

IN THE MATTER OF
THE MENTHOLATUM CO., INC.

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

Docket 6754. Complaint, Mar. 28, 1957—Decision, May 3, 1958

Consent order requiring a manufacturer in Buffalo, N.Y., to cease advertising falsely that its "Mentholatum Rub" drug preparation was an effective treatment for, and would afford complete and permanent relief of, the aches and discomforts of all kinds of arthritis, rheumatism, bursitis, neuralgia, and disorders of the muscles and joints; provided a new type of relief, different and more extensive than that provided by other products, etc.

Mr. Morton Nesmith and *Mr. Berryman Davis* supporting the complaint.

Mr. Samuel D. MaGavern of *MaGavern, MaGavern, Lowe & Gorman*, of Buffalo, N.Y., for respondent.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

The complaint in this proceeding alleges that the Mentholatum Co., Inc., a corporation, hereinafter referred to as respondent, violated the provisions of the Federal Trade Commission Act by the use of false advertising in newspapers, magazines and through the medium of radio and television broadcasts concerning the effectiveness of its preparation "Mentholatum Deep Heat Rub" for the treatment of arthritis, rheumatism, bursitis, neuralgia, and disorders of muscles and joints.

After issuance and service of the complaint, the respondent and counsel supporting the complaint entered into an agreement for a consent order. The agreement has been approved by the Director and Assistant Director of the Bureau of Litigation. The agreement disposes of the matters complained about.

The pertinent provisions of said agreement are as follows: Respondent admits 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; respondent waives the requirement that the decision must contain a

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statement of findings of fact and conclusion of law; respondent waives 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; respondent waives 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 respondent that it has violated the law as alleged in the complaint.

The undersigned 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. Respondent, The Mentholatum Co., Inc., is a corporation organized and doing business under the laws of the State of Delaware, with its office and principal place of business located at 1360 Niagara Street, Buffalo, N.Y.

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, The Mentholatum 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 "Mentholatum Deep Heat Rub," 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 Mentholatum Deep Heat Rub:

(a) Is an adequate, effective or reliable treatment for, the cure of, or will afford complete relief of, any kind of arthritis or other disorder of joints, rheumatism, bursitis or neuralgia, or has a therapeutic effect on 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 any relief of pain for many hours or for any specific number of hours.

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

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 "commerce" 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 3d day of May 1958, become the decision of the Commission; and, accordingly:

It is ordered, That the 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.

Decision

IN THE MATTER OF

KAUFMAN CARPET CO., INC., ET AL.

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

Docket 6963. Complaint, Nov. 27, 1957—Decision, May 3, 1958

Consent order requiring a corporation in New York City and its seven wholly owned subsidiaries, all engaged in the retail sale of carpets and floor coverings, to cease misrepresenting in advertising the price, construction, and fiber content of its products; and to disclose clearly that certain of its carpeting was of Japanese origin.

Mr. Alvin D. Edelson for the Commission.

Amster & Levy, by *Mr. Edward F. Levy*, of New York, N.Y., for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (hereinafter referred to as the Commission) on November 27, 1957, issued its complaint herein under the Federal Trade Commission Act against the above-named respondents, Kaufman Carpet Co., Inc., a corporation, and Harry Kaufman and Daniel Schoen, individually and as officers of said corporation. The complaint charges respondents with having violated in certain particulars the provisions of said act. The respondents were duly served with process.

On March 6, 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 respondents, their counsel, and counsel supporting the complaint, under date of February 28, 1958, and subject to the approval of the Bureau of Litigation of the Commission. Such agreement had been thereafter duly approved by the director and assistant director of 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 section 3.25 of the Commission's rules of practice for adjudicative proceedings, and that by said agreement the parties have specifically agreed that:

1. Respondent Kaufman Carpet Co., Inc., is a corporation, organized and existing under and by virtue of the laws of the State of