

Decision

55 F.T.C.

IN THE MATTER OF
CHAMPION PRODUCTS, INC., ET AL.

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

Docket 6944. Complaint, Nov. 18, 1957—Decision, July 24, 1958

Consent order requiring the manufacturer in Stephenville, Tex., and distributor in Oklahoma City, Okla., of gasoline and oil additives sold under the brand names of "Q-X" and "Q-X with Moly," respectively, to cease representing falsely in advertising in newspapers, periodicals, and sales literature, and by statements of sales representatives, that said products were extensively used by certain large corporations and firms and were approved and recommended by them and by the United States Government; that purchasers' money would be returned if they did not accomplish the guaranteed results; and that they were regularly advertised in "Life" magazine.

INITIAL DECISION AS TO RESPONDENTS CHAMPION PRODUCTS, INC.,
A CORPORATION, JOHN T. HEATON, LUCILLE HEATON, AND
WILLIAM J. OXFORD, INDIVIDUALLY AND AS OFFICERS OF
SAID CORPORATION, AND EARLE A. GOODENOW, JR.,
INDIVIDUALLY AND TRADING AND DOING BUSINESS
AS THE GOODENOW COMPANY

Before *Mr. John B. Poindexter*, hearing examiner.

Mr. Edward F. Downs and *Mr. Garland S. Ferguson*, counsel
supporting the complaint.

Mr. Ennis Favors of Stephenville, Tex., for respondents.

On November 18, 1957, the Federal Trade Commission issued a complaint charging that the corporations and persons named in the caption hereof, hereinafter called respondents, violated the provisions of the Federal Trade Commission Act by the use of alleged false advertising in the manufacture, sale and distribution of their gasoline and oil additives.

After issuance and service of the complaint, the respondents answered, denying generally the allegations contained in the complaint and stating, among other things, that Mr. Goodenow, Sr. is deceased; Champion Oil Company, Inc., is no longer in business, liquidation of the corporation was completed in September 1957, and the charter of said corporation has expired.

Thereafter, respondent Champion Products, Inc., a corporation, its officers, John T. Heaton, Lucille Heaton and William J. Oxford

(erroneously named in the complaint and other documents as William J. Oxley), individually and as officers of said corporation; and Earle A. Goodenow, Jr., an individual trading and doing business as The Goodenow Company, their counsel and counsel supporting the complaint, entered into an agreement for a consent order. This agreement disposes of all of this proceeding as to all parties.

The respondents Champion Oil Company, Inc., a corporation, Robert H. Huston, Jack J. Heinemann and Francis C. Routt, individually and as officers of said corporation are not parties to the agreement for the reason that said corporation has been dissolved and neither it nor its respondent officers are now engaged in the business referred to in the complaint. Respondent Earle A. Goodenow, Sr. is not a party to the agreement for the reason that he is deceased. Therefore, in said agreement, it is recommended that the complaint be dismissed without prejudice as to respondents Robert H. Huston, Jack J. Heinemann and Francis C. Routt, individually, and as to respondents Champion Oil Company, Inc., a corporation, Robert H. Huston, Jack J. Heinemann, and Francis C. Routt as officers of said corporation, and as to respondent Earl A. Goodenow, Sr. The agreement has been approved by the director and assistant director of the Bureau of Litigation.

The pertinent provisions of said agreement are as follows: Respondents named in this agreement 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 statute for other orders; respondents waive any right to challenge or contest the validity of the order 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.

Upon consideration of the allegations of the complaint, the

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provisions of the agreement and the proposed order, the hearing examiner is of the opinion that such order constitutes a proper disposition of this proceeding. Accordingly, the hearing examiner finds that the acceptance of such agreement will be in the public interest and hereby accepts such agreement, makes the following jurisdictional findings and issues the following order:

JURISDICTIONAL FINDINGS

1. Corporate respondent Champion Products, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business located in Stephenville, Tex. Individual respondents John T. Heaton, Lucille Heaton and William J. Oxford are officers of said corporation. They formulate, direct and control the practices of the corporate respondent. Their address is the same as that of the corporate respondent.

2. Earle A. Goodenow, Jr., is an individual trading and doing business as The Goodenow Company with his principal place of business located at 15 East Reno Street, Oklahoma City, Okla.

3. 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 Champion Products, Inc., a corporation, its officers and John T. Heaton, Lucille Heaton and William J. Oxford, individually and as officers of said corporation; and Earle A. Goodenow, Jr., individually and trading and doing business as The Goodenow Company, or 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 their gasoline and oil additives, or any other products in commerce, as "commerce" is defined in the Federal Trade Commission Act do forthwith cease and desist from representing directly or by implication:

1. That any certain corporations or firms regularly or extensively use respondents' products when such use is only occasional and in small quantities.

2. That any certain corporations or firms approve or recommend the use of respondents' products, unless such is the fact.

3. That respondents' products are covered by a money back

guarantee unless all of the terms and conditions thereof are clearly and conspicuously set forth in their advertised guarantee.

4. That respondents' products are approved or recommended by the United States Government.

5. That respondents' products are currently or regularly advertised in "Life" magazine; or are advertised in any other publication, unless such is the fact.

It is further ordered, That respondent Earle A. Goodenow Jr., individually and trading and doing business as The Goodenow Company, or under any other name, and his agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of gasoline and oil additives or any other products in commerce, as "commerce" is defined by the Federal Trade Commission Act, forthwith cease and desist from representing directly or by implication that he is the manufacturer of said products.

It is further ordered, That respondents Champion Products, Inc., its officers, and John T. Heaton, Lucille Heaton, and William J. Oxford, individually and as officers of said corporation, their representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of gasoline and oil additives or any other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from furnishing means and instrumentalities to others by and through which they may mislead and deceive the public respecting the matters set forth in Paragraphs 1 through 5 hereof.

It is further ordered, That the complaint be, and the same hereby is, dismissed, without prejudice, as to respondents Robert H. Huston, Jack J. Heinemann, and Francis C. Routt, individually.

It is further ordered, That the complaint be, and the same hereby is, dismissed as to Champion Oil Company, Inc., a corporation, Robert H. Huston, Jack J. Heinemann, and Francis C. Routt as officers of said corporation, and as to Earle A. Goodenow, Sr.

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 did, on the 24th day of July 1958, become the decision of the Commission; and, accordingly:

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It is ordered, That respondents Champion Products, Inc., a corporation, John T. Heaton, Lucille Heaton, and William J. Oxford, individually and as officers of said corporation, and Earle A. Goodenow, Jr., individually and trading and doing business as The Goodenow Company 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.

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IN THE MATTER OF
SEARS, ROEBUCK AND CO.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 7081. Complaint, Mar. 4, 1958—Decision, July 24, 1958*

Consent order requiring a general merchandise sales corporation to cease representing falsely through its door-to-door salesmen, furnished by it with a "canned sales talk" and sales kit, that such salesmen were publicity agents promoting a "Family Educational Program," seeking to enlist "Cooperative Sponsors" to whom they were making a special offer of its 20-volume "American People's Encyclopedia" and its 16-volume "The Children's Hour" at reduced prices, together with a 10-year research service and a coffee table; and that the offer was limited to the single interview.

Mr. Terral A. Jordan for the Commission.

Mr. J. F. Cleff, of Chicago, Ill., for respondent.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on March 4, 1958, charging Respondent with violation of the Federal Trade Commission Act through the use by its salesmen of false, misleading and deceptive statements and representations in offering for sale and selling Respondent's merchandise, including sets of books designated as the American People's Encyclopedia and as The Children's Hour.

Thereafter, on May 20, 1958, Respondent, its 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 an assistant director of the Commission's Bureau of Litigation, and thereafter submitted to the hearing examiner for consideration.

The agreement identifies Respondent Sears, Roebuck and Co. as a New York corporation, with its office and principal place of business located at 925 South Homan Avenue, Chicago 7, Ill.

Respondent admits all the jurisdictional facts alleged in the complaint, and agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

Respondent waives any further procedure before the hearing examiner and the Commission; the making of findings of fact or