

Decision

IN THE MATTER OF

THE WARSON PRODUCTS CORP. ET AL.

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

Docket 6711. Complaint, Jan. 18, 1957—Decision, Jan. 22, 1958

Consent order requiring sellers in St. Louis, Mo., to cease representing falsely in newspaper and radio advertising that their "Warsene Capsules," the only active ingredient of which was salicylamide, were an effective treatment for arthritis, rheumatism, and similar ailments, contained several active ingredients, were "made like a doctor's prescription," were new and different from other products, and were a buffered formula and would not cause stomach upset, etc.

The corporate respondent agreed to the same consent settlement on August 22, 1957, p. 200 herein.

Mr. Harold A. Kennedy for the Commission.

Mr. Donald E. Fahey, of St. Louis, Mo., *pro se* and for Respondent John J. Powers; *Mr. George R. Williams*, of St. Louis, Mo., *pro se*.

INITIAL DECISION AS TO INDIVIDUAL RESPONDENTS BY ABNER E.
LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on January 18, 1957, charging Respondents with violation of the provisions of the Federal Trade Commission Act by the dissemination of false and misleading advertisements with respect to a drug preparation designated "Warsene Capsules," which respondents sell and distribute in commerce.

On July 22, 1957, Respondents John J. Powers, George R. Williams, and Donald E. Fahey, their counsel, 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 submitted to the hearing examiner for consideration.

Respondents John J. Powers, George R. Williams, and Donald E. Fahey are identified in the agreement as individuals and former officers of Respondent The Warson Products Corp. The agreement states that Respondent John J. Powers maintains his office at 5900 North Broadway, St. Louis, Mo., and served as president of said corporate Respondent until July 1956; that Respondent George R. Williams maintains his office at 5935 Jameison Avenue, St. Louis, Mo., and served as vice president of said corporate respondent until August

1956; and that Respondent Donald E. Fahey maintains his office at 314 North Broadway, St. Louis, Mo.; is now a director of the said corporate respondent; and served as secretary-treasurer thereof until August 1956.

The present agreement specifies that the order contained therein does not prohibit the representations alleged in subparagraphs 5 and 6 of paragraph 6 of the complaint, regarding respondents' product being a buffered formula and that it is a result of research, for the reason that counsel supporting the complaint is of the opinion, on the basis of the evidence now available, that such allegations cannot be sustained.

Individual Respondents John J. Powers, George R. Williams, and Donald E. Fahey admit all the jurisdictional facts alleged in the complaint; agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations; and waive any further procedure before the hearing examiner and the Commission, the making of findings of fact or conclusions of law, and all the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

All parties signatory thereto agree that as to that part of this proceeding which is disposed of by this agreement, the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist as contained in the agreement shall have the same force and effect as if entered after a full hearing, and may be altered, modified or set aside in the manner provided for other orders; that the complaint herein may be used in construing the terms of said order; and 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.

After consideration of the allegations of the complaint and the provisions of the agreement and the proposed order, the hearing examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding with respect to the individual Respondents John J. Powers, George R. Williams, and Donald E. Fahey. Accordingly, in consonance with the terms of the aforesaid agreement, the hearing examiner accepts the agreement containing consent order to cease and desist; finds that the Commission has jurisdiction over the respondents signatory thereto, and over their acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That Respondents John J. Powers, George R. Williams and Donald E. Fahey, individually and as former officers of The Warson Products Corp., their representatives, agents and employees, directly or through any corporate or other device in connection with the offering for sale, sale, and distribution of the preparation "Warsene Capsules," or any preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same name or under any other name, do forthwith cease and desist from, directly or indirectly:

1. Disseminating or causing to be disseminated, by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which represents, directly or by implication, that said preparation:

(a) Is an adequate, effective, or reliable treatment for the aches, pains, or discomforts of any kind of arthritis, rheumatism, neuralgia, neuritis, bursitis, sciatica, lumbago, muscle soreness, or allied disorders; will afford immediate, complete, or permanent relief from the aches, pains, or discomforts thereof, or have any therapeutic effect on the symptoms or manifestations of any such conditions or disorders in excess of affording temporary relief of minor aches or pains thereof;

(b) Contains any analgesic ingredient other than salicylamide;

(c) Is made like a doctor's prescription, provided, however, this shall not prohibit the making of truthful representations concerning the use of such product by physicians;

(d) Is a new or substantially different, kind of preparation or substantially different, in its mode of action or analgesic effect from other commonly used analgesics;

(e) Will not cause stomach upset;

2. Disseminating or causing to be disseminated any advertisements by any means, for the purpose of inducing, or which will likely induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of such preparation which contain any of the representations prohibited in paragraph 1 of this order.

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 22d day of January 1958, become the decision of the Commission: and accordingly:

Decision

54 F.T.C.

It is ordered, That respondents John J. Powers, George R. Williams, and Donald E. Fahey, individually and as former officers of respondent The Warson Products Corp., a 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

AMERICAN BUSINESS EXCHANGE, INC., ET AL.

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

Docket 6793. Complaint, May 13, 1957—Decision, Jan. 22, 1958

Consent order requiring a Chicago real estate firm to cease representing falsely in advertising and statements made by its solicitors to persons who had property for sale that it had available prospective buyers interested in their specific properties; that the property was underpriced and the asking price should be increased; that the property would be nationally advertised in periodicals and widely read newspapers and by radio and television, and listed in bulletins distributed nationally to brokers, banks, and investment groups; that through its financial department it would finance the purchase of the property; that it would bring prospective purchasers for examination of the listed property; and that the listing fee was an advance on the selling commission and would be refunded if the property was not sold in 6 months.

Mr. John W. Brookfield, Jr., for the Commission.

Mr. Howard R. Slater, of Chicago, Ill., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on May 13, 1957, charging respondents with the dissemination of false, misleading, and deceptive representations in connection with the solicitation of the listing for sale and advertising of real estate and other property, in violation of the Federal Trade Commission Act.

On November 27, 1957, counsel supporting the complaint submitted to the hearing examiner a motion to dismiss complaint without prejudice as to Respondent Max Berman, individually and as an officer of American Business Exchange, Inc., and Respondent Phil Packard, individually, because service upon these two respondents, either by mail or personally, has been impossible to secure. In view of this fact, the hearing examiner is of the opinion that said motion should be granted.

Also on November 27, 1957, Respondent American Business Exchange, Inc., by its president; individual Respondents Louis Michael Parrelli, George B. Bry, and Ruth Parrelli; their counsel, and counsel supporting the complaint herein 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