

SUPREME FREEZER MEATS, INC., ET AL.

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

Docket 8753. Complaint, Dec. 12, 1967—Decision, May 29, 1968

Order requiring a Seekonk, Mass., distributor of beef and other meat products to
cease using bait advertising and misrepresenting the quality of its beef and
other foods.

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 Supreme Freezer Meats, Inc., a corporation, and Maynard Meyer, 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. Respondent Supreme Freezer Meats, Inc., is a corporation duly organized, existing and doing business under and by virtue of the laws of the State of Rhode Island, with its principal office and place of business located at 1408 Fall River Avenue, in the city of Seekonk, in the State of Massachusetts.

Respondent Maynard Meyer is an individual and an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is 54 Marianne Drive, in the city of Bridgewater, in the Commonwealth of Massachusetts.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of beef and other meat products which come within the classification of food as the term "food" is defined in the Federal Trade Commission Act. to members of the purchasing public.

PAR. 3. In the course and conduct of their business, respondents have disseminated and caused the dissemination of certain advertisements by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including advertisements in daily newspapers for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of food, as the term "food" is defined in the Federal Trade Commission Act; and have disseminated and caused the dissemination of advertisements by various means, including those aforesaid, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of food in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Typical of the statements appearing in the newspaper advertisements disseminated as aforesaid are the following:

(The Pawtucket Times, Tuesday, July 12, 1966.)

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(Representation of a black steer indicating the various portions of the animal from which are obtained various cuts of meat, including roasts, sirloin steaks and other prime cuts of meat.)

Tender, delicious, aged, grain fed, Black Angus beef halves, 27¢ a pound.

Tender, delicious, grain fed Black Angus beef hinds, 31¢ a pound.

* * * * *

(The Providence Sunday Journal, July 31, 1966.)

Beef Charge It Sale.

Tender, delicious, heavy Western beef halves, 39¢ a pound.

Tender, delicious, heavy Western beef hinds, 41¢ a pound.

* * * * *

(Providence Sunday Journal TV Weekly, July 17, 1966.)

ATTENTION: Because of the tremendous response GRAND OPENING SALE will be continued (Representation of Black steer surrounded by prime cuts of meat).

Tender, delicious, aged, grain fed, Black Angus beef halves, 27¢ a pound.

Tender, delicious, grain fed Black Angus beef hinds, 31¢ a pound.

In their advertisements the respondents prominently feature a picture of a steer or a T-bone or other good cut of meat. The picture of the steer frequently has dotted lines on it purporting to show the parts of the animal from which the various cuts of meat are obtained.

In addition to the foregoing, the respondents' representatives, agents and employees represent to prospective purchasers of the advertised meat that there is a lot of fat and waste on such meat, that the animals are force-fed and kept in pens and that this results in more fat and waste, than other, more expensive meats, which are not advertised, are really cheaper than the advertised meats because there is less fat and waste and you get more meat.

PAR. 5. Through the use of the aforesaid advertisements and others of similar import and meaning, not specifically set out herein, respondents have represented, directly and by implication:

1. That the offer to sell beef at 27, 31, 39 and 49 cents per pound is a bona fide offer to sell merchandise at these prices.

2. That the beef offered at the prices aforesaid is tender, delicious, aged, grain fed and heavy western beef.

3. That the beef offered at the prices aforesaid consists primarily of sirloin, T-bone, porterhouse, roasts and other top quality cuts of beef.

4. That the beef offered in said advertisements comes primarily from the carcass of that breed of cattle known as Black Angus.

PAR. 6. In truth and in fact:

1. The offer to sell beef at 27, 31, 39 and 49 cents per pound is not a bona fide offer but, on the contrary, is made for the purpose of inducing the public to come to respondents' places of business. When cus-

tomers respond and go to said place of business, respondents' employees and representatives point out to said customers that there will be an excessive weight loss in trimming and cutting said beef and otherwise disparage the beef offered at the prices aforesaid and attempt to, and usually do, sell beef at higher prices to said customers.

2. The beef offered at 27, 31, 39 and 49 cents per pound is not tender, delicious, aged, grain fed or heavy western beef, it is instead ungraded cow beef, largely fat and waste.

3. The beef offered at the prices aforesaid does not consist primarily of sirloin, T-bone, porterhouse, roasts or other top quality cuts of beef, rather the major portion of the meat is hamburger, chuck and flank. Any steaks or roasts obtained are of poor quality and bear considerable fat.

4. The beef offered in said advertisement does not come primarily from the breed of cattle known as Black Angus.

Therefore, the advertisements referred to in Paragraph Five were and are, misleading in material respects and constituted and now constitute "false advertisements" as that term is defined in the Federal Trade Commission Act.

PAR. 7. 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' product by reason of said erroneous and mistaken belief.

