

Decision

IN THE MATTER OF
CONSUMER DRUG CORPORATION, ET AL.ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket 7362. Complaint, Jan. 15, 1959—Decision, May 20, 1959

Order dismissing, following dissolution of respondent corporation, complaint charging drug distributors in Portland, Oreg., with advertising falsely that their "Oragen" tablets enabled obese persons to lose a pound of weight a day.

Before *Mr. Earl J. Kolb*, hearing examiner.

Mr. Berryman Davis for the Commission.

Mr. Arthur D. Herrick, of New York, N.Y., for respondents.

INITIAL DECISION DISMISSING THE COMPLAINT

This proceeding is before the hearing examiner upon motion of counsel for respondents to dismiss the complaint; amended motion to dismiss; answer to motion and amended motion filed by counsel supporting the complaint; reply memorandum filed by counsel for respondents; and answer to reply memorandum filed by counsel supporting the complaint.

It appears that prior to the issuance of the complaint in this proceeding, the assets of the corporation respondent, Consumer Drug Corporation, were sold to Consumer Laboratories, Inc., a corporation, and on February 16, 1959, Certificate of Dissolution of said corporate respondent was issued by the Corporation Commissioner of the State of Oregon.

In addition to the corporate respondent, Harold S. Heldfond, Robert C. Heldfond, and Henry Cohen were named respondents, both individually and as officers of said corporate respondent. Of these three individual respondents only respondent Harold S. Heldfond is connected with the new corporation. While he owns no stock in the new corporation, he is president and director of said corporation.

In his answer to said motion to dismiss, counsel supporting the complaint stated that he had no objection to dismissal of the complaint as to the corporate respondent and as to the individual respondents in their capacities as officers of the corporate respondent, but did object to the dismissal of the complaint against

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the three individual respondents in their individual capacities. The record, however, indicates that only the respondent Harold S. Heldfond has any connection with the new corporation and that the remaining individual respondents have no interest in said matter at the present time.

The hearing examiner has considered said motion to dismiss and the other documents filed by the parties in connection therewith, and the record herein, and is of the opinion that it would not be in the public interest to litigate this proceeding as to the individual respondent Harold S. Heldfond for the purpose of determining his liability as an officer of the corporate respondent, Consumer Drug Corporation, for acts and practices performed prior to the dissolution of said corporation.

It is therefore ordered, That the complaint in this proceeding be dismissed without prejudice as to the respondent Consumer Drug Corporation, a corporation, Harold S. Heldfond, Robert C. Heldfond, and Henry Cohen, individually and as officers of said corporation.

DECISION OF THE COMMISSION

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 20th day of May 1959, become the decision of the Commission.

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IN THE MATTER OF
NORTH BERWICK COMPANY ET AL.

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

Docket 7374. Complaint, Jan. 23, 1959—Decision, May 20, 1959

Consent order requiring a manufacturer in North Berwick, Me., to cease violating the Wool Products Labeling Act by labeling as "90% Wool 10% Other Fibers," interlining materials which contained substantially greater quantities of nonwool fibers than thus indicated, and by failing in other respects to comply with labeling requirements of the Act.

Mr. John T. Walker for the Commission.

Irving Isaacson, Esq., for *Brann & Isaacson*, of Lewiston, Me.,
for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) on January 23, 1959, issued its complaint herein, charging the above-named respondents with having violated the provisions of both the Federal Trade Commission Act and the Wool Products Labeling Act, together with the Rules and Regulations promulgated thereunder, and the respondents were duly served with process.

On March 16, 1959, there was submitted to the undersigned hearing examiner of the Commission for his consideration and approval an "Agreement Containing Consent Order to Cease and Desist," which had been entered into by and between respondents and the attorneys for both parties, under date of March 9, 1959, subject to the approval of the Bureau of Litigation of the Commission, which had subsequently duly approved the same.

On due consideration of such agreement, the hearing examiner finds that said agreement, both in form and in content, is in accord with §3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and that by said agreement the parties have specifically agreed to the following matters:

1. Respondent North Berwick Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maine, with its office and principal place of business located at North Berwick, Maine.