

IN THE MATTER OF
NEVADA MEATS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECTIONS 5 & 12 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-2547. Complaint, Sept. 20, 1974—Decision, Sept. 20, 1974

Consent order requiring a Las Vegas, Nev., seller of bulk freezer meats, among other things to cease using bait advertisements. Further, when making pricing or savings claims, the firm must clearly disclose the reasonably anticipated net price per pound and net weight after trimming and cutting losses of each retail cut of meat and of all waste produced in obtaining retail cuts from the carcass or uncut meats.

Appearances

For the Commission: *Alfred Lindeman.*

For the respondents: *George Foley, Las Vegas, Nev.*

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 Nevada Meats, Inc., a corporation, and Edgar S. Stacy, 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 Nevada Meats, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nevada, with its principal office and place of business located at 3551 West Spring Mountain Road, Las Vegas, Nev.

Respondent Edgar S. Stacy is an officer of the corporate respondent. Said individual respondent formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His business address is 3551 West Spring Mountain Road, Las Vegas, Nev.

PAR. 2. Respondents are now and for some time 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 aforesaid business, respondents have disseminated and now disseminate, and have caused and now cause the dissemination of certain advertisements concerning the said products 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 of general circulation, for the purpose of inducing, and which are 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 as aforesaid, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of food in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. 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 beef and other meat of the same general kind and nature.

PAR. 5. In purchasing meat from such establishments as supermarkets, grocery stores and butchers, consumers are customarily apprised in advertising and/or at the point of sale of the prices per pound for each retail cut of meat offered for sale. Such information provides consumers the means of comparing the costs of meats of similar grade and quality available from competing sources.

PAR. 6. Typical of respondents' statements and representations appearing in the newspaper advertisements disseminated in the manner described in Paragraph Three are the following: [See p. 495 herein.]

PAR. 7. By and through the use of the aforesaid statements, and others of similar import and meaning not specifically set forth herein, respondents have represented, and now represent, directly and by implication, that respondents' prices for retail cuts and types of meat obtained from carcass or uncut meats are substantially less than the prices advertised by other retailers in the trade area for meat of similar grade and quality. Said representation is misleading in at least the following two material respects: (1) respondents' meats are advertised and sold by the average price per pound at their carcass or uncut weights before cutting and trimming losses. In truth and in fact the cutting, dressing and trimming of fat, bone and waste materials greatly reduce the total weight of usable meat and such weight losses result in actual average prices per pound substantially higher than those represented; (2) respondents fail to disclose the net prices per pound after cutting and trimming losses for each retail cut and type of meat so

Monday, April 30, 1972 LAS VEGAS SUN

NEVADA MEATS

BALANCE YOUR BUDGET WITH
MEAT FROM NEVADA MEATS

NO BILLS

SAME AS CASH O.A.C.

Buy Now

STOCK UP FOR THE WHOLE YEAR

USDA CHOICE RIB & CHUCK

CONSISTS OF:

- CLUB STEAKS
- SPENCER STEAKS
- SWISS STEAKS
- BARB QUE RIBS
- BRISKET ROAST
- BARB QUE STEAKS
- FLANK RIB ROAST
- ROUND ROAST
- STEW MEAT
- GROUND BEEF

10380

TOTAL PRICE

EXAMPLE:
150 LBS. @ \$69
TOTAL PRICE \$103.80

USDA CHOICE LOIN & ROUND

CONSISTS OF:

- T-BONE STEAKS
- SIRLOIN STEAKS
- PORTERHOUSE STEAKS
- FILET MIGNON
- ROUND STEAKS
- BOTTOM ROUND
- RUMP ROAST
- SIRLOIN TIP
- BEEF STEAK
- MINUTE STEAKS
- WHEEL STEAKS
- GROUND ROUND

10270

TOTAL PRICE

EXAMPLE:
130 LBS. @ \$79
TOTAL PRICE \$102.70

USDA CHOICE LOIN & RIB

CONSISTS OF:

- CLUB STEAK
- RIB STEAK
- SPENCER STEAK
- DELMONICO STEAKS
- PORTERHOUSE STEAK
- SIRLOIN TIP ROAST
- T-BONE
- BRISKET ROAST
- NEW YORK STEAK
- FLANK STEAK
- GROUND ROUND

10680

TOTAL PRICE

EXAMPLE:
170 LBS. @ \$63
TOTAL PRICE \$106.80

TO THE FIRST 25 PERSONS
SETTING AN APPOINTMENT
WITH PURCHASE

10 FILET MIGNON STEAKS

FREE STORAGE

PREFERRED CARDHOLDER SAVING FOR APRIL 10 - 15 W.F. STEAKS
CHARLES F. NELSON - 80-10000-0111

COOK OUT SPECIAL VARIETY PACK

EARLY SUMMER SPECIAL

- 20 LBS. CHICKEN - \$7.19
- 4 LBS. BACON - \$7.19
- 5 LBS. SASSAGE - \$7.19
- 5 LBS. HOT DOGS - \$7.19
- 5 LBS. PORK CHOPS - \$7.19

40% \$1340

BONUS BUY
10 HOG CHOPS
PORK STEAKS - 10 LBS.
PORK CHOPS - 10 LBS.
CORN BEEF AND HAM

50% \$1980

WITH PURCHASE: 10 LBS. MORE YOUR CHOICE

USDA PRIME NEVADA MEAT SPECIAL

STEAK ORDERS

- SIRLOIN - T-BONE - CLUB
- FILET MIGNON - SPENCER
- PRIME RIB - NEW YORK
- PORTERHOUSE

4500

PER MO.

USDA PRIME RIB & LOIN

THE VERY BEST IN PRIME BEEF

EXAMPLE:
10 LBS. @ \$45
TOTAL PRICE \$450.00
PAC NOT \$0.100 LBS.

USDA PRIME NEVADA MEATS

GOURMET FAMILY SECTION

- SPENCER STEAKS - PRIME RIB
- PORTERHOUSE STEAKS - RIB
- DELMONICO STEAKS - RIB
- BEEF RIBS - CLUB STEAKS
- 10 LBS. PORK BEEF
- 10 LBS. PORK

4165

PER MO.

EXAMPLE:
105 LBS. @ \$39.62
TOTAL PRICE \$416.55

NEVADA MEATS PREFERRED CUSTOMER CARD

NAME: _____

ADDRESS: _____

CITY: _____

STATE: _____

ZIP: _____

PHONE: _____

DATE: _____

ONE IN NOW

PREMIUM SELECT BEEF ORDERS

99

TO

219

LB

GUARANTEE

Guaranteed to be the best in the industry. If you are not satisfied, we will refund your money or replace the product.

NO TIME LIMIT

RAINCHECK GUARANTEE

Our Raincheck guarantee is the best in the industry. If you are not satisfied, we will refund your money or replace the product.

ALL MEAT CUT BY APPOINTMENT

PHONE 876-2360

THIS WEEK CARDHOLDERS SPECIALS

TENDER JUICY BONELESS TOP SIRLOIN	TENDER AGED DELICIOUS NEW YORK STRIP	GOUPYETS DELIGHT FILET MIGNON
149	159	179

ALL BEEF Sold Hanging Weight Not Precut

NEVADA MEATS

3551 WEST SPRING MT. ROAD

OPEN DAILY 9:10 A.M. - 10 P.M.
SUNDAY 12 P.M. - 7 P.M.
CLOSED WEDNESDAY

advertised, and thereby prevent prospective purchasers from comparing respondents' prices with such prices customarily advertised by other retailers in the trade area.

PAR. 8. By and through the use of the aforesaid statements, and others of similar import and meaning not specifically set forth herein, respondents have represented, and now represent, directly and by implication, that offers set forth in the aforesaid advertisements are bona fide offers to sell products of the kind therein described at the prices and weights stated therein.

PAR. 9. In truth and in fact, the offers set forth in said advertisements and other offers not set forth in detail herein are not bona fide offers to sell said meat products but to the contrary are made to induce prospective purchasers to visit respondents' place of business for the purpose of purchasing said advertised meat. When prospective purchasers in response to said advertisements attempt to purchase the advertised products, respondents inform them that the advertised prices apply only to very low quality meat and respondents make no effort to sell such low quality advertised meat but in fact disparage it in a manner calculated to discourage the purchase thereof, and attempt to and frequently do sell much higher priced and/or higher weight meats.

Therefore, the advertisements referred to in Paragraphs Six, Seven and Nine 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, and the representations, acts and practices referred to in Paragraphs Seven through Nine were, and are, false, unfair, misleading and deceptive.

PAR. 10. 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 the aforesaid products, including higher priced products than those advertised by reason of said erroneous and mistaken belief.

PAR. 11. The aforesaid acts and practices of respondents, as herein alleged, including the dissemination by respondents of false advertisements as aforesaid, were, and are, all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Sections 5 and 12 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereto with violation of the Federal Trade Commission Act, and the respondents having been served with the notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; 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 complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having considered that agreement and having provisionally accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter pursuant to Section 2.34 (b) of its rules, now in further conformity with the procedure prescribed in Section 2.34 (b) of its rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Nevada Meats, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nevada, with its office and principal place of business located at 3551 West Spring Mountain Road, Las Vegas, Nev.

Respondent Edgar S. Stacy is an officer of said corporation. He formulates, directs and controls the policies, acts and practices 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 respondent Nevada Meats, Inc., a corporation, its successors and assigns, and its officers, and Edgar S. Stacy, individually and as an officer, respondents' agents, representatives and employees directly or through any corporation, subsidiary, division or other device, in connection with the offering for sale, sale or distribution of meat and

other food products do forthwith cease and desist from disseminating, or causing the dissemination, by means of United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, of any advertisement which directly or by implication:

1. Misrepresents that respondents' prices for retail cuts and types of meat obtained from carcass or uncut meats are substantially less than the prices advertised by other retailers in the trade area for meat of similar grade and quality.

2. Represents the price of any meat product offered to the public or represents in any manner that a savings will be realized, without contemporaneously, clearly and conspicuously disclosing: the reasonably anticipated net price per pound and net weight after cutting and trimming losses of each retail cut and type of meat and of all waste produced in obtaining said retail cuts and types from their carcass or uncut state. Each of said disclosures shall be in equally prominent type, size, style and location.

Provided, however, That the aforesaid disclosures shall not be required as to "waste" where the price of respondents' meats is not based upon carcass, uncut or hanging weights.

3. Represents that any product is offered for sale, when the purpose of such representation is not to sell the offered product, but to obtain prospects for the sale of other products at higher prices.

4. Represents that any product is offered for sale when such an offer is not a bona fide offer to sell such product.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all persons now engaged, or who become engaged, in the sale of meat or other food products as respondents' agents, salesmen, representatives or employees, and to secure from each of said persons a signed statement acknowledging receipt of a copy thereof.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment

in which he is engaged as well as a description of his duties and responsibilities.

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.