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IN THE MATTER OF
EMESS SALES COMPANY, INC., ET AL.

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

Docket C-829. Complaint, Sept. 11, 1964—Decision, Sept. 11, 1964

Consent order requiring St. Louis, Mo., distributors of perfumes to cease misrepresenting the quality, identity and origin of their perfumes by representing certain of them falsely in advertising matter, labels, invoices and imprinted cartons as "No. 5 CHANEL," and representing by use of the initials "C," "A," "MS" and "W," that perfumes so labeled were the same as those sold under the trade and brand names "Chanel," "Arpege," "My Sin" and "White Shoulders," respectively.

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 Emess Sales Company, Inc., a corporation, and Chester Sax, individually and as an officer 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. Emess Sales Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business located at 1825 Chouteau Avenue, in the city of St. Louis, State of Missouri.

Respondent Chester Sax is an officer of said corporate respondent. He formulates, directs and controls the policies, acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of perfumes and other products to distributors and jobbers and to retailers for resale to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of Missouri to purchasers thereof located in various other States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of perfumes and other products of the same general kind and nature as those sold by respondents.

PAR. 5. Chanel Inc., is a corporation engaged in the manufacture of the perfume designated "Chanel No. 5." Lanvin Parfums, Inc., is a corporation engaged in the manufacture of the perfumes designated "Arpege" and "My Sin." Parfums Evyan, Inc., is a corporation engaged in the manufacture of the perfume designated "White Shoulders." Said perfumes are nationally advertised and are, along with said corporations, widely and favorably known to the trade and public, as a result of which, there is a preference by a substantial portion of the purchasing public for said perfumes and for perfumes manufactured by said corporations.

PAR. 6. In the course and conduct of their business, as aforesaid, respondents have made and are making statements concerning perfumes which they offer for sale. Said statements appear in advertising matter, labels, invoices and imprinted cartons prepared by or

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for respondents, and which are disseminated by them to purchasers for use in the retail sale of said products. Through said statements the respondents represent and have represented, directly or indirectly:

1. That the perfume sold by respondents under the brand name "No. 5 CHANEL" is the nationally advertised, accepted and preferred product manufactured by Chanel Inc., of New York, New York.

2. That the perfumes sold by respondents labeled with the initial "C," "A," "MS" and "W" are the same as the perfumes sold under the trade name of "Chanel" by Chanel, Inc., and the brand name of "Arpege" by Lanvin Parfums, Inc., "My Sin" by Lanvin Parfums, Inc., and "White Shoulders" by Parfums Evyan, Inc.

PAR. 7. In truth and in fact:

1. The perfume sold by respondents under the name "No. 5 CHANEL" is not the nationally advertised, accepted and preferred product manufactured by Chanel, Inc., of New York, New York.

2. The perfumes sold by respondents labeled with the initial "C," "A," "MS" and "W" are not the same as the perfumes sold under the trade and brand names hereinabove stated in subparagraph 2 of Paragraph Six.

Therefore, the statements and representations referred to in Paragraph Six were and are false, misleading and deceptive.

PAR. 8. By furnishing retailers and distributors of their products with advertising matter, labels, invoices and imprinted cartons containing false, misleading and deceptive statements and representations hereinabove described, respondents placed and now place in the hands of such retailers or distributors means and instrumentalities through and by which they may mislead and deceive the purchasing public, as to the quality, identity and origin of said perfumes.

PAR. 9. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 10. The aforesaid acts and practices of respondents, as herein alleged, were, and are, all to the prejudice and injury of the public and of respondents' competitors, and constituted, and now constitute, unfair and deceptive acts and practices in commerce in violation of Section 5(a)(1) of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondents that the law has been violated as alleged in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having reason to believe that the respondents have violated the Federal Trade Commission Act, and having determined that complaint should issue stating its charge in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings and enters the following order:

1. Respondent Emess Sales Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at 1825 Chouteau Avenue, in the city of St. Louis, State of Missouri.

Respondent Chester Sax is an officer of said corporation, and his address is the same as that of said corporation.

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 respondents Emess Sales Company, Inc., a corporation, and its officers and Chester Sax, individually and as an officer 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 or distribution of perfumes, toilet waters or other related products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Simulating the brand or trade name, labeling, packaging,

shape of container, or other distinctive characteristics of any nationally advertised, preferred or accepted perfume, toilet water or allied product, or in any other manner misrepresenting the company of origin of any of respondents' products.

2. Using the brand name "No. 5 Chanel" in connection with any merchandise not manufactured by Chanel Inc., of New York, N.Y.

3. Using the letter "C" in any advertising or labeling of perfumes, toilet waters or related products unless said products are manufactured by Chanel Inc., of New York, N.Y., and sold and distributed by said corporation under the trade name "Chanel."

4. Using the letter "A" in any advertising or labeling of perfumes, toilet waters or related products unless said products are manufactured by Lanvin Parfums, Inc., of New York, N.Y., and sold and distributed by said corporation under the brand name "Arpege."

5. Using the letters "MS" in any advertising or labeling of perfumes, toilet waters or related products unless said products are manufactured by Lanvin Parfums, Inc., of New York, N.Y., and sold and distributed by said corporation under the brand name "My Sin."

6. Using the letter "W" in any advertising or labeling of perfumes, toilet waters or related products unless said products are manufactured by Parfums Evyan, Inc., of New York, N.Y., and sold and distributed under the brand name "White Shoulders."

7. Using any letters, numerals or symbols not specifically listed in Paragraphs 2 through 6 above, either singly or in combination, in the advertising or labeling of said perfumes, toilet waters or cosmetics to designate or describe the kind or quality thereof without clearly and conspicuously revealing in immediate connection therewith the actual trade name of the manufacturer of said products.

8. Furnishing or placing in the hands of retailers and distributors of their said products the means and instrumentalities by and through which they may mislead or deceive the public in the manner or as to the things hereinabove prohibited.

It is further 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 this order.

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IN THE MATTER OF

MAR-CAL SPORTSWEAR OF CALIFORNIA, INC., TRADING
AS MELVYN MODES OF CALIFORNIA ET AL.

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

Docket C-830. Complaint, Sept. 11, 1964—Decision, Sept. 11, 1964

Consent order requiring Los Angeles manufacturers of fur and textile fiber products to cease violating the Fur Products Labeling Act by failing on invoices to show the true animal name of fur used in fur products, omitting required item numbers, and abbreviating required information; and to cease violating the Textile Fiber Products Identification Act by furnishing false guarantees that certain of their textile fiber products were not misbranded or falsely invoiced.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Fur Products Labeling Act and the Textile Fiber Products Identification Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission having reason to believe that Mar-Cal Sportswear of California, Inc., a corporation trading as Melvyn Modes of California, and Gene Wishan and Joseph A. Capitano, individually and as officers of the said corporation hereinafter referred to as respondents have violated the provisions of said Acts and the Rules and Regulations promulgated under the said Acts, 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 Mar-Cal Sportswear of California, Inc., trading as Melvyn Modes of California is a corporation organized, existing and doing business under and by virtue of the laws of the State of California.

Respondents Gene Wishan and Joseph A. Capitano are officers of the corporate respondent and formulate, direct and control the acts, practices and policies of the said corporate respondent including those hereinafter set forth.

Respondents are manufacturers of fur products and textile fiber products with their office and principal place of business located at 818 South Broadway, Los Angeles, California.

PAR. 2. Subsequent to the effective date of the Fur Products Label-