

IN THE MATTER OF
NULIFE PRODUCTS COMPANY ET AL.

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

Docket 6809. Complaint, May 28, 1957—Decision, Oct. 18, 1957

Consent order requiring mail order sellers in Philadelphia to cease representing falsely in advertising in newspapers, circulars, etc., that use of their eyeglasses would correct the defects in vision in all persons over 40 to the extent that they would be able to read fine print "with ease never before thought possible."

At respondents' request, the order to cease and desist was, on April 11, 1958, modified to exclude from operation thereof respondents' advertisements for their "Clip-on Magnifiers" to be worn over regulation prescription lenses.

Mr. Frederick McManus for the Commission.

Mr. Milton A. Bass, of New York, N.Y., for respondents.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

The complaint in this proceeding charges that the respondents have violated the provisions of the Federal Trade Commission Act by the use of false and misleading newspaper advertisements and other media in connection with the sale of eyeglasses.

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

JURISDICTIONAL FINDINGS

1. The respondent Nulife Products Company is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Pennsylvania with its office and principal place of business located at 1702 Pine Street, Philadelphia, Pennsylvania. Respondent corporation trades under its said name and as Clear Vision Products and Nulife Products.

Individual respondents Samuel Schimmel and Herbert Schimmel are officers of the corporate respondent. They formulate, direct, and control the acts, practices, and policies of the corporate respondent, including those hereinafter referred to. Their address is 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, Nulife Products Company, a corporation trading under its said name or as Clear Vision Products or Nulife Products or under any other name, and its officers, and respondents Samuel Schimmel and Herbert Schimmel, individually and as officers of said corporation, 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 eyeglasses, do forthwith cease and desist from:

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, which advertisement represents, directly or by implication, that the eyeglasses sold by respondents will correct defects in the vision of persons over 40 years of age to the extent that they can read satisfactorily, unless expressly limited to those persons who do not have astigmatism or diseases of the eye and who require only simple magnifying lenses.

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 their eyeglasses in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains the representations referred to in Paragraph One hereof unless expressly limited as provided therein.

[The following clause was added by Commission order of April 11, 1958]

Provided, however, That the aforesaid provisions and limitations shall not be construed as applying to advertisements for magnifying devices designed and advertised for use by clipping on or otherwise attaching to prescription eyeglasses;

it being understood that this action does not constitute approval by the Commission of the respondents' advertising representations for their "Clip-on Magnifiers" or other similar devices.

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 October 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
VIRGINIA EXCELSIOR MILLS, INC., ET AL.
ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 6630. Complaint, Sept. 12, 1956—Decision, Oct. 25, 1957

Order requiring 12 manufacturers of excelsior in the State of Virginia to cease cooperatively maintaining any organization as their common selling agent; fixing or maintaining the selling price of excelsior; fixing or regulating production quotas; designating the party to whom a manufacturer could sell and the prices it could quote; and enforcing such restrictions on others, by imposition of penalties; classifying excelsior for pricing purposes; and designating conditions under which the mill stockholders could sell their mills or machines.

Mr. Floyd O. Collins for the Commission.

Mason & Stehl, by *Mr. Julien J. Mason*, of Bowling Green, Va., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

THE COMPLAINT

On September 12, 1956, the Federal Trade Commission issued its complaint in the above-entitled proceeding, charging the manufacturers named in the caption hereof with organizing Virginia Excelsior Mills, Inc., hereinafter referred to as Respondent Mills, for the purpose and with the effect of destroying competition among themselves by using that organization as a common selling agency and as a medium through which they have carried out, collusively and collectively, various acts and practices, as follows:

1. Formulated, managed and controlled the policies, practices and methods of Respondent Mills;
2. Fixed and maintained the selling price of excelsior;
3. Fixed a production quota for each manufacturer thereof;
4. Forbade the manufacturers owning stock in Respondent Mills to sell excelsior to anyone except Respondent Mills;
5. Forbade such stockholding manufacturers to quote prices to any prospective customer;
6. Established and maintained a uniform classification of excelsior, with a uniform price for each classification;
7. Fixed and maintained penalties to be imposed upon any manufacturer violating any provisions of his contract with Respondent Mills; and