

Complaint

58 F.T.C.

IN THE MATTER OF

## MARY-MAC, INCORPORATED, ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE  
FEDERAL TRADE COMMISSION ACT*Docket 8073. Complaint, Aug. 10, 1960—Decision, Feb. 9, 1961*

Consent order requiring Dallas, Tex., distributors of its "Mary-Mac Relax-O-Motor Motorized" devices consisting of motordriven cushions, tables, chairs, mattresses, and belts, to cease representing falsely in advertising that use of said devices would effect a general loss of body weight and a localized loss of weight to waist, hips, legs, and other body areas; would tone the muscles and result in a firmer figure.

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Mary-Mac, Incorporated, a corporation, and Harry H. McDaniel, H. J. McDaniel, and Mary McDaniel, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Mary-Mac, Incorporated is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas with its office and principal place of business located at 1012-14 Powhattan Street, Dallas, Texas.

Respondents Harry H. McDaniel, H. J. McDaniel and Mary McDaniel are the officers of corporate respondent who formulate, direct and control its activities including the acts and practices hereinafter set forth. Their business address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time past have been, engaged in the advertising, offering for sale, sale and distribution of mechanical vibrating equipment and furniture including motor driven cushions, tables, chairs, mattresses and belts. Said equipment is advertised and sold under the name "Mary-Mac Relax-O-Motor Motorized". Each of respondents' mechanical vibrating products is a "device" as that word is defined in the Federal Trade Commission Act.

PAR. 3. Respondents cause the said devices, when sold, to be transported from their place of business in the State of Texas to

purchasers thereof located in various other States of the United States and in the District of Columbia, both for rental and sale. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said devices in commerce, as "commerce" is defined in the Federal Trade Commission Act. The volume of business in such commerce has been and is substantial.

PAR. 4. In the course and conduct of their aforesaid business, respondents have disseminated, and have caused the dissemination of, certain advertisements concerning the said devices by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said devices; and respondents have disseminated, and caused the dissemination of, advertisements concerning said devices by various means for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said devices in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. Among and typical of the statements and representations contained in said advertisements disseminated as hereinabove set forth are the following:

REDUCE — NEW EASY WAY TO  
KEEP SLIM AT HOME  
WAIST LINE CONTROL  
It's the first choice  
REDUCE UNWANTED BULGES  
SHAKE AWAY WEIGHT AT HOME FOR PENNIES  
The relaxing, soothing massage breaks down fatty  
tissues, tones the muscles and flesh, and the increased  
awakened blood circulation carries away waste fat—  
helps you regain and keep a firmer and more graceful  
figure  
"MARY-MAC" DOES ALL THE WORK FOR YOU!  
ITS DEEP POWERFUL MOTOR GENERATES  
DEEP, SOOTHING VIBRATIONS THAT SHAKE  
AWAY EXCESS WEIGHT LIKE MAGIC! YOUR  
BODY BECOMES LISSOME AND BEAUTIFUL.  
START TODAY!  
AT HOME  
REDUCE INCHES  
HIPS — WAIST — LEGS  
WITH — FAST — ACTING  
RELAX-O-MOTOR CUSHION  
SHAKE-A-WAY—REDUCE  
AT—HOME FOR PENNIES  
Don't Stay Fat  
Use "MARY-MAC"

PAR. 6. Through the use of the statements in the aforesaid advertisements, and others similar thereto not specifically set out herein, respondents have represented and are now representing, directly and by implication, that the use of said devices:

1. Will effect a general loss of body weight;
2. Will effect a localized loss of weight to waist, hips, legs or other body areas;
3. Will tone the muscles and effect a firmer figure.

PAR. 7. The said advertisements were and are misleading in material respects and constituted, and constitute, "false advertisements" as that term is defined in the Federal Trade Commission Act. In truth and in fact the use of said devices:

Is of no value in effecting either a general or localized loss of body weight.

Will not tone the muscles or effect a firmer figure.

