

IN THE MATTER OF
JAMES E. TRUE ET AL.
TRADING AS TIMED ENERGY

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

Docket 7123. Complaint, Apr. 16, 1958—Decision, Sept. 9, 1958

Consent order requiring distributors in New York City of a vitamin and mineral preparation designated "Vita-Timed Capsules" to cease representing falsely in advertisements in newspapers, circulars, etc., that vitamins purchased in drugstores frequently were stale and therefore had lost potency; that use of their capsules would contribute to perfect health and safeguard against a variety of serious degenerative diseases; that some vitamin products were coated with insoluble substances and would pass through the system without releasing the contents; that the "Timed-Release" feature of "Vita-Timed Capsules" made them more effective nutritionally than competitive products; and that there was no Federal law preventing sellers from making unjustified claims for excessive dosages of vitamins and minerals or insuring the effectiveness or potency of any preparation.

Mr. Ames W. Williams for the Commission.

Bass & Friend, by *Mr. Solomon H. Friend*, of New York, N.Y., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondents with violating the provisions of the Federal Trade Commission Act by disseminating false advertisements of their vitamin and mineral preparation, designed as "Vita-Timed Capsules."

After the issuance of the complaint, respondents, their counsel, and counsel supporting the complaint 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 transmitted to the hearing examiner for consideration.

The agreement identifies Respondents James E. True, Charles H. Ruby, Patricia M. Gallehr and Leon Weiss as copartners trading as Timed Energy, with their office and principal place of business located at 419 Fourth Avenue, New York, N.Y.

The agreement provides, among other things, that respondents admit all the jurisdictional facts alleged in the complaint,

300

Order

and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement; that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; that the complaint may be used in construing the terms of the order agreed upon, which may be altered, modified or set aside in the manner provided for other orders; that the agreement is for settlement purposes only and does not constitute an admission by the respondents that they have violated the law as alleged in the complaint; and that the order set forth in the agreement and hereinafter included in this decision shall have the same force and effect as if entered after a full hearing.

Respondents waive any further procedural steps before the hearing examiner and the Commission, the making of findings of fact or conclusions of law, and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

The order agreed upon fully disposes of all the issues raised in the complaint, and adequately prohibits the acts and practices charged therein as being in violation of the Federal Trade Commission Act. Accordingly, the hearing examiner finds this proceeding to be in the public interest, and accepts the agreement containing consent order to cease and desist as part of the record upon which this decision is based. Therefore,

It is ordered, That the respondents James E. True, Charles H. Ruby, Patricia M. Gallehr, and Leon Weiss, copartners, trading under the name of Timed Energy, or any other name or names, their agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of the preparation, Vita-Timed Capsules, or any other preparation of similar composition or possessing substantially similar properties, do forthwith cease and desist from:

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:

(a) That gelatine coated vitamin products or vitamin products in sealed capsules lose their potency because of shelf age;

Decision

55 F.T.C.

(b) That the use of Vita-Timed Capsules will contribute to health unless expressly and clearly limited to those cases in which ill health is due to a deficiency of one or more of the vitamins and minerals supplied by said preparation;

(c) That the use of Vita-Timed Capsules will provide a safeguard against degenerative diseases such as arthritis, diabetes, gastro-intestinal disorders, high blood pressure, pernicious anemia or heart trouble;

(d) That coated vitamin and mineral products pass through the body without releasing their contents;

(e) That vitamin products release their contents so rapidly that sufficient vitamins are not absorbed by the body to provide the quantity needed at the time;

(f) That a vitamin product which releases its contents gradually provides any greater nutrition than other types of vitamin products;

(g) That there is no Federal law which prevents sellers of vitamin products from making unjustified claims for excessive doses of vitamins or minerals;

(h) That there is no Federal law which insures the dietary effectiveness of vitamins and minerals in a product;

2. Disseminating, or causing to be disseminated, by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of respondents' preparation, in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations prohibited in paragraph 1 hereof or which fails to observe the limitation set out in paragraph 1 (b) 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 9th day of September 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents James E. True, Charles H. Ruby, Patricia M. Gallehr, and Leon Weiss, copartners trading under the name of Timed Energy, shall, within sixth (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.

Decision

IN THE MATTER OF
STANLEY ELECTRONICS CORPORATION ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 7078. Complaint, Mar. 3, 1958—Decision, Sept. 11, 1958*

Consent order requiring sellers in Paterson, N.J., of radio and television tubes principally to consumers, including repairmen, to cease referring falsely to their products in advertising brochures and advertisements in magazines, etc., as "Brand new pre-tested tubes" when many of such tubes were used, pull-out, manufacturers' surplus, military surplus, and factory reject; and to cease selling such inferior products without disclosing their true nature on the tube, box, carton, invoices, or in advertising.

Mr. Kent P. Kratz for the Commission.

Brenman and Susser, by *Mr. Herbert Susser*, of Paterson, N.J., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondents with falsely and deceptively representing that the television and radio tubes which they sell and distribute in commerce are new, unused and of first quality, and with failure to disclose the true nature of their tubes, in violation of the provisions of the Federal Trade Commission Act.

After the issuance of the complaint, respondents, their counsel, and counsel supporting the complaint 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 transmitted to the hearing examiner for consideration.

The agreement identifies Respondent Stanley Electronics Corporation as a New Jersey corporation, with its office and principal place of business located at 840 Main Street, Paterson, N.J., and individual respondents Stanley Brown and Philip L. Bornstein as president and secretary, respectively, of the respondent corporation, whose affairs, activities and policies of business they control, their address being the same as that of said corporate respondent.

The agreement provides, among other things, that respondents admit all the jurisdictional facts alleged in the complaint, and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations;