

July, 1959, become the decision of the Commission; and, accordingly:

It is ordered, That the above-named 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 to cease and desist.

IN THE MATTER OF

N & W ENTERPRISES, INC., ET AL.

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

Docket 7308. Complaint, Nov. 18, 1958—Decision, July 8, 1959

Consent order requiring a distributor in St. Petersburg, Fla., to cease advertising falsely that its "Sykes Hernia Control" devices were not trusses and misrepresenting their effectiveness, and to cease claiming falsely that its representatives were specialists in the fitting of trusses, and that it had been in the business of rupture control since 1916.

Mr. Morton Nesmith for the Commission.

Galiher & Stewart, by *Mr. Austin F. Canfield, Jr.*, of Washington, D.C., for respondents.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on November 18, 1958, issued and subsequently served its complaint in this proceeding against the above-named respondents.

On May 21, 1959, there was submitted to the undersigned hearing examiner an agreement between respondents and counsel supporting the complaint providing for the entry of a consent order.

Under the foregoing agreement, the 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 the 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 the respondents that they have violated the law as alleged in the complaint.

Order

56 F.T.C.

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 having considered the agreement and proposed order, and being of the opinion that they provide an appropriate basis for settlement and disposition of this proceeding, the agreement is hereby accepted, and it is ordered that said agreement shall not become a part of the official record 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 N & W Enterprises, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Florida. Said corporation is, and has been, doing business as Sykes Hernia Control Service. Respondents Janet L. Winters, Henry W. Winters, and Nancy Jean Winters Jackman are officers of respondent N & W Enterprises, Inc. The address of all respondents is 6716 Central Avenue, St. Petersburg, Florida.

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, N & W Enterprises, Inc., a corporation, and its officers, and Janet L. Winters, Henry W. Winters, and Nancy Jean Winters Jackman, individually and as officers of said corporation, 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 devices known as Sykes Hernia Control, or any device of substantially similar construction or design, whether sold under said name or any other name, do forthwith cease and desist from, directly or indirectly:

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 said devices are not trusses.
- (b) That said devices will retain or hold ruptures or hernias unless limited to reducible ruptures or hernias.
- (c) That the use of said devices will cure ruptures or hernias.
- (d) That respondents' representatives are medical specialists in the field of ruptures or hernias.
- (e) That said devices will retain ruptures or hernias under all conditions of activity or strain.

(f) That respondents, or any of them, have been in the business of rupture control since 1916; or misrepresenting the period of time that they, or any of them, have been in such business.

2. Disseminating or causing to be disseminated, 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 devices, any advertisement which contains any of the representations prohibited by paragraph 1 of this order.

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 8th day of July, 1959, become the decision of the Commission; and, accordingly:

It is ordered. That the 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.