

IN THE MATTER OF
MAX FACTOR & CO.

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

Docket 7280. Complaint, Oct. 15, 1958—Decision, Feb. 26, 1959

Consent order requiring a cosmetic house in Hollywood, Calif., to cease representing falsely by television, magazine, and other advertising that its "Natural Wave" spray would change the structure of naturally straight hair to naturally curly.

Mr. John T. Walker for the Commission.

Mr. Raymond S. Smethurst, of Washington, D.C., and *Mr. Ralph E. Lazarus*, of Los Angeles, Calif., for respondent.

INITIAL HEARING BY EARL J. KOLB, HEARING EXAMINER

The complaint in this proceeding issued October 15, 1958, charges the respondent with violation of the Federal Trade Commission Act in the sale and distribution of a cosmetic preparation designated "Natural Wave."

Respondent Max Factor & Co. is a corporation organized, existing and doing business under the laws of the State of Delaware, with its office and principal place of business located at 1655 North McCadden Place, Hollywood, Calif.

After the issuance of the complaint, respondent entered into an agreement containing consent order to cease and desist with counsel in support of the complaint, disposing of all the issues in this proceeding, which agreement was duly approved by the acting director and assistant director of the Bureau of Litigation.

It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

By the terms of said agreement, the respondent admitted all the jurisdictional facts alleged in the complaint and agreed that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with the allegations.

By said agreement, the respondent 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 the rights it may have to challenge or contest the validity

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of the order to cease and desist entered in accordance with the agreement.

Respondent further agreed that the order to cease and desist, issued in accordance with said agreement, shall have the same force and effect as if made after a full hearing.

It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; that the complaint herein may be used in construing the terms of the order issued pursuant to said agreement; and that said order may be altered, modified or set aside in the manner prescribed by the statute for orders of the Commission.

The hearing examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provides for an appropriate disposition of this proceeding, the same 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 finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent named herein, that this proceeding is in the interest of the public, and issues the following order:

ORDER

It is ordered, That Max Factor & Co., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of the product Natural Wave, or any other product of substantially similar composition or possessing similar properties, whether sold under the same name or any other name, forthwith cease and desist from:

1. Disseminating or causing to be disseminated, any advertisement, by means of television continuity broadcasts in commerce, or by any other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or by implication:

(a) That said product will change the structure of the hair; or

(b) That said product will change naturally straight hair to naturally curly hair.

2. Disseminating or causing to be disseminated, any advertisement by any means for the purpose of inducing, or which is

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likely to induce, directly or indirectly, the purchase of said product in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any 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 26th day of February 1959, become the decision of the Commission; and, accordingly:

It is ordered, That respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

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IN THE MATTER OF
STANLEY FURS, INC., ET AL.

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

Docket 7135. Complaint, Apr. 30, 1958—Decision, Feb. 28, 1959

Consent order requiring furriers in Denver, Colo., to cease violating the Fur Products Labeling Act by labeling fur products with fictitious prices represented as regular retail selling prices, by deceptively identifying the animals producing certain furs on labels, setting forth the names of other animals on labels and invoices, and failing in other respects to label and invoice fur products as required; by advertising in newspapers which failed to disclose the name of the animal producing certain furs or contained that of another animal, failed to disclose that fur products contained artificially colored or cheap or waste fur, and misrepresented prices as cost plus tax or reduced from usual prices which were in fact fictitious; and by failing to maintain adequate records as a basis for such pricing claims.

Mr. Thomas A. Ziebarth for the Commission.

Mr. Lawrence M. Henry, of Denver, Colo., for Yvonne Cavanaugh.

Mr. Richard A. Zarlengo, of Denver, Colo., for all other respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondents with misbranding and with falsely and deceptively invoicing and advertising certain of their fur products, 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, all respondents except Yvonne Cavanaugh, 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 Stanley Furs, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Colorado, with its office and principal place of business located at 1600 E. Colfax Avenue, Denver, Colo., and that the individual respondents, Stanley