

Decision

IN THE MATTER OF
HICKS PHARMACAL COMPANY, ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 7347. Complaint, Jan. 6, 1959—Decision, Apr. 16, 1959*

Consent order requiring a distributor in Newark N.J., and its advertising agent, to cease representing falsely in newspaper, radio, and other advertising of the drug preparation "Arthrycin" for treatment of arthritis and rheumatism, that the analgesic effect of the product built up day after day, that it was a special remedy providing greater relief than other analgesics and was the only tested pain-relieving complex on the market, and that the plan of taking it for five days in reduced amounts daily was new and unique, the following of which would permanently end the pains of arthritis, rheumatism, and other similar conditions.

Mr. Charles W. O'Connell for the Commission.

No appearance for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondents with misrepresenting a medicinal preparation advertised and sold by them, in violation of the Federal Trade Commission Act. 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.

Order

55 F.T.C.

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

1. Respondent Hicks Pharmacal Company is a corporation organized, existing and doing business under the laws of the State of New Jersey, with its principal office and place of business located at 136 Tichenor Street, Newark, N.J. Respondents Carl H. White, Jr., John Garvey and Henry K. Berman are officers of said corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, and their address is the same as that of the corporate respondent.

Respondent Kenneth Rader Company, Inc., is a corporation organized, existing and doing business under the laws of the State of New York with its principal office and place of business located at 18 West 56th 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 the respondents, Hicks Pharmacal Company, a corporation, and its officers, and Carl H. White, Jr., John Garvey and Henry K. Berman, individually and as officers of said corporation, and Kenneth Rader Company, Inc., a corporation, 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 the preparation Arthrycin or any other preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same or any other name, do forthwith cease and desist from:

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

(a) That the analgesic effect of Arthrycin builds up day after day.

(b) That said preparation is a special remedy or that it provides a greater degree of relief from pain than is provided by other analgesic preparations.

1695

Decision

(c) That said preparation is the only tested pain relieving complex on the market.

(d) That the plan of administering the preparation, that is, by taking the preparation over a period of five days in reduced amounts, is a new or unique method of administering analgesics.

(e) That said preparation, however taken, will relieve the pains of arthritis, rheumatism, sciatica, neuritis or lumbago, unless limited to the temporary relief of the minor pains thereof.

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 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 16th day of April 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
HANS & GREIFF, INC., ET AL.

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

Docket 7361. Complaint, Jan. 15, 1959—Decision, Apr. 16, 1959

Consent order requiring manufacturing furriers in New York City to cease violating the Fur Products Labeling Act by failing to comply with invoicing requirements and by advertising in letters to customers in which they represented certain designated amounts to be wholesale market values and prices without maintaining adequate records disclosing the facts upon which such representations were based.

S. F. House, 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 January 15, 1959, charging them with having violated the Fur Products Labeling Act, the rules and regulations issued thereunder, and the Federal Trade Commission Act, by falsely invoicing and misrepresenting their fur products. Respondents appeared and entered into an agreement, dated February 20, 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 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 the order to cease and desist entered in accordance with such agreement. It has also been agreed that the record herein shall