

Decision

IN THE MATTER OF
JOSEPH J. PINKUS DOING BUSINESS AS
PRACTICAL RESEARCH COMPANY, ETC.

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

Docket 7177. Complaint, June 27, 1958—Decision, Oct. 11, 1958

Consent order requiring the distributor of "K-12" reducing preparation to cease representing falsely in advertising in newspapers, magazines, etc., that such product was safe to use by all obese persons and enabled them to lose weight without dieting and to lose a certain number of pounds in a given period.

Mr. Morton Nesmith and Mr. Berryman Davis for the Commission.

Fast & Fast, by Mr. Herman L. Fast, of Newark, N.J., for respondent.

INITIAL DECISION BY EVERETT F. HAYCRAFT,
HEARING EXAMINER

On June 27, 1958, the Federal Trade Commission issued its complaint against the above-named respondent, charging him with the use of an unfair and deceptive act and practice in commerce in violation of the provisions of the Federal Trade Commission Act in the dissemination of false advertisements of a drug preparation designated "K-12." In lieu of submitting answer to said complaint, the respondent entered into an agreement for consent order with counsel supporting the complaint disposing of all the issues in this proceeding in accordance with Section 3.25 of the Rules of Practice and Procedure of the Commission, which agreement has been duly approved by the Bureau of Litigation.

By the terms of said agreement, the respondent admitted all the jurisdictional facts alleged in the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. Respondent in the agreement expressly waived 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 he may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement. It was further provided that said agreement, together with the complaint,

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shall constitute the entire record herein; 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 said agreement is for settlement purposes only and does not constitute an admission by the respondent that he has violated the law as alleged in the complaint. The agreement also provided that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if entered after a full hearing; that it may be altered, modified or set aside in the manner provided for other orders; and that the complaint may be used in construing the terms of the order.

This proceeding having now come on for final consideration by the hearing examiner on the complaint and the aforesaid agreement for consent order, and it appearing that said agreement provides for an appropriate disposition of this proceeding, the aforesaid agreement is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice; and in consonance with the terms of said agreement, the hearing examiner makes the following jurisdictional findings and order:

1. Respondent Joseph J. Pinkus is an individual doing business as Practical Research Company and as Practical Research K-12 Company, with his office and principal place of business located at 403 Market Street, Newark, N.J.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent hereinabove named. The complaint states a cause of action against said respondent under the Federal Trade Commission Act and this proceeding is in the interest of the public.

ORDER

It is ordered, That respondent, Joseph J. Pinkus, and individual doing business as Practical Research Company and as Practical Research K-12 Company, or under any other trade name or names, and respondent's representatives, agents or employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of the preparation K-12, or any other preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same name or any other name, do forthwith cease and desist from, directly or indirectly:

1. Disseminating or causing to be disseminated any advertise-

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ment by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or indirectly:

(a) That said preparation is safe to use by all obese persons;

(b) That obese persons can lose weight by the use of said preparation without dieting and while consuming the same kinds and amounts of food as they ordinarily consume;

(c) That any predetermined weight reduction can be achieved by the taking or use of said preparation for a prescribed period of time.

2. Disseminating or causing the dissemination of 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 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 11th day of October 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.

IN THE MATTER OF
LA BELLE SILVER COMPANY, INC., ET AL.

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

Docket 7031. Complaint, Jan. 14, 1958—Decision, Oct. 14, 1958

Consent order requiring a manufacturer of small electrical appliances in Glendale, L.I., N.Y., to cease representing falsely in advertising matter and on labels, price tags, and cartons disseminated for use in the retail sale of its percolators and blenders, that grossly exaggerated prices were the retail selling prices, that certain of their percolators were trimmed in 24 karat "Warranted Gold Plate," and—through prominent use of the words "General Electric"—that its said products were manufactured by the General Electric Company.

Ames W. Williams supporting the complaint.

Lillian L. Poses, of New York, N.Y., for respondents.

INITIAL DECISION BY JOHN B. POINDEXTER,
HEARING EXAMINER

On January 14, 1958, the Federal Trade Commission issued a complaint alleging that La Belle Silver Company, Inc., a corporation, Simon Cantor, Armand Weinberger, Eugene Singer, and Harry Orol, individually and as officers of said corporation, hereinafter referred to as respondents, had violated the provisions of the Federal Trade Commission Act by making false, misleading and deceptive statements and representations concerning their products, small electrical appliances, including percolators and blenders, which they manufacture and offer for sale.

After issuance and service of the complaint, the respondents, their counsel, and counsel supporting the complaint entered into an agreement for a consent order. The order disposes of the matters complained about. 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 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