PAR. 8. The dissemination by the respondents of the false advertisements, as aforesaid, constituted, and now constitutes, unfair and deceptive acts and practices, in commerce, within the intent and meaning of the Federal Trade Commission Act.

*Mr. Frederick McManus* for the Commission.

*Mr. John A. Erhard*, of Dallas, Tex., for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) on August 10, 1960, issued its complaint herein, charging the respondents Mary-Mac, Incorporated, a corporation, and Harry H. McDaniel, H. J. McDaniel, and Mary McDaniel, individually and as officers of said corporation, with having violated the provisions of the Federal Trade Commission Act, and respondents were duly served with process.

On December 20, 1960, 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, their counsel, and counsel supporting the complaint, under date of December 6, 1960, subject to the approval of the Bureau of Litigation of the Commission, which had subsequently 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 Mary-Mac, Incorporated is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business located at 1012-14 Powhattan Street, Dallas, Texas. Respondents Harry H. McDaniel, H. J. McDaniel and Mary McDaniel are the officers of the corporate respondent, who formulate, direct and control its activities, including the acts and practices hereinafter set forth. Their business address is the same as that of the corporate respondent.

2. Respondents admit all the jurisdictional facts alleged in the complaint and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

3. This agreement disposes of all of this proceeding as to all parties.

4. Respondents waive:

(a) Any further procedural steps before the hearing examiner and the Commission;

(b) The making of findings of fact or conclusions of law; and

(c) All of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement.

5. The record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement.

6. This agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

7. This agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

8. The following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondents. When so entered it shall have the same force and effect as if entered after a full hearing. It may be altered, modified or set aside in the manner provided for other orders. The complaint may be used in construing the terms of the order.

Upon due consideration of the complaint filed herein and the said "Agreement Containing Consent Order To Cease And Desist", the hearing examiner hereby accepts this agreement, and finds that the

Commission has jurisdiction of the subject-matter of this proceeding and of the respondents herein; that the complaint states a legal cause for complaint under the Federal Trade Commission Act against the respondents, both generally and in each of the particulars alleged therein; that this proceeding is in the interest of the public; that the order proposed in said agreement is appropriate for the just disposition of all of the issues in this proceeding as to all of the parties hereto; and that said order therefore should be, and hereby is, entered as follows:

*It is ordered*, That respondent Mary-Mac, Incorporated, a corporation, and its officers, and respondents Harry H. McDaniel, H. J. McDaniel, and Mary McDaniel, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, distribution or rental of motor-driven mechanical vibrating equipment or furniture known as "Mary-Mac Relax-O-Motor Motorized", or any other device of substantially similar design or operation, do forthwith cease and desist from:

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 the use of said devices will be of value in effecting a general or localized reduction in body weight;

(b) That the use of said devices will tone the muscles or effect a firmer figure;

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 devices 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 9th day of February, 1961, 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.

## Complaint

IN THE MATTER OF

THE STERN &amp; MANN CO.

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

*Docket 8108. Complaint, Aug. 30, 1960—Decision, Feb. 9, 1961*

Consent order requiring furriers in Canton, Ohio, to cease violating the Fur Products Labeling Act by failing to set forth "Dyed Mouton processed Lamb" and similar terms as required in invoicing and advertising; by failing, in advertising, to disclose the names of animals producing certain furs or the country of origin of imported furs or that some products contained artificially colored fur; and by failing in other respects to comply with invoicing and advertising requirements.

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that The Stern & Mann Co., a corporation, hereinafter referred to as respondent, has violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. The Stern & Mann Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio with its office and principal place of business located at 301 Tuscarawas Street West, Canton, Ohio. It does business under the name of Stern & Mann's.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondent has been and is now engaged in the introduction into commerce and in the sale, advertising, and offering for sale, in commerce, and in the transportation, and distribution, in commerce, of fur products, and has sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of fur which had been shipped and received in commerce as the terms "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act.

PAR. 3. Certain of said fur products were falsely and deceptively invoiced by respondent in that they were not invoiced as required by Section 5(b) (1) of the Fur Products Labeling Act, and in the manner