

Decision

IN THE MATTER OF
TOWNECRAFT INDUSTRIES, INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 7041. Complaint, Jan. 15, 1958—Decision, Aug. 15, 1958*

Consent order requiring distributors in Ridgefield, N.J., of stainless steel cooking utensils known as "Chef's Ware" designed to employ the so-called "waterless" method of cooking, to cease representing falsely—in advertising and through salesmen furnished by it with sales manuals, talks, and sales talk visualizers—that use of its cooking utensils and waterless cooking preserved all food elements, was more conducive to health than other cooking utensils, and would assure good health; that odors in cooking meant that vitamins and minerals were being cooked out of food; and that food cooked in aluminumware becomes tainted because of previously cooked food retained in the porous metal.

INITIAL DECISION AS TO RESPONDENTS

TOWNECRAFT INDUSTRIES, INC., HENRY ZADIKOFF,
MICHAEL G. NAKASH, AND ERNEST BARBARISBefore *William L. Pack*, hearing examiner.*Mr. Kent P. Kratz* for the Commission.*Guggenheimer & Untermyer*, of New York, N.Y., by *Mr. Louis Newman* for Townecraft Industries, Inc.; Henry Zadikoff, Michael G. Nakash, and Ernest Barbaris.*Mr. Joseph G. Abramson*, of New York, N.Y., for Arthur I. Meyer.

The complaint in this matter charges the respondents with the making of certain misrepresentations in connection with stainless steel cooking utensils sold by them. An agreement has now been entered into by all of the respondents, except Arthur I. Meyer, providing for disposition of the proceeding as to these respondents by means of a consent order. The word respondents as used hereinafter will not include respondent Meyer.

The agreement provides, among other things, that respondents admit 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 hear-

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ing, respondents 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 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 they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Townecraft Industries, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of New York. Individual respondents Henry Zadikoff and Michael G. Nakash are president-secretary and vice-president-treasurer respectively of the corporate respondent. Individual respondent Ernest Barbaris is a member of the board of directors of the corporate respondent. The individual respondents, formulate, direct and control the policies, acts, and practices of the corporate respondent. The address of all the respondents is 521 Oritan Avenue, Ridgely, N.J.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the said respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That the respondent Townecraft Industries, Inc., a corporation, and its officers, and respondents Henry Zadikoff, Michael Nakash, and Ernest Barbaris, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of stainless steel cooking utensils or any other cooking utensils of substantially similar composition, design, construction or purpose, do forthwith cease and desist from representing, directly or by implication:

(1) That all food elements are preserved in food when respondents' cooking utensils and the "waterless" method of cooking are used.

(2) That most illnesses are the direct or indirect result of vitamin and mineral deficiencies brought about by the improper preparation of food or misrepresenting in any manner the percentage of illnesses that may be so caused.

(3) That the use of respondents' cooking utensils and the "waterless" method of cooking is more conducive to health than other modern cooking utensils employing the "waterless" method of cooking and those utensils known as pressure cookers and steamers; however nothing contained herein shall prevent respondents from representing that more vitamins and minerals are retained in food cooked in their utensils utilizing the modern "waterless" method of cooking than when cooked in other utensils requiring substantially larger quantities of water.

(4) That the use of respondents' cooking utensils and the "waterless" method of cooking will promote or is conducive to better health except for the benefit to health accomplished by the additional vitamins and minerals retained through use of the modern "waterless" method of cooking.

(5) That odor emanating from food when it is being cooked means that vitamins or minerals are being cooked out of the food.

(6) That food cooked in aluminum cooking utensils becomes tainted.

(7) That food cooked or kept in aluminum cooking utensils becomes poisonous.

(8) That the use of aluminum cooking utensils will cause ill health.

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 as to respondents Townecraft Industries, Inc., Henry Zadikoff, Michael G. Nakash, and Ernest Barbaris shall, on the 15th day of August 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Townecraft Industries, Inc., a corporation, and Henry Zadikoff, Michael G. Nakash, and Ernest Barbaris, individually and as officers and directors of said corporation, 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.

INITIAL DECISION AS TO RESPONDENT ARTHUR I. MEYER

Before *William L. Pack*, hearing examiner.

Respondent Arthur I. Meyer (erroneously referred to in the complaint as Arthur R. Meyer) was joined as a respondent in this proceeding upon the theory that he was a member of the board of directors of the corporate respondent and, along with the other individual respondents, formulated, directed and controlled the policies, acts and practices of the corporation, including those challenged in the complaint.

It now appears from an affidavit submitted by the said Arthur I. Meyer that he severed his official connection with the corporation in February 1957, almost a year prior to the issuance of the complaint, and that during the period of his connection with the corporation his duties were solely in connection with the supervision of financing, the purchasing of merchandise and the collection of accounts receivable. He had no responsibility for, nor did he participate in, the formulation of sales policies or sales techniques, nor did he participate in the supervision of sales personnel.

The affidavit further states that since February 1957, said individual has not participated in any way in the management of the corporation, his only connection with the corporation at the present being that he is a minority stockholder, and that he has no intention of resuming his official connection with the corporation in the future.

Upon the basis of the affidavit, said respondent requests that the complaint be dismissed as to him.

Counsel supporting the complaint has filed an answer to the request stating that he has no evidence available with which to refute the averments of the affidavit, and that he therefore does not oppose the request for dismissal.

It appearing to the hearing examiner that in the circumstances the request is appropriate and should be granted,

It is ordered, That the complaint be, and it hereby is, dismissed as to respondent Arthur I. Meyer.

DECISION OF THE COMMISSION

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner as to respondent Arthur I. Meyer shall, on August 15, 1958, become the decision of the Commission.

Decision

IN THE MATTER OF
FLEISHER'S, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS

Docket 7120. Complaint, Apr. 15, 1958—Decision, Aug. 22, 1958

Consent order requiring a furrier in Hagerstown, Md., to cease violating the Fur Products Labeling Act by advertising in newspapers which failed to reveal the proper names of fur-producing animals or when fur products were made of cheap or waste fur; by failing to keep proper records supporting price and savings claims; and by failing in other respects to comply with the invoicing and advertising requirements of the Act.

Thomas A. Ziebarth, Esq., for the Commission.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

The complaint in this proceeding, issued April 15, 1958, charges the respondents above-named with violation of the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act and the Rules and Regulations promulgated under the last-named Act, in connection with the introduction into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution, shipping and receiving in commerce of fur and fur products, as the designations "commerce," "fur," and "fur product" are defined in the Fur Products Labeling Act.

After the issuance of said complaint respondents, on June 20, 1958, entered into an agreement for a consent order with counsel in support of the complaint, disposing of all of the issues in this proceeding, which agreement was duly approved by the director and assistant director of the Bureau of Litigation of the Federal Trade Commission. It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

By the terms of said agreement, the respondents admitted all of the jurisdictional allegations of the complaint and agreed that the record herein may be taken as though the Commission had made findings of jurisdictional facts in accordance with such allegations. By said agreement the parties expressly waived a hearing before the hearing examiner or the Commission, the mak-