
IN THE MATTER OF
PARFUMERIE LIDO, INC., ET AL.

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

Docket 8667. Complaint, Oct. 15, 1965—Decision, Feb. 16, 1966

Order requiring a New York City distributor to cease misleading the public as to the identity of its perfume and other toilet preparations by deceptively labeling the bottles and packages of its products to falsely infer that they are well-known brand name toilet preparations.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and by virtue of the authority vested in it by said Act, the

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Federal Trade Commission, having reason to believe that Parfumerie Lido, Inc., a corporation, and Alexander S. Salz and Sam Salz, 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 Parfumerie Lido, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 115 West 30th Street, in the city of New York, State of New York.

Respondents Alexander S. Salz and Sam Salz are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. Their 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 toilet preparations to the general public and to distributors, jobbers and 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 New York 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 course and conduct of their business, and for the purpose of inducing the purchase of their products, respondents have engaged in the practices of imprinting upon, or on labels affixed thereto, the bottles containing said toilet preparations, or the cartons in which said bottles are enclosed, as such products are intended to be, and are, sold to the purchasing public, one of the following letters or groups of letters: "C," "A," "WS" or "MS."

PAR. 5. By and through the use of the aforementioned practice, and others of similar import not specifically set out herein, respondents represented, and have placed in the hands of distributors, jobbers and retailers the means and instrumentalities for representing, directly or indirectly, that said products labeled

with the initials "C," "A," "WS" or "MS" are respectively the same as the products sold under the brand names of "Chanel" by Chanel, Industries, Inc., "Arpege" by Lanvin Parfums, Inc., "White Shoulders" by Evyan Perfumes, Inc., and "My Sin" by Lanvin Parfums, Inc.

PAR. 6. In truth and in fact, said products are not the same as those sold under the brand names hereinabove stated in Paragraph Five:

Therefore, the statements and representations set forth in Paragraph Four hereof are false, misleading and deceptive.

PAR. 7. There is a preference on the part of a substantial number of the purchasing public for the aforesaid cosmetic preparations of said Chanel Industries, Inc., Lanvin Parfums, Inc., and Evyan Perfumes, Inc. which said toilet preparations are nationally advertised and widely sold, of which facts the Commission takes official notice.

PAR. 8. By the aforesaid practices, respondents mislead and deceive the public as to the identity of their said toilet preparations, and place in the hands of distributors, jobbers and retailers the means and instrumentalities by and through which they may likewise mislead and deceive the public.

PAR. 9. In the course and 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 toilet preparations of the same general kind and nature as those sold by respondents.

PAR. 10. The use by respondents of the aforesaid false, misleading and deceptive statement, 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. 11. 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 of the Federal Trade Commission Act.

Mr. Harold A. Kennedy and Mr. Harmon D. Maxson supporting the complaint.

Mr. Stanley Hendricks, New York, N.Y., for respondents.

Initial Decision

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INITIAL DECISION BY WILLIAM K. JACKSON, HEARING EXAMINER
JANUARY 7, 1966

This proceeding was commenced by the issuance of a complaint on October 15, 1965, charging Parfumerie Lido, Inc., a corporation, and the two named individual respondents, individually and as officers of said corporation, with unfair and deceptive acts and practices and unfair methods of competition, in commerce, in violation of Section 5 of the Federal Trade Commission Act by misleading and deceiving the public as to the identity of their toilet preparations.

In particular, the complaint alleges that the respondents imprint upon the bottles containing their toilet preparations, upon the labels affixed thereto, or upon the cartons in which said bottles are enclosed, one of the following letters or groups of letters: "C," "A," "WS," or "MS." The complaint further alleges that by and through the use of such lettering, respondents represent directly or indirectly that said products labeled with the initials "C," "A," "WS," or "MS," are respectively the same as the products sold under the brand names of "Chanel" by Chanel Industries, Inc., "Arpege" by Lanvin Parfums, Inc., "White Shoulders" by Evyan Perfumes, Inc., and "My Sin" by Lanvin Parfums, Inc., when in truth and in fact said products are not the same as those sold under the aforesaid brand names.

After being duly served with the complaint, the aforesaid respondents appeared by counsel and thereafter on November 18, 1965, filed a joint answer admitting a number of the specific allegations in the complaint, but denying generally the illegality of the practices charged in the complaint and affirmatively alleging several defenses.

By order dated November 22, 1965, the hearing examiner scheduled a hearing on the contested issues raised by the complaint and answer to commence on December 14, 1965, at New York, New York. Prior to the commencement of the hearing, by letter dated December 10, 1965, addressed to the hearing examiner, counsel for respondents requested permission to withdraw respondents' answer previously interposed in this matter on November 18, 1965, and further requested permission to substitute in lieu thereof an amended answer admitting all of the material allegations of the complaint.

