

Decision

IN THE MATTER OF

EARLE G. HASTINGS ET AL. TRADING AS DETERGEN CO.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 6923. Complaint, Oct. 24, 1957—Decision, Mar. 19, 1958*

Consent order requiring manufacturers in Tulsa, Okla., to cease representing falsely in advertising that their drug product "Deturge" was an effective treatment for colitis and other unhealthy conditions of the gastro-intestinal tract, and that faulty elimination or constipation results in toxic accumulations in the gastro-intestinal tract and is responsible for a large percentage of diseases.

Mr. Michael J. Vitale and Mr. Thomas A. Ziebarth for the Commission.

Respondents, pro se.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

The complaint in this proceeding charges that Earle G. Hastings and Earle G. Hastings, Jr., trading under the name Detergen Co., hereinafter called respondents, have violated the provisions of the Federal Trade Commission Act by making false and misleading representations in advertisements in connection with the sale and distribution of a drug preparation known as "Deturge" which they manufacture.

After issuance and service of the complaint, respondents 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 the assistant director of the Bureau of Litigation.

The material 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; the record herein shall consist solely of the complaint and the agreement; 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

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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. Respondents Earle G. Hastings and Earle G. Hastings, Jr., are individuals trading under the name Detergen Co. Their office and principal place of business is located at 1316 E. 36th Place, Tulsa 5, Okla.

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 respondents Earle G. Hastings and Earle G. Hastings, Jr., trading as Detergen Co. or trading under any other name, or names, 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 the preparation designated as "Deturge," or any other preparation of substantially the same composition or possessing substantially similar properties, whether sold under the same name or under any other name, do forthwith cease and desist from:

1. Disseminating, or causing to be disseminated, by means of the United States mail 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:

(a) A large percentage of diseases and disorders have their origin in the gastro-intestinal tract, or result from faulty elimination or constipation;

(b) Faulty elimination or constipation results in the formation of toxic accumulations of mucus or putrefaction in the gastro-intestinal tract;

(c) Abnormal accumulations of putrefaction or waste in the gastro-intestinal tract are toxic or poison the body by absorption into the

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blood or otherwise or retard the assimilation of essential minerals from the diet;

(d) Deturge is an effective treatment for unhealthy conditions of the gastro-intestinal tract, including colitis.

2. Disseminating, or causing to be disseminated, by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said preparation, any advertisement which contains 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 19th day of March 1958, 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
MODERN SALES & SUPPLY CO. ET AL.

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

Docket 6932. Complaint, Nov. 8, 1957—Decision, Mar. 19, 1958

Consent order requiring sellers in Minneapolis, Minn., to cease representing falsely in advertising for purchasers of their automatic coin machines for vending cigarettes, that they were making offers of employment, that purchasers' investment was secured, that specified high earnings were assured and guaranteed, that they would grant purchasers exclusive territory and relocate machines or refund the cost if purchasers were dissatisfied, that they paid a bonus or promotional fee for featuring their particular brand of cigarettes in or on the machines, etc.

Mr. William A. Somers for the Commission.

Mr. John J. Remes, Minneapolis, Minn., for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) issued its complaint herein, charging the above-named respondents, Modern Sales & Supply Co., a corporation, and James K. Sorenson, individually and as an officer of said corporation, with having violated the provisions of the Federal Trade Commission Act in certain particulars. Respondents were duly served with process and in due course filed their joint answer. The initial hearing was canceled pending negotiations of counsel for a consent agreement.

On January 30, 1958, there was submitted to the undersigned hearing examiner of the Commission for his consideration and approval an "agreement containing consent order to cease and desist," which had been entered into by and between the respondent corporation and James K. Sorenson, both individually and as an officer of the corporate respondent, and attorneys for both parties, under date of January 29, 1958, subject to the approval of the Bureau of Litigation of the Commission. Such agreement had been thereafter duly approved by that Bureau.

On due consideration of the said "agreement containing consent order to cease and desist," the hearing examiner finds that said agreement, both in form and in content, is in accord with § 3.25 of the