

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 25th day of May, 1960, become the decision of the Commission.

IN THE MATTER OF

DONALD C. SUSSMAN TRADING AS
WATERMAN PHARMACY, ETC.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 7788. Complaint, Feb. 24, 1960—Decision, May 25, 1960

Consent order requiring a Detroit distributor of drug products to cease representing falsely in advertising in newspapers and magazines, etc., that his antacid preparation "Cel-Ate Tablets" would cure ulcers and the pain and discomfort thereof, and was an effective treatment for ulcers.

Mr. John W. Brookfield, Jr., for the Commission.

Mr. Bernard S. Kahn, of Detroit, Mich., for respondent.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on February 24, 1960, charging respondent with violation of the Federal Trade Commission Act by the dissemination by various means in commerce of false advertisements for the purpose of inducing the purchase of his preparation "Cel-Ate Tablets" as a cure or treatment for ulcers.

Thereafter, on March 29, 1960, respondent, his counsel, and counsel supporting the complaint herein entered into an Agreement Containing Consent Order To Cease And Desist, which was approved by the Director, Associate Director and Assistant Director of the Commission's Bureau of Litigation, and thereafter, on April 6, 1960, submitted to the hearing examiner for consideration.

The agreement identifies respondent Donald C. Sussman as an individual trading as Waterman Pharmacy and as Waterman Drug Company, with his principal office and place of business located at 6656 West Fort Street, Detroit, Michigan.

Respondent admits all the jurisdictional facts alleged in the complaint, and agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

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Respondent waives any further procedure before the hearing examiner and the Commission; the making of findings of fact and conclusions of law; and all of the rights he may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist, as contained in the agreement, when it shall have become a part of the decision of the Commission, shall have the same force and effect as if entered after a full hearing, and may be altered, modified or set aside in the manner provided for other orders; that the complaint herein may be used in construing the terms of said order; and that the agreement is for settlement purposes only and does not constitute an admission by respondent that he has violated the law as alleged in the complaint.

After consideration of the allegations of the complaint and the provisions of the agreement and the proposed order, the hearing examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the Hearing Examiner accepts the Agreement Containing Consent Order To Cease And Desist; finds that the Commission has jurisdiction over the respondent and over his acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That respondent Donald C. Sussman, an individual trading as Waterman Pharmacy and as Waterman Drug Company, or any other name or names, and his agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of the drug preparation "Cel-Ate Tablets," or any preparation of substantially similar properties, whether sold under the same 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, that Cel-Ate Tablets are an adequate, effective or reliable treatment for the cure of or will afford complete relief from ulcers, or have a therapeutic effect on the symptoms or manifestations thereof, or have any beneficial effect on ulcers in excess of affording temporary relief from the discomforts of some peptic ulcers;

2. Disseminating or causing to be disseminated any advertise-

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ment, 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 drug 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 25th day of May, 1960, become the decision of the Commission; and, accordingly:

It is ordered. That respondent Donald C. Sussman, an individual trading as Waterman Pharmacy and as Waterman Drug Company, shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with the order to cease and desist.
