

Decision

IN THE MATTER OF
RUTH ELENOWITZ, ET AL.
DOING BUSINESS AS MARK TRADING

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

Docket 7281. Complaint, Oct. 17, 1958—Decision, Feb. 11, 1959

Consent order requiring a concern in Maspeth, N.Y., to cease misrepresenting domestic perfumes as French imports through use of the brand name "LaVie En Rose" and advertising them as "The favorite of fashionable Paris," etc.; and to cease advertising that fictitious prices ranging from \$10 to \$27.50 were regular retail prices of the perfumes, that they were nationally advertised at such prices, and were sold in well-known department stores.

Mr. S. F. House for the Commission.

Mr. Martin J. Forgang, of New York, N.Y., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

On October 17, 1958, the complaint herein was issued, charging respondents with the use of false, misleading and deceptive representations in connection with the advertising, sale and distribution in commerce of perfume products, which are "cosmetics" as that term is defined in the Federal Trade Commission Act; which representations constitute unfair and deceptive acts and practices in commerce, in violation of said Act.

Thereafter, on December 5, 1958, respondents, their counsel, and counsel supporting the complaint entered into an Agreement Containing Consent Order to Cease and Desist, which was approved by the acting director and an assistant director of the Commission's Bureau of Litigation, and thereafter submitted to the hearing examiner for consideration.

Respondents Ruth Elenowitz and Irving Elenowitz are identified in the agreement as individuals doing business under the trade name of Mark Trading, with their office and principal place of business located at 62-15 Fifty Third Avenue, Maspeth 78, N.Y. It is stated in the agreement that Ruth Elenowitz is also known as Ruth Weidenbaum.

Respondents admit all the jurisdictional facts alleged in the complaint, and agree that the record may be taken as if find-

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ings of jurisdictional fact had been duly made in accordance with such allegations.

Respondents, in the agreement, waive any further procedure 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. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist, as contained in the agreement, when it shall have become a part of the decision of the Commission, shall have the same force and effect as if entered after a full hearing, and may be altered, modified or set aside in the manner provided for other orders; that the complaint herein may be used in construing the terms of said 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.

After consideration of the allegations of the complaint and the provisions of the agreement and the proposed order, the hearing examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the hearing examiner accepts the Agreement Containing Consent Order to Cease and Desist; finds that the Commission has jurisdiction over the respondents and over their acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That respondents Ruth Elenowitz, also known as Ruth Weidenbaum, and Irving Elenowitz, individuals doing business under the trade name Mark Trading, or trading under any other name, 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 perfumes or any other related product, 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, for the purpose of inducing, or which is likely to

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induce, directly or indirectly, the purchase of said products, which advertisement:

(a) Represents, directly or by implication, that any amount is the retail price of a product when said amount is in excess of the price at which said product is usually and customarily sold at retail;

(b) Represents, directly or by implication, that any of their products are nationally advertised or sold in well-known department stores, unless such is the fact;

(c) Uses the words "La Vie En Rose" or any other French name, word, term, or depiction, in connection with any such product not manufactured or compounded in France, or otherwise representing, directly or by implication, that such products are manufactured or compounded in France;

2. Disseminating, or causing to be disseminated, any advertisement, by any means, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of such product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, 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 February 1959, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Ruth Elenowitz, and Irving Elenowitz, doing business under the name of Mark Trading, 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.

IN THE MATTER OF
REGENT-SHEFFIELD, LTD., ET AL.

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

Docket 7282. Complaint, Oct. 17, 1958—Decision, Feb. 11, 1959

Consent order requiring distributors of cutlery in New York City to cease selling without disclosure of foreign origin, carving forks assembled from heads manufactured in Japan and stamped on the shank with the word "Japan" which was concealed in the process of assembling with domestic handles, and packaged with carving knives, the blades of which were made in England and so marked and attached to domestic handles; to cease preticketing their merchandise, and furnishing their customers, with tags bearing fictitious and greatly exaggerated prices represented thereby as regular retail prices; and to cease representing certain kinds of merchandise falsely as "24 karat gold plated" by catalog sheets, carton imprints, and attached stickers.

Ames W. Williams, Esq., for the Commission.

Respondents, *pro se*.

INITIAL DECISION BY ROBERT L. PIPER, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on October 17, 1958, charging them with having violated the Federal Trade Commission Act, by misrepresenting the quality, price and origin of their products. Respondents appeared and entered into an agreement dated December 12, 1958, containing a consent order to cease and desist, disposing of all the issues in this proceeding without further hearings, which agreement has been duly approved by the acting director of the Bureau of Litigation. Said agreement has been submitted to the undersigned, heretofore duly designated to act as hearing examiner herein, for his consideration in accordance with §3.25 of the Rules of Practice of the Commission.

Respondents, pursuant to the aforesaid agreement, have admitted all of the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been made duly in accordance with such allegations. Said agreement further provides that respondents waive all further procedural steps before the hearing examiner or the Commission, including the making of findings of fact or conclusions of law and the right to challenge or contest the validity of