

Decision

IN THE MATTER OF
CARAVEL PRODUCTS, LTD., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 7356. Complaint, Jan. 12, 1959—Decision, May 19, 1959*

Consent order requiring a New York City distributor of perfumes to cease representing falsely in advertising and on the labeling and packaging of their products that fictitious and excessive amounts were the usual retail prices; advertising that certain of their products were currently and regularly advertised in nationally distributed magazines, when any such advertisements appeared about 1951; and representing through use of French words and the French tricolor on labels and packaging that some of their products were compounded in France, when the major portion of the ingredients was of domestic origin.

Mr. Harry E. Middleton, Jr. for the Commission.

Mr. David Paris, of New York, N.Y., for respondents.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated January 12, 1959, the respondents are charged with violating the provisions of the Federal Trade Commission Act.

On March 12, 1959, the respondents and their attorney entered into an agreement with counsel in support of the complaint for a consent order.

Under the agreement, respondents admit the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and have the same force and effect as if entered after a full hearing, and the document includes a waiver by respondents of all rights to challenge or contest the validity of the order issuing in accordance therewith. The agreement further recites that it 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 finds that the content of the agreement meets all of the requirements of Section 3.25(b) of the Rules of the Commission.

The hearing examiner being of the opinion that the agreement and the proposed order provide an appropriate basis for disposition of this proceeding as to all of the parties, the agreement

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is hereby accepted and it is ordered that the agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission. The following jurisdictional findings are made and the following order issued.

1. Respondent Caravel Products, Ltd., 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 1133 Broadway, New York, N.Y.

The individual respondent Herman Sobel is an officer of the corporate respondent and has his office and principal place of business at the same address as the corporate respondent.

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 Caravel Products, Ltd., a corporation, and its officers, and Herman Sobel, also known as Arthur H. Sobel, M. H. Sobel, Arthur Sobel and Henry Sobel, individually and as an officer of said corporation and trading as Fairbanks Company, or under any other name, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of perfumes or other products, do forthwith cease and desist from:

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

(a) Represents, directly or by implication, that the usual or customary retail price of any product is in excess of the price at which such product is regularly or customarily sold at retail in the normal course of business.

(b) Represents, directly or by implication, that any product is being currently advertised in *Vogue*, *Mademoiselle* or *Seventeen* magazines; or in any other magazine or publication, when such is not the fact, or that any product has been advertised in any magazine or publication in the past unless the date of such advertisement is clearly set forth.

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 of said products in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any of the representations prohibited by paragraph 1 hereof.

It is further ordered, That respondents, Caravel Products, Ltd., a corporation, and its officers, and Herman Sobel, also known as Arthur H. Sobel, M. H. Sobel, Arthur Sobel and Henry Sobel, individually and as an officer of said corporation and trading as Fairbanks Company, or under any other name, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of perfumes or other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that the usual or customary retail prices of any product is in excess of the price at which such product is regularly or customarily sold at retail in the normal course of business.

2. Using the words "concentre fabrique avec essence de France" or a replica of the tricolor of France, or any other word, term, symbol or depiction indicative of foreign origin as descriptive of, or in connection with, products manufactured or compounded in the United States, unless it is clearly and conspicuously disclosed in immediate connection therewith that such products are manufactured or compounded in the United States.

3. Otherwise representing that products which are manufactured or compounded in the United States are manufactured or compounded in France, or in any other foreign country, provided, however, that in cases where certain of the ingredients of any product are imported into the United States such fact may be stated if accompanied by a clear and conspicuous statement that such ingredients were blended with domestic ingredients and that the resulting product was bottled and packaged in the United States.

DECISION OF THE COMMISSION AND ORDER TO FILE
REPORT OF COMPLIANCE

The Commission having considered the initial decision of the hearing examiner wherein he accepted an agreement containing a consent order to cease and desist executed on behalf of the

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corporate respondent, Caravel Products, Ltd., and by respondent Herman Sobel, individually and as an officer of said corporation, and trading as Fairbanks Company, by respondents' counsel, and by counsel in support of the complaint, service of which initial decision was completed on April 16, 1959; and

It appearing that the initial decision may be deficient in that it fails to incorporate the substance of certain pertinent provisions of the agreement of the parties:

It is ordered, That said initial decision be, and it hereby is, amended by inserting between the second and third paragraphs thereof the following paragraph:

Under the agreement, respondents admit the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and have the same force and effect as if entered after a full hearing, and the document includes a waiver by respondents of all rights to challenge or contest the validity of the order issuing in accordance therewith. The agreement further recites that it is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

It is further ordered, That the initial decision as so modified shall on the 19th day of May 1959, become the decision of the Commission.

It is further ordered, That the respondents 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 contained in said initial decision.

Decision

IN THE MATTER OF
M & M SPECIALTIES, INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 7377. Complaint, Jan. 26, 1959—Decision, May 19, 1959*

Consent order requiring a New York City distributor to cease advertising falsely in newspapers, periodicals, and otherwise that attaching its "Color V"—a sheet of transparent plastic sprayed with orange paint blending into green at one border and blue at the opposite border—to a black and white television set would produce "reallife" color and eliminate glare, and that "Color V" was an electronic device.

Mr. Brockman Horne for the Commission.

Mr. Herbert J. A. Runsdorf, of New York, N.Y., for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondents with violation of the Federal Trade Commission Act through the making of certain representations in connection with a device advertised and sold by them, the device being intended for use on television sets. 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