

Decision

IN THE MATTER OF
MAURICE FABRICANT TRADING AS LE CHARME AND
FRENCH PERFUME AGENCY

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

Docket 7024. Complaint, Jan. 10, 1958—Decision, June 17, 1958

Consent order requiring a distributor in New York City to cease representing falsely in advertising, circulars, price lists, by brand names, etc., that domestically made perfumes were French imports; misrepresenting the retail price or value of the perfumes; claiming falsely that the filigree on perfume bottles was jeweled or gold-plated, that the perfume in such bottles did not deteriorate but improved with age, and that it had been advertised in the New York Times as a "\$10.00 value."

Mr. Kent P. Kratz for the Commission.

Mr. Peter J. Unger, of New York, N.Y., for respondent.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondent with making certain misrepresentations in advertising his perfume products. 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; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint 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 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 he has violated the law as alleged in the complaint.

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 is

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

1. Respondent Maurice Fabricant is an individual trading as Le Charme and French Perfume Agency with his office and principal place of business located at 220 West 42d Street, New York, 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 Maurice Fabricant, individually and trading as Le Charme or French Perfume Agency, or trading under any other name, his agents, representatives, or employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of perfumes or any other related product, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement by means of the U.S. mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of said products, which advertisement:

a. Contains or lists prices, amounts, or values when such prices, amounts, or values are in excess of the prices at which said products are usually and customarily sold at retail.

b. Uses the words "French Formula Perfume," "Originally created in France, This Exotic Perfume," or "Paris-New York," or any other French name, word, term, or depiction in connection with any product not manufactured or compounded in France, or otherwise representing, directly or by implication, that such products are manufactured or compounded in France.

c. Uses any French name or word as a corporate, trade, or brand name or as a part thereof in connection with products manufactured or compounded in the United States, unless it is clearly and conspicuously revealed in immediate connection and conjunction therewith that such products are manufactured or compounded in the United States.

d. Represents, directly or by implication that the fligree on his perfume bottles is jeweled or gold plated.

e. Represents, directly or by implication, that his perfume products do not deteriorate or that they improve with age.

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f. Represents, directly or by implication, that his perfume products have been advertised in the New York Times or any other advertising medium as being of a certain value, when such is not a fact.

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 of said products in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement 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 17th day of June 1958, become the decision of the Commission; and, accordingly:

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

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IN THE MATTER OF
OXFORD FILING SUPPLY CO., INC.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT AND SEC. 2(a) OF THE CLAYTON ACT

Docket 7052. Complaint, Jan. 27, 1958—Decision, June 17, 1958

Consent order requiring a leading manufacturer of filing systems and filing supplies with principal place of business in Garden City, N.Y., and with nationwide distribution of its products, to cease maintaining, in areas not having so-called fair trade laws, uniform resale prices for its well-known "Pendaflex" line of products, and, in making effective such policy, requiring dealers, as a condition precedent to selling such "Pendaflex" line, to execute franchise agreements to cooperate in maintaining its retail list prices, and canceling franchises of dealers violating the agreement; and to cease discriminating in price by selling to some of its dealer customers at 40 plus 10 percent off its published list prices while selling to their competitors at the "Trade Discount" of only 40 percent off list price, and by further requiring some dealer customers to purchase \$10,000 of its products in order to qualify for the extra 10 percent discount while requiring others to purchase only \$5,000 to so qualify.

Mr. Leslie S. Miller for the Commission.

Chamberlain, Kafer, Wilds & Jube, by *Mr. John J. Jansen*, of New York, N.Y., for respondent.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof, and hereinafter more particularly designated and described, has violated and is now violating the provisions of section 5 of the Federal Trade Commission Act (15 U.S.C. 45), and the provisions of section 2(a) of the Clayton Act (15 U.S.C. 13), as amended by the Robinson-Patman Act, approved June 19, 1936, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges with respect thereto as follows:

CHARGES UNDER SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT

Count I

PARAGRAPH 1. Respondent Oxford Filing Supply Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal place of business located on Clinton Road, Garden City, N.Y. It has one subsidiary, Imperial Methods Co., Chicago, Ill. It also has branch