

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.

IN THE MATTER OF
BEECHAMS PILLS, INC., ET AL.

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

Docket 5459. Complaint, Aug. 26, 1946—Decision, May 26, 1960

Consent order requiring the successors in interest to the original respondents named in the complaint and their advertising agency to cease representing falsely in advertising that their "Beechams Pills" would aid and regulate digestion, cure constipation and its symptoms, restore regular bowel movement, tone the intestinal muscles, promote the flow of bile, etc.

Mr. Fletcher G. Cohn supporting the complaint.

Townley, Updike, Carter & Rodgers, of New York, N.Y., for
Stuart N. Updike and Harold F. Ritchie, Inc.

Mr. Eugene H. Nickerson, of New York, N.Y., for Street & Finney.

INITIAL DECISION BY EDWARD CREEL, HEARING EXAMINER

On August 26, 1946, the Federal Trade Commission issued its complaint charging respondents named in the caption hereof with violating the Federal Trade Commission Act by making false and deceptive representations in advertising the product known as

"Beechams Pills." Thereafter these respondents agreed to discontinue making the representations alleged to be false and deceptive pending final disposition of similar issues in *Carter Products, Inc.*, Docket No. 4970, and they also agreed to execute a stipulation as to the facts based on the facts relating to these issues as would be found by the Commission in the *Carter Case*. On account of this agreement, proceedings in this matter have been held in abeyance until this time.

Since the issuance of the complaint respondent Beechams Pills, Inc. was dissolved under the laws of the State of New York and Stuart N. Updike, director of liquidated corporate respondent Beechams Pills, Inc., has assumed certain of its obligations. Since this dissolution "Beechams Pills" have been imported from England and marketed by Harold F. Ritchie, Inc., a New Jersey corporation. An agreement has been entered into between counsel supporting the complaint and Stuart N. Updike, as a director of the liquidated corporate respondent Beechams Pills, Inc. and Harold F. Ritchie, Inc., a corporation, and their attorneys in which this former director of respondent Beechams Pills, Inc. and this present marketer of Beechams Pills consent that they may be legally bound as successors in interest by the complaint served on their predecessors as though the complaint had been served upon them and they consent that they may be made parties respondent herein.

The agreement referred to above with the existing respondents was submitted to the hearing examiner on March 22, 1960. This agreement also provides for the entry of a consent order. Under the 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.

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

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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 Beechams Pills, Inc. was a corporation organized under the laws of the State of New York and has been dissolved under the laws of that State.

2. Respondent Stuart N. Updike is an individual who was a director of Beechams Pills, Inc. at the time of its dissolution and has assumed the obligations originally agreed to by respondent Beechams Pills, Inc. and is a party to the agreement upon which the following order is based. His present address is 220 East 42d Street, New York, New York.

3. Respondent Harold F. Ritchie, Inc., is a corporation, organized under the laws of the State of New Jersey, with its office and principal place of business located at Clifton, New Jersey.

4. Respondent Street & Finney is a corporation, organized and existing under the laws of the State of New York with its office and principal place of business at 45 W. 45th Street, New York, New York.

5. 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, Stuart N. Updike, as a director of the liquidated corporation, Beechams Pills, Inc.; Harold F. Ritchie, Inc., and Street & Finney, Inc., corporations, by their respective officers, agents, representatives and employees: shall all, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of the product designated "Beechams Pills," or any other product of substantially similar composition or possessing substantially similar properties under whatever name sold, 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 other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents directly or by implication:

(a) That said preparation will stimulate, promote, aid, or help the digestion of food, or regulate digestion or the digestive system;

(b) That said preparation is a competent or effective remedy for gaseous, bloated, or tight feeling around the waist;

(c) That said preparation will bring on or restore regularity of bowel movement, or is a cure, remedy or competent or effective

treatment for constipation, or has any beneficial value in the treatment of any of the symptoms thereof in excess of temporary relief afforded by its laxative action;

(d) That constipation has any appreciable effect on the digestion of food or that it causes food to ferment or decay excessively in the bowels;

(e) That said preparation is unqualifiedly safe;

(f) That regular and satisfactory bowel movements are dependent to any substantial degree upon proper food digestion;

(g) That said preparation will have any favorable effect on the tone of the intestinal muscles;

(h) That said preparation will aid in promoting the flow of bile, or that it will increase, or beneficially influence the formation, secretion or flow of bile from the liver or gall bladder.

(2) Disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of said product in commerce as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any representation 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 26th day of May, 1960, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Stuart N. Updike, as a director of the liquidated corporation, Beechams Pills, Inc.; Harold F. Ritchie, Inc., and Street & Finney, Inc., corporations, 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 ELECTRO MUSIC ET AL.

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