or is composed of used fur, when such is the fact;

c. That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

d. That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

e. The name and address of the person issuing such invoice;

f. The name of the country of origin of any imported fur contained in a fur product.

2. Setting forth required information in abbreviated form.

C. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement or notice which is intended to aid, promote or assist, directly or indirectly in the sale or offering for sale of fur products, and which:

1. Fails to disclose:

a. That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

b. That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact.

2. Represents, directly or by implication that the regular or usual price of any fur product is any amount which is in excess of the price at which the respondent has usually and customarily sold such products in the recent regular course of its business.

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3. Makes use of comparative prices or percentage savings claims unless such compared prices or claims are based upon the current market value of the fur product or upon a bona fide compared price at a designated time.

4. Makes price claims and representations of the type referred to in paragraphs 2 and 3 above, unless there are maintained by respondent full and adequate records disclosing the facts upon which such claims or representations are based, as required by Rule 44(e) of the Rules and Regulations.

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 did on the 15th day of August 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.

IN THE MATTER OF
JOSEPH H. SOMLO DOING BUSINESS AS L'ARGENE
PRODUCTS CO.

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

Docket 6686. Complaint, Dec. 11, 1956—Decision, Aug. 21, 1957

Consent order requiring a seller in New York City to cease representing falsely in advertising in circulars and magazines and on the labels of his perfume products that fictitious and excessive prices were the usual retail prices; that the perfumes were compounded in France and that he manufactured them; and to cease advertising falsely that they were nationally advertised on television.

Mr. Kent P. Kratz for the Commission

Mr. Jacob Cottin, of New York, N.Y., for Respondent.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondent with violation of the Federal Trade Commission Act in connection with the sale of perfume products. An agreement has now been entered into by counsel supporting the complaint and respondent which provides, among other things, that respondent admits all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondent specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified, or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondent that he has violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and proposed order and being of the opinion that they provide an adequate basis for an appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

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1. Respondent Joseph H. Somlo is an individual doing business as L'Argene Products Co., with his office and principal place of business located at 11 East 48th Street, New York, New York.

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

ORDER

It is ordered, That respondent Joseph H. Somlo, individually and trading as L'Argene Products Co., or trading under any other name, his 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 or any other related product, do forthwith cease and desist from directly or indirectly:

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, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of said products, which advertisement:

(a) Contains or lists prices or amounts when such prices or amounts are in excess of the prices at which the products are usually and customarily sold at retail.

(b) Uses the words "From Paris To You" or a picture of the Eiffel Tower or any picturization indicative of France in connection with any products not manufactured or compounded in France, or otherwise representing, directly or by implication, that such products are manufactured or compounded in France.

(c) Uses any French name or word as a corporate or trade name or as a part thereof or any name, word, term or depiction indicative of French origin in connection with products manufactured or compounded in the United States, unless it is clearly and conspicuously revealed in immediate connection and conjunction therewith that such products are manufactured or compounded in the United States.

(d) Represents, directly or by implication, that respondent manufactures the products sold by him.

(e) Represents, directly or by implication, that the products sold by him are advertised on television or in any other manner that is not in accordance with the facts.

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 respondent's products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any of the representations prohibited in Paragraph 1 of this order.

It is further ordered, That respondent Joseph H. Somlo, individually and trading as L'Argene Products Co., or trading under any other name, and his 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, or any other related product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Setting out prices or amounts on the labels or in the labeling of his products, when such prices or amounts are in excess of the prices at which such products are usually and customarily sold at retail.

2. Using the words "From Paris To You" or a picture of the Eiffel Tower or any picturization indicative of France in connection with any products not manufactured or compounded in France, or otherwise representing, directly or by implication, that such products are manufactured or compounded in France, on the labels or in the labeling.

3. Using any French name or word as a corporate or trade name or as a part thereof or any name, word, term or depiction indicative of French origin, on the labels or in the labeling of products manufactured or compounded in the United States, unless it is clearly and conspicuously revealed in immediate connection and conjunction therewith that such products are manufactured or compounded in the United States.

4. Representing, directly or by implication, on the labels or in the labeling that respondent manufactures the products sold by him.

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 21st day of August, 1957, become the decision of the Commission; and, accordingly:

It is ordered, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist.

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IN THE MATTER OF
MORSE SALES, INC., ET AL.ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL
TRADE COMMISSION ACT

Docket 6613. Complaint, Aug. 20, 1956—Decision, Aug. 22, 1957

Order requiring sellers in Chicago to cease selling and distributing electrical appliances, housewares, and other articles of merchandise by means of push cards and supplying push cards for use in such sale.

Mr. William A. Somers for the Commission.

Berkson & Spitzer, by *Mr. Jerome Berkson*, of Chicago, Ill., for respondents.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

THE PROCEEDING

On August 20, 1956, complaint herein was issued against respondents charging them with unfair acts and practices in commerce in violation of the Federal Trade Commission Act by selling merchandise in commerce by means of games of chance, gift enterprises or lottery schemes. The individual respondent was alleged to control and direct the policies of the corporate respondent. The answers of the respondents admit corporate existence and description, the officer-ship of the individual respondent, deny his control or direction of the corporate respondent, admit the sale of merchandise in commerce, deny the same to be by chance or lottery, or that respondents have supplied others with the means of conducting games of chance in the sale of merchandise. Three hearings were held resulting in 64 pages of transcript and nine exhibits, all offered in support of the charges. At the first hearing, individual respondent appeared in response to a subpoena, but declined to answer any questions after stating his name and address because his counsel was not present and under the Fifth Amendment to the United States Constitution. Subsequently, at a hearing for the reception of respondents' evidence the individual respondent did appear and testify in his own defense. The taking of evidence was completed January 31, 1957, and subsequently proposed findings and conclusions were filed by counsel supporting the complaint on consideration of which, and the entire record herein, the hearing examiner finds that this proceeding is