

IN THE MATTER OF
SUNSET HOUSE DISTRIBUTING CORPORATION ET AL.

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

Docket 6823. Complaint, June 24, 1957—Decision, Dec. 10, 1957

Consent order requiring distributors in Hollywood, Calif., to cease advertising falsely that attachment of their "Color Filter" colored transparent plastic sheet to a black-and-white television set would produce the same visual effect as a color television.

Mr. Brockman Horne for the Commission.

Mr. Marvin A. Freeman, of Hollywood, Calif., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint alleges that respondents have been and are engaged in the business of selling and distributing in commerce a product called a "Color Filter", which consists of a sheet of transparent plastic upon which has been sprayed paint of orange color blending into green at one border and blue at the opposite border, and is designed to be fastened over the viewing screen of a television set. It is charged that respondents have violated the Federal Trade Commission Act by falsely and deceptively representing that the product so used on a black-and-white television set will produce the same visual effect as a color television set, in that the objects appearing upon the viewing screen will be shown in the same colors as the objects being televised.

After service of the complaint, the corporate respondent, by its president, Leonard Carlson, and the individual respondents Leonard Carlson, Milton Eisenberg, and Gloria O. Carlson, individually and as officers of the corporate respondent, Marvin A. Freeman as attorney for respondents, and counsel supporting the complaint entered into an agreement containing consent order to cease and desist, which was approved by the director and the assistant director of the Commission's Bureau of litigation, and thereafter transmitted to the hearing examiner for consideration.

Attached to the agreement and made a part thereof is an affidavit executed by Leonard Carlson, president of Sunset House Distributing Corp., the corporate respondent herein, stating that Marvin A. Freeman, an attorney at law, is attorney for and also secretary of the corporation; that neither as such secretary nor as attorney, nor in any other capacity does he have any part in the formulation, direction, and control of the policies, acts, and practices of Sunset House

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Order

Distributing Corp. Based upon this affidavit, the order set forth in the agreement properly dismisses the complaint as to him.

The agreement identifies respondent Sunset House Distributing Corp. as a California corporation, with its office and principal place of business located at 792 Sunset Building, Hollywood, Calif., and the individual respondents Leonard Carlson, Milton Eisenberg, and Gloria O. Carlson as president, vice-president, and treasurer, respectively, of said corporation, and recites that they formulate, direct, and control its policies, acts and practices. All individual respondents have their office and principal place of business at the same location as that of the corporate respondent.

The agreement provides, among other things, that the word "respondents" as used therein shall mean all respondents named in the caption hereof, other than Marvin A. Freeman; that respondents admit all of the jurisdictional facts alleged in the complaint and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations; that the record on which the initial decision and the decision to the Commission shall be based shall consist solely of the complaint and this 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 the complaint may be used in construing the terms of the order agreed upon, which may be altered, modified or set aside in the manner provided for other orders; that the 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; and that the order set forth in the agreement and hereinafter included in this decision shall have the same force and effect as if entered after a full hearing.

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 the agreement.

The order agreed upon disposes of all the issues raised in the complaint, and adequately prohibits all the acts and practices charged in the complaint as being in violation of the Federal Trade Commission Act. The agreement containing consent order to cease and desist is therefore accepted as part of the record upon which this decision is based, and this proceeding is found to be in the public interest. Accordingly,

It is ordered, That respondents Sunset House Distributing Corp., a corporation, and its officers, and Leonard Carlson, Milton Eisenberg,

and Gloria O. Carlson, 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 a plastic sheet to be fastened over the viewing screen of a television set, designated as "Color Filter," or any other product of substantially the same construction or possessing substantially the same characteristics whether sold under the same or any other name, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Representing, directly or by implication, that by the use of said product in connection with the operation of a black-and-white television set, said television will thereby produce the same visual effect as a color television set, or misrepresenting in any manner the color provided by said product when used in connection with a television set.

It is further ordered, That the complaint be, and the same hereby is, dismissed as to the respondent Marvin A. Freeman, individually and as an officer of Sunset House Distributing Corp.

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 10th day of December 1957, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Sunset House Distributing Corp., a corporation, and Leonard Carlson, Milton Eisenberg, and Gloria O. Carlson, individually and as officers of said corporation, 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
ELIZABETH JALLIS TRADING AS ERVAY APPAREL CO.ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL
TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS*Docket 6838. Complaint, July 12, 1957—Decision, Dec. 10, 1957*

Order dismissing, for the reason that respondent had ceased business operations and her whereabouts were unknown, complaint charging a furrier in Dallas, Tex., with failing to comply with the advertising, invoicing, and labeling requirements of the Fur Products Labeling Act; and with misrepresenting savings by enclosing purported credit checks in letters to customers and adding that amount to the regular price charged.

Morton Nesmith, Esq. and John J. Mathias, Esq., for the Commission.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

On July 12, 1957, the Federal Trade Commission issued a complaint in this proceeding alleging that Elizabeth Jallis, trading as Ervay Apparel Co., hereinafter called respondent, violated the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act in promoting the sale of furs.

A copy of the complaint was mailed to the respondent at her place of business located at 425 S. Ervay Street, Dallas, Tex., by registered mail, but the envelope containing said complaint was returned by the postmaster undelivered. Attempts to personally serve said complaint by personal service were unsuccessful.

On October 25, 1957, counsel supporting the complaint filed a motion with the hearing examiner in this proceeding setting out that the respondent has ceased business operations at her address in Dallas, Tex., that her present whereabouts are unknown, and requesting that said complaint be dismissed.

Under the circumstances, the hearing examiner is of the opinion that said motion should be granted and the complaint dismissed. Accordingly,

It is ordered, That the complaint herein be, and it hereby is, dismissed, without prejudice to the right of the Federal Trade Commission to take such further action in the future against respondent as the facts and circumstances may warrant.