

Order

IN THE MATTER OF
BENEFICIAL STANDARD LIFE INSURANCE COMPANY

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

Docket 6309. Complaint, Mar. 11, 1955—Order, Nov. 14, 1958

Order reopening proceeding, vacating decision of Sept. 23, 1955, 52 F.T.C. 342, and dismissing, on authority of the Supreme Court's *per curiam* opinion in the combined cases of *Federal Trade Commission v. National Casualty Company* and *Federal Trade Commission v. The American Hospital and Life Insurance Company*, 357 U.S. 560, complaint charging a Los Angeles insurance company with false advertising in the sale of accident and health insurance policies.

Before Mr. J. Earl Cox, hearing examiner.

Mr. J. W. Brookfield, Jr. and Mr. Donald K. King for the Commission.

Hill & Attias, of Beverly Hills, Calif., for respondent.

ORDER REOPENING PROCEEDING AND DISMISSING COMPLAINT

The respondent, pursuant to leave granted in the Commission's order of October 16, 1958, having submitted adequate proof of the facts on which it relies in support of its position that this proceeding should be reopened; and

The Commission having reconsidered the question of its jurisdiction in the matter in the light of the Supreme Court's *per curiam* opinion in the combined cases of *Federal Trade Commission v. National Casualty Company* and *Federal Trade Commission v. The American Hospital and Life Insurance Company*, 357 U.S. 560 (decided June 30, 1958):

It is ordered, That this proceeding be, and it hereby is, reopened.

It is further ordered, That the Commission's decision entered September 23, 1955, and the hearing examiner's initial decision filed August 16, 1955, be, and they hereby are, vacated and set aside.

It is further ordered, That the complaint herein be, and it hereby is, dismissed.

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IN THE MATTER OF
ANDERSON PHARMACAL CORP., ET AL.

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

Docket 7178. Complaint, June 30, 1958—Decision, Nov. 14, 1958

Consent order requiring a distributor in New York City to cease representing falsely in newspaper and magazine advertising that obese persons using its "Du-Dol" drug preparation could lose weight at the rate of seven pounds a week without dieting, and that the preparation was "GUARANTEED SAFE, GUARANTEED HARMLESS."

Mr. Berryman Davis for the Commission.

Mr. Milton A. Bass, of *Bass & Friend*, of New York, N.Y.
for respondents.

INITIAL DECISION BY EVERETT F. HAYCRAFT, HEARING EXAMINER

On June 30, 1958, the Federal Trade Commission issued its complaint against the above-named respondents charging them 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 "Du-Dol." In lieu of submitting answer to said complaint, the respondents 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 respondents 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. Respondents 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 they 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 in said agreement that the record on which the initial decision and the decision of the Commission

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shall be based shall consist solely of the complaint and the said agreement. It was further agreed 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, and that 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. 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 Anderson Pharmacal Corp. is a corporation existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 3560 Broadway, New York, N.Y. Respondents Harry Evans and Anthony D'Angelo are officers of the corporate respondent. The address of the individual respondents is the same as that of the corporate respondent.

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

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It is ordered, That respondents, Anderson Pharmacal Corp., a corporation, and its officers, and Harry Evans and Anthony D'Angelo, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of the preparation designated Du-Dol, or any other preparation of substantially similar

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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 advertisement 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, that is, while consuming the same kinds and amounts of food as they theretofore consumed;
- (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 14th day of November 1958, become the decision of the Commission; and, accordingly:

It is ordered, That the respondents herein 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
J. LICHTERMAN, INC., ET AL.

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

Docket 7183. Complaint, July 11, 1958—Decision, Nov. 14, 1958

Consent order requiring a furrier in Philadelphia, Pa., to cease violating the Fur Products Labeling Act by failing to invoice fur products as required; by advertising by means of letters, tickets, brochures, etc., which represented selling prices as reduced from so-called regular prices which were in fact fictitious, misrepresented percentage savings through the use of such claims as "Half price sale"; and by failing to maintain adequate records on which such savings representations were based.

Mr. S. F. House for the Commission.

Schnader, Harrison, Segal & Lewis, by *Mr. Edward W. Mullinix*, of Philadelphia, Pa., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondents with falsely and deceptively invoicing and advertising certain of their fur products, and with failing to maintain full and adequate records disclosing the facts upon which their comparative pricing claims and representations were based, in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and 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 states that respondent J. Lichterman, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business located at 122 South 13th Street, Philadelphia, Pa.

The agreement also states that respondent Arthur D. Lichterman is president of said corporate respondent, formulates, controls, and directs the acts, practices and policies thereof, and has the same address as that of said corporate respondent.