

Decision

IN THE MATTER OF
STAZ-SET, INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 7302. Complaint, Nov. 14, 1958—Decision, Mar. 10, 1959*

Consent order requiring a distributor and its advertising agency in New York City to cease representing falsely in advertising that their drug preparation designated "7 Day Reducer" was safe for use by all obese persons, would cause them to lose weight without dieting and at specific rates per week and per month, and was approved for reducing weight by the U.S. Public Health authorities.

Mr. Berryman Davis for the Commission.

Bass & Friend, of New York, N.Y., for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondents with misrepresenting a weight reducing preparation advertised and sold by them. An agreement has now been entered into by respondents and counsel supporting the complaint which provides, among other things, that respondents admit all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondents specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified, or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the 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.

The hearing examiner having considered the agreement and proposed order and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the

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agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Staz-Set, Inc., is a corporation existing and doing business under the laws of the State of New York, with its office and principal place of business located at 42 West 38th Street, New York, N.Y. Respondents David L. Ratke and Herman Liebensohn are officers of respondent Staz-Set, Inc., and the address of said individual respondents is the same as that of the corporate respondent.

Respondent Parker Advertising, Inc., is a corporation existing and doing business under the laws of the State of New York, with its office and principal place of business located at 42 West 38th Street, New York, N.Y.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents, Staz-Set, Inc., a corporation, and its officers and David L. Ratke, and Herman Liebensohn, individually and as officers of said corporation, and Parker Advertising, Inc., and its officers, 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 7-Day Reducer, 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 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, that:

- (a) The preparation is safe to use by all obese persons;
- (b) Obese persons can lose weight by use of the preparation without dieting, that is while consuming the same kinds and amounts of food they ordinarily consume;
- (c) Any predetermined weight reduction can be achieved by the taking or use of said preparation for a prescribed period of time;
- (d) United States Public Health Authorities approve or en-

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dorse the use of respondents' preparation for the purpose of reducing weight.

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 10th day of March 1959, become the decision of the Commission; and, accordingly:

It is ordered, That 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.

IN THE MATTER OF
AMERICAN MOTOR SPECIALTIES CO., INC., ET AL.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 2(f) OF THE CLAYTON ACT

Docket 5724. Complaint, Dec. 20, 1949—Decision, Mar. 12, 1959

Order requiring 17 jobbers of automotive parts and supplies and their buying association in the New York City area to cease violating Sec. 2(f) of the Clayton Act by inducing or accepting discriminatory prices from their suppliers, such as rebates up to 19% higher than those received by their competitors; and requiring said jobbers to cease maintaining said buying association as an instrumentality to induce or receive discriminatory prices.

Mr. Eldon P. Schrup for the Commission.

Mr. B. F. Lerch, of New York, N.Y., for respondents.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

This proceeding is now before the undersigned hearing examiner for final consideration upon the complaint, answer thereto, testimony and other evidence, and proposed findings of fact and conclusions submitted by counsel. The hearing examiner has given consideration to the proposed findings of fact and conclusions submitted by both parties, and all findings of fact and conclusions of law proposed by the parties, respectively, not hereinafter specifically found or concluded are herewith rejected, and the hearing examiner having considered the record herein and being now fully advised in the premises, makes the following findings as to the facts, conclusions drawn therefrom and order:

1. Respondent Metropolitan Automotive Wholesalers Cooperative, Inc., is a membership corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and place of business located at 11 Park Place, New York, N.Y. At the time of the issuance of the complaint in this proceeding the members of said respondent Metropolitan Automotive Wholesalers Cooperative, Inc., were as follows:

(1) Respondent American Motor Specialties Co., Inc., a New Jersey corporation, with its principal office and place of business located at 53 Lock Street, Newark, N.J.

(2) Respondent Bronx Gear & Bearing Co., Inc., a New York