

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

Docket 7688. Complaint, Dec. 11, 1959—Decision, Feb. 24, 1960

Consent order requiring a leading manufacturer of tobacco products and its
advertising agency to cease representing falsely in advertising in magazines

and newspapers and by radio and television that the filter of "Life" cigarettes retained more of the tar and nicotine in smoke than other cigarette filters, and removed all the tars and nicotine, as proved by an illustrated demonstration; and that "Life" cigarettes were endorsed and sanctioned by the United States Government, which found the smoke of the cigarettes to be lowest in tar and nicotine.

Mr. Morton Nesmith and Mr. Berryman Davis for the Commission.

White & Case, by *Mr. Thomas Kiernan*, of New York N.Y., for Brown & Williamson Tobacco Corporation.

Coudert Brothers, by *Mr. Joseph A. McManus*, of New York, N.Y., and *Coudert Brothers*, by *Mr. Percy A. Shay*, of Washington, D.C., for Ted Bates & Company, Inc.

INITIAL DECISION BY EDGAR A. BUTTLE, HEARING EXAMINER

On December 11, 1959, the Federal Trade Commission issued its complaint against the above-named respondents charging them with violating the provisions of the Federal Trade Commission Act in connection with the manufacturing, selling and distributing of cigarettes and related products. On January 28, 1960, respondents Brown & Williamson Tobacco Corporation and Ted Bates & Company, Inc., corporations, entered into an agreement containing a consent order to cease and desist in accordance with Section 3.25(a) of the Rules of Practice and Procedure of the Commission.

Under the foregoing agreement, the respondents admit the jurisdictional facts alleged in the complaint and agree, among other things, that the cease and desist order there set forth may be entered without further notice and shall have the same force and effect as if entered after a full hearing. The agreement includes a waiver by the respondents of all rights to challenge or contest the validity of the order issuing in accordance therewith; and recites that the said agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission, and 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. The agreement further provides that the complaint insofar as it concerns respondent David Loomis should be dismissed for the reasons set forth in an affidavit attached thereto to the effect that said respondent had no authority to direct or control the policies or practices of the corporate respondents referred to in the complaint. The hearing examiner finds that the content of the said agreement meets all the requirements of section 3.25(b) of the Rules of Practice.

Order

56 F.T.C.

This proceeding having now come on for final consideration by the hearing examiner on the complaint and the aforesaid agreement for consent order, and it appearing that said agreement provides for an appropriate disposition of this proceeding, the aforesaid agreement is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with section 3.21 of the Rules of Practice; and in consonance with the terms of said agreement, the hearing examiner makes the following jurisdictional findings and order:

1. Respondent Brown & Williamson Tobacco Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 1600 West Hill Street, in the City of Louisville, State of Kentucky.

Respondent Ted Bates & Company, Inc., is a corporation organized, 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 666 Fifth Avenue, in the City of New York, State of New York. This corporate respondent is the advertising agency of respondent Brown & Williamson Tobacco Corporation.

Respondent David Loomis is an individual, Vice President and Account Executive of the corporate respondent Ted Bates & Company, Inc. The address of this individual respondent is the same as that of respondent Ted Bates & Company, Inc.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named. The complaint states a cause of action against said respondents under the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered. That respondents Brown & Williamson Tobacco Corporation, a corporation, and its officers, and Ted Bates & 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 and distribution of Life cigarettes, or any other filter cigarette, whether offered for sale or sold under the same or any other name, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using any pictorial presentation or demonstration purporting to prove that the filter used in said cigarettes absorbs or retains more of the tars or nicotine in cigarette smoke than the filter used

in other cigarettes, when such pictorial presentation or demonstration does not in fact so prove, or purporting to prove that the filter used in said cigarettes absorbs or retains all of the tars or nicotine in cigarette smoke.

2. Representing, directly or by implication, that Life cigarettes, or any other filter cigarette offered for sale or sold by respondents, have the sanction of or are approved by the United States Government, or any agency thereof.

3. Representing, directly or by implication, that the United States Government, or any agency thereof, has found that the smoke of Life cigarettes, or any other filter cigarette, is lower in tar or nicotine content when compared with the smoke of other filter cigarettes.

It is further ordered, That the complaint be, and the same hereby is, dismissed as to respondent David Loomis.

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 24th day of February, 1960, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Brown & Williamson Tobacco Corporation, a corporation, and Ted Bates and Company, Inc., a corporation, 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
CLASS RECORD SALES ET AL.

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