PAR. 8. The dissemination by respondents of the false advertisements, as aforesaid, constituted and now constitutes, unfair and deceptive acts and practices in commerce in violation of Sections 5 and 12 of the Federal Trade Commission Act.

Mr. William J. Kelly supporting the complaint.

No appearance for respondents.

INITIAL DECISION BY ELDON P. SCHRUP, HEARING EXAMINER

FEBRUARY 16, 1968

STATEMENT OF PROCEEDINGS

The Federal Trade Commission on December 12, 1967, issued its complaint charging the respondents with unfair and deceptive acts and practices in commerce in violation of Sections 5 and 12 of the Fed-

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eral Trade Commission Act. The notice of the complaint set the hearing date for 10 a.m., January 30, 1968, at the Federal Trade Commission Offices, The 1101 Building, 11th Street and Pennsylvania Avenue NW., Washington, D.C.

The docket file shows that respondents were duly served but failed to file answer as required under Section 3.12 of the Federal Trade Commission Rules of Practice, subsection 2(c) *Default*. Respondents further failed to appear at the hearing set in the notice of the complaint. Subsection 2(c) *Default* states, that failure of the respondent to file an answer within the time provided shall be deemed to constitute a waiver of his right to appear and contest the allegations of the complaint and to authorize the hearing examiner, without further notice to the respondent, to find the facts to be as alleged in the complaint and to enter an initial decision containing such findings, appropriate conclusions, and order.

FINDINGS OF FACT

1. Respondent Supreme Freezer Meats, Inc., is a corporation duly organized, existing and doing business under and by virtue of the laws of the State of Rhode Island, with its principal office and place of business located at 1408 Fall River Avenue, in the city of Seekonk, in the State of Massachusetts.

Respondent Maynard Meyer is an individual and an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is 54 Marianne Drive, in the city of Bridgewater, in the Commonwealth of Massachusetts.

2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of beef and other meat products which come within the classification of food as the term "food" is defined in the Federal Trade Commission Act, to members of the purchasing public.

3. In the course and conduct of their business, respondents have disseminated and caused the dissemination of certain advertisements by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including advertisements in daily newspapers for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of food, as the term "food" is defined in the Federal Trade Commission Act: and have disseminated and caused the dissemination of advertisements by various means, including those aforesaid, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of food in commerce, as "commerce" is defined in the Federal Trade Commission Act.

4. Typical of the statements appearing in the newspaper advertisements disseminated as aforesaid are the following:

(The Pawtucket Times, Tuesday, July 12, 1966.)

(Representation of a black steer indicating the various portions of the animal from which are obtained various cuts of meat, including roasts, sirloin steaks and other prime cuts of meat.)

Tender, delicious, aged, grain fed, Black Angus beef halves, 27¢ a pound.

Tender, delicious, grain fed Black Angus beef hinds, 31¢ a pound.

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ATTENTION: Because of the tremendous response GRAND OPENING SALE will be continued (Representation of Black steer surrounded by prime cuts of meat).

Tender, delicious, aged, grain fed. Black Angus beef halves, 27¢ a pound.

Tender, delicious, grain fed Black Angus beef hinds, 31¢ a pound.

In their advertisements the respondents prominently feature a picture of a steer or a T-bone or other good cut of meat. The picture of the steer frequently has dotted lines on it purporting to show the parts of the animal from which the various cuts of meat are obtained.

In addition to the foregoing, the respondents' representatives, agents and employees represent to prospective purchasers of the advertised meat that there is a lot of fat and waste on such meat, that the animals are force-fed and kept in pens and that this results in more fat and waste, that other, more expensive meats, which are not advertised, are really cheaper than the advertised meats because there is less fat and waste and you get more meat.

5. Through the use of the aforesaid advertisements and others of similar import and meaning, not specifically set out herein, respondents have represented, directly and by implication:

1. That the offer to sell beef at 27, 31, 39 and 49 cents per pound is a bona fide offer to sell merchandise at these prices.

2. That the beef offered at the prices aforesaid is tender, delicious, aged, grain fed and heavy western beef.

3. That the beef offered at the prices aforesaid consists primarily of sirloin, T-bone, porterhouse, roasts and other top quality cuts of beef.

4. That the beef offered in said advertisements comes primarily from the carcass of that breed of cattle known as Black Angus.

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6. In truth and in fact :

1. The offer to sell beef at 27, 31, 39 and 49 cents per pound is not a bona fide offer but, on the contrary, is made for the purpose of inducing the public to come to respondents' places of business. When customers respond and go to said place of business, respondents' employees and representatives point out to said customers that there will be an excessive weight loss in trimming and cutting said beef and otherwise disparage the beef offered at the prices aforesaid and attempt to, and usually do, sell beef at higher prices to said customers.