The hearing examiner treated said letter of December 10, 1965, as a motion to substitute an amended answer, and by order dated December 14, 1965, granted respondents' motion and ordered that

the letter of December 10, 1965, be treated as an admission answer and substituted for their answer previously filed on November 18, 1965.

By their amended answer, respondents have admitted all the material allegations of the complaint and have agreed that the order hereinafter set forth should be entered.

Based upon the entire record, consisting of the complaint, amended answer, and other agreements and matters of record, the hearing examiner makes the following findings as to facts, conclusions drawn therefrom, and order.

FINDINGS OF FACTS

1. Respondent Parfumerie Lido, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 115 West 30th Street, in the city of New York, State of New York.

2. Respondents Alexander S. Salz and Sam Salz are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

3. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of toilet preparations to the general public and to distributors, jobbers and retailers for resale to the public.

4. 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 New York 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.

5. In the course and conduct of their business, and for the purpose of inducing the purchase of their products, respondents have engaged in the practices of imprinting upon, or on labels affixed thereto, the bottles containing said toilet preparations, or the cartons in which said bottles are enclosed, as such products are intended to be, and are, sold to the purchasing public, one of the following letters or groups of letters: "C," "A," "WS," or "MS."

6. By and through the use of the aforementioned practice, and

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others of similar import not specifically set out herein, respondents represented, and have placed in the hands of distributors, jobbers and retailers the means and instrumentalities for representing, directly or indirectly, that said products labeled with the initials "C," "A," "WS," or "MS," are respectively the same as the products sold under the brand names of "Chanel" by Chanel Industries, Inc., "Arpege" by Lanvin Parfums, Inc., "White Shoulders" by Evyan Perfumes, Inc., and "My Sin" by Lanvin Parfums, Inc.

7. In truth and in fact, said products are not the same as those sold under the brand names herein stated in Finding No. 6. Therefore, the statements and representations set forth in Finding No. 5 are false, misleading and deceptive.

8. There is a preference on the part of a substantial number of the purchasing public for the aforesaid cosmetic preparations of said Chanel Industries, Inc., Lanvin Parfums, Inc., and Evyan Perfumes, Inc., which said toilet preparations are nationally advertised and widely sold, of which facts the Commission takes official notice.

9. By the aforesaid practices, respondents mislead and deceive the public as to the identity of their said toilet preparations, and place in the hands of distributors, jobbers and retailers the means and instrumentalities by and through which they may likewise mislead and deceive the public.

10. In the course and conduct of their business, and at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of toilet preparations of the same general kind and nature as those sold by respondents.

11. 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.

CONCLUSIONS

1. The aforesaid acts and practices of respondents 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 of the Federal Trade Commission Act.

2. The Federal Trade Commission has jurisdiction of and over respondents and the subject matter of this proceeding.

3. The complaint herein states a cause of action and this proceeding is in the public interest.

The order as hereinafter set forth is the order agreed upon by the parties and accepted by the hearing examiner as appropriate in the circumstances and the findings of fact heretofore made.

ORDER

It is ordered, That respondents Parfumerie Lido, Inc., a corporation, and its officers, and Alexander S. Salz and Sam Salz individually and as officers of said corporation, 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 perfume or other toilet preparations, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(a) Using the letters "C," "A," "WS," or "MS," either singly or in combination, in any manner to designate, identify or describe such perfumes or other toilet preparations, unless they are in fact genuine Chanel, Arpege, White Shoulders or My Sin, respectively.

(b) Using any other letters, numerals or symbols, either singly or in combination, suggestive of or associated with the identity of any perfume or toilet preparation, to designate or identify any such product, unless it is in fact the genuine perfume or other toilet preparation thus represented or suggested.

FINAL ORDER

No appeal from the initial decision of the hearing examiner having been filed, and the Commission having determined that the case should not be placed on its own docket for review, and that pursuant to Section 3.21 of the Commission's Rules of Practice (effective August 1, 1963), the initial decision should be adopted and issued as the decision of the Commission:

It is ordered, That the initial decision of the hearing examiner shall, on the 16th day of February, 1966, become the decision of the Commission.

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It is further ordered, That Parfumerie Lido, Inc., a corporation, and Alexander S. Salz and Sam Salz, individually and as officers of said corporation, shall, within sixty (60) days after service of this order upon them, file with the Commission a report in writing, signed by such respondents, setting forth in detail the manner and form of their compliance with the order to cease and desist.
