

## Decision

IN THE MATTER OF  
OMEGA CHEMICAL CO., INC.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE  
FEDERAL TRADE COMMISSION ACT*Docket 6753. Complaint, Mar. 28, 1957—Decision, May 2, 1958*

Consent order requiring a manufacturer in Jersey City, N.J., to cease advertising falsely that its "Omega Oil" drug preparation was an effective treatment for, and would afford complete and permanent relief of, the symptoms and pains of all kinds of arthritis, rheumatism, backache, neuritis, and disorders of muscles and joints, etc.; and provided a new type of relief, different and more extensive than that provided by competitive products.

*Mr. Morton Nesmith and Mr. Berryman Davis* for the Commission.  
*Mr. Aaron M. Weinstein*, of Jersey City, N.J., for respondent.

## INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter, as amended, charges the respondent with violation of the Federal Trade Commission Act through the use of certain statements in advertising its medicinal preparation known as "Omega Oil." An agreement has now been entered into by respondent and counsel supporting the complaint which provides, among other things, that respondent admits all of the jurisdictional allegations in the complaint, as amended; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint, as amended, 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, as amended, 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 it has violated the law as alleged in the complaint, as amended.

The hearing examiner having considered the agreement and proposed order and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement

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is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Omega Chemical Co., Inc., is a corporation existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 257 Cornelison Avenue in the city of Jersey City, State of New Jersey.

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, Omega Chemical Co., Inc., a corporation, and its officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of the drug preparation "Omega Oil" 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 Omega Oil:

(a) Is an adequate, effective or reliable treatment for, or will afford complete relief of, any kind of arthritis or other disorder of joints, rheumatism, backache or neuritis, or the symptoms or manifestations thereof; or has any beneficial effect in any of such conditions or disorders in excess of affording temporary relief of the minor aches or pains thereof or the discomforts caused by such aches or pains.

(b) Penetrates into areas or structures below the skin or has a substantial direct effect upon structures of the body underlying the area of application; but this is not to be construed as prohibiting respondent from representing that this product affords temporary relief of the minor aches and pains arising in structures underlying the area of application.

(c) Provides a new type of relief, or a different or more extensive type of relief than that provided by competitive products.

(d) Provides any relief of pain for many hours or for any specific number of hours.

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 in commerce, as "com-

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merce" is defined in the Federal Trade Commission Act, of said drug preparation, which advertisement contains any of the representations prohibited in paragraph 1 hereof.

## 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 2d day of May 1958, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF  
AMERICAN HOME PRODUCTS CORP.

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

*Docket 6755. Complaint, Mar. 28, 1957—Decision, May 2, 1958*

Consent order requiring a manufacturer in New York City to cease representing falsely in advertising that its drug products "Infra Rub" and "Heet" were effective treatments for, and would afford complete relief of, the pains and discomforts of all kinds of arthritis, rheumatism, backache, and muscle aches; that they penetrated below the skin and had a substantial effect upon the underlying body structures, etc.

*Mr. Morton Nesmith and Mr. Berryman Davis*, Counsel Supporting the Complaint.

*Mr. Vincent A. Kleinfeld*, Washington, D.C., Counsel for Respondent.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

The complaint in this proceeding charges that American Home Products Corp.,<sup>1</sup> a corporation, hereinafter referred to as respondent, violated the provisions of the Federal Trade Commission Act by the use of alleged false advertisements in newspapers, radio and television broadcasts concerning the efficacy of two preparations sold and distributed by respondent, "Infra Rub" and "Heet," as being adequate and effective treatments for the aches and pains of arthritis, rheumatism, backaches, muscular aches, and discomforts thereof.

Respondent filed an answer in which it denied in substantial part the allegations set out in the complaint. After the disposition of several preliminary motions, hearings were held and the receipt of testimony in support of the complaint was completed. Thereafter, hearings were held and oral testimony was received on behalf of respondent. However, before the completion of the oral testimony for respondent, counsel for the parties and the respondent corporation entered into an agreement for a consent order pursuant to the provision of section 3.25 of the rules of practice and procedure. The order disposes of the matters complained about. The agreement has

<sup>1</sup> On February 21, 1958, pursuant to a motion filed by counsel supporting the complaint, the examiner ordered that the complaint be amended by substituting American Home Products Corp. as respondent in lieu of and in place of Whitehall Pharmacal Co., the original respondent.