2. The beef offered at 27, 31, 39 and 49 cents per pound is not tender, delicious, aged, grain fed or heavy western beef; it is instead ungraded cow beef, largely fat and waste.

3. The beef offered at the prices aforesaid does not consist primarily of sirloin, T-bone, roasts, porterhouse, or other top quality cuts of beef, rather the major portion of the meat is hamburger, chuck and flank. Any steaks or roasts obtained are of poor quality and bear considerable fat.

4. The beef offered in said advertisement does not come primarily from the breed of cattle known as Black Angus.

Therefore, the advertisements referred to in Finding 5 were and are misleading in material respects and constituted and now constitute "false advertisements" as that term is defined in the Federal Trade Commission Act.

7. 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' product by reason of said erroneous and mistaken belief.

CONCLUSIONS

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

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

3. The aforesaid acts and practices of the respondents as found in the foregoing Findings of Fact were and are to the prejudice and injury of the public, and constituted and now constitute, unfair and deceptive acts and practices in commerce in violation of Sections 5 and 12 of the Federal Trade Commission Act.

ORDER

It is ordered, That respondents Supreme Freezer Meats, Inc., a corporation, and its officers, and Maynard Meyer, 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 beef or any other food products, do forthwith cease and desist from:

A. Disseminating, or causing the dissemination of, any advertisement by means of the United States mails or by any means, in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or by implication:

1. That any such products are offered for sale when such offer is not a bona fide offer to sell such products at the price or prices stated.

2. That any products are offered for sale when the purpose of such representations is not to sell the offered products but to obtain prospects for the sale of other merchandise at higher prices.

3. That the beef offered at 27, 31, 39 and 49 cents per pound, or at any other comparatively low price per pound is top quality meat.

4. That the beef offered at the prices aforesaid consists primarily of sirloin, T-bone, roast, porterhouse, or other top quality cuts of meat.

5. That the beef offered for sale comes primarily from the Black Angus breed of cattle.

B. Disseminating, or causing the dissemination of any advertisement by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisements misrepresent in any manner the quality or grade of any beef or other food products.

C. Discouraging the purchase of, or disparaging in any manner, any products which are advertised or offered for sale in advertisements disseminated or caused to be disseminated in commerce, as "commerce" is defined in the Federal Trade Commission Act.

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D. 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 respondents' products in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any of the representations or misrepresentations prohibited in Paragraphs A and B above.

FINAL ORDER

The hearing examiner filed his initial decision in this proceeding on February 16, 1968. By order of March 8, 1968, the Commission stayed the effective date of the initial decision because the Commission had not received proof of service thereof upon respondents and pending a determination whether the initial decision constitutes an adequate disposition of the issues in this case. In addition, it was ordered that the stay was not to be construed as extending the time provided under § 3.52 of the Commission's Rules of Practice for filing notice of intention to appeal from the initial decision by any party to this proceeding.

Service of the initial decision was perfected by personal service on April 25, 1968. No appeal from the initial decision of the hearing examiner having been filed, and the Commission having determined that the initial decision constitutes an adequate disposition of the issues in this case, the order to stay the effective date of the initial decision will be vacated and the initial decision adopted as the decision of the Commission. Accordingly,

It is ordered, That the order of March 8, 1968, staying the effective date of the initial decision be, and it hereby is, vacated.

It is further ordered, That the initial decision of the hearing examiner be, and it hereby is, adopted as the decision of the Commission as of the 29th day of May, 1968.

It is further ordered, That Supreme Freezer Meats, Inc., a corporation, and Maynard Meyer, individually and as an officer 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.

Complaint

IN THE MATTER OF

REIGN TEENS, LTD., ET AL.

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

Docket C-1344. Complaint, June 3, 1968—Decision, June 3, 1968

Consent order requiring a New York City manufacturer of girls' and ladies' coats and raincoats to cease misbranding the fiber content of its wool and textile fiber products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Wool Products Labeling Act of 1939 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 Reign Teens, Ltd., a corporation, and Eugene W. Goldstein, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Wool Products Labeling Act of 1939 and the Textile Fiber Products Identification 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 Reign Teens, Ltd., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondent Eugene W. Goldstein is an officer of said corporation. He formulates, directs and controls the acts, practices and policies of the corporate respondent including the acts and practices hereinafter referred to.

Respondents are manufacturers of girls' and ladies' coats and raincoats, including both wool and textile products, with their office and principal place of business located at 520 Eighth Avenue, New York, New York.

PAR. 2. Respondents, now and for some time last past, have manufactured for introduction into commerce, introduced into commerce, sold, transported, distributed, delivered for shipment, shipped, and offered for sale, in commerce, as "commerce" is defined in said Wool