

Decision

IN THE MATTER OF

WELLMACED LEATHER GOODS CO. ET AL.

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

Docket 6879. Complaint, Aug. 30, 1957—Decision, Jan. 10, 1958

Consent order requiring manufacturers in New York City to cease preticketing their boys' and men's belts with fictitious and exaggerated prices and thereby placing in the hands of retail outlets means for deceiving the purchasing public as to the usual retail price of the belts.

Mr. Harry E. Middleton, Jr., for the Commission.

Mr. Julian Buchbinder, of New York, N.Y., for respondents.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on August 30, 1957, issued and subsequently served its complaint in this proceeding against respondents Wellmade Leather Goods Co., a corporation existing and doing business under and by virtue of the laws of the State of New York, Morris Baron, Harold Baron, and Rose Baron, individually and as officers of the corporate respondent. The office and principal place of business of said respondents is at 477 Broadway, New York, N.Y.

On November 18, 1957, there was submitted to the undersigned hearing examiner an agreement between respondents and counsel supporting the complaint providing for the entry of a consent order. By the terms of said agreement, 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. By such agreement, respondents waive any further procedural steps before the hearing examiner and the Commission; waive the making of findings of fact and conclusions of law; and waive 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. Such agreement further provides that it disposes of all of this proceeding as to all parties; that the record on which this initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement; that the latter shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; that the 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; and that the following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondents, and, when so entered, it shall have the same force and effect as if entered after a full hearing, and may be altered, modified, or set aside in the manner provided for other orders; and that the complaint may be used in construing the terms of the order.

The hearing examiner having considered the agreement and proposed order, and being of the opinion that they provide an appropriate basis for settlement and disposition of this proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued.

1. Respondent Wellmade Leather Goods Co. is a corporation existing and doing business under the laws of the State of New York, with its office and principal place of business located at 477 Broadway, New York, N.Y. Respondents Morris Baron, Harold Baron, and Rose Baron are officers of said corporation, and have their office and principal place of business at the same address as the 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 the respondents, Wellmade Leather Goods Co., and its officers, and Morris Baron, Harold Baron, and Rose Baron, 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 or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of men's and boys' belts do forthwith cease and desist from:

1. Representing by preticketing or in any manner, that certain amounts are the usual and regular retail price for their products when such amounts are in excess of the prices at which their products are usually and regularly sold at retail.

2. Putting into operation any plan whereby retailers or others may misrepresent the regular and usual retail price of merchandise.

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 10th day of

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January 1958, become the decision of the Commission; and, accordingly:

It is 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 the order to cease and desist.

IN THE MATTER OF
NATHAN E. WHITE TRADING AS QUEEN DISTRIBUTING
CO.

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

Docket 6751. Complaint, Mar. 27, 1957—Decision, Jan. 15, 1958

Consent order requiring New York City seller of vending machines and gum and nut meats dispensed thereby, to cease, in advertisements placed in local newspapers—some in the "Help Wanted" columns—and by his salesmen visiting prospects, misrepresenting the profits that could be made from the machines, and making such false representations as that the business was "perfect insurance against old age, permanent or partial disability," that satisfactory locations would be obtained for the machines, etc.

Mr. John W. Brookfield, Jr., for the Commission.

Mr. Bernard Katzen, of New York, N.Y., for respondent.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

The complaint in this proceeding charges that the respondent, Nathan E. White, an individual trading and doing business as Queen Distributing Co., hereinafter called respondent, has violated the provisions of the Federal Trade Commission Act by making false and misleading representations in advertisements in connection with the sale and distribution of vending machines.

After issuance and service of the complaint, the respondent, his counsel and counsel supporting the complaint entered into an agreement for a consent order. The order disposes of the matters complained about. The agreement has been approved by the Director and the Assistant Director of the Bureau of Litigation.

The material provisions of said agreement are as follows: Respondent admits all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing, and the said agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission; the record herein shall consist solely of the complaint and the agreement; respondent waives the requirement that the decision must contain a statement of findings of fact and conclusion of law; respondent waives further procedural steps before the hearing examiner and the Commission, and the order may be altered, modified or set aside

in the manner provided by statute for other orders; respondent waives any right to challenge or contest the validity of the order entered in accordance with the agreement; and the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that he has violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and proposed order and being of the opinion that the acceptance thereof will be in the public interest, hereby accepts such agreement, makes the following jurisdictional findings, and issues the following order:

JURISDICTIONAL FINDINGS

1. Respondent Nathan E. White is an individual trading and doing business as Queen Distributing Co. with its office and principal place of business last located at 251 W. 42d Street, New York, N. Y.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent Nathan E. White, an individual, trading as Queen Distributing Co., or under any other name, and his representatives, agents, and employees, directly or through any corporate or other device, in connection with the sale, offering for sale, or distribution of vending machines or vending machine supplies in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that:

1. Employment is offered by respondent when in fact, the real purpose of the advertisement is to obtain purchasers for respondent's products.
2. The earnings or profits derived from the operation of respondent's machines exceed those which are, in fact, customarily earned by operators of respondent's machines.
3. The amount of money invested in respondent's products is secured by inventory or otherwise.
4. The purchasers of respondent's products will be given an exclusive territory within which to place and operate their machines, unless such is the fact.
5. It is necessary for a person to have a car or furnish references in order to qualify for respondent's offer.
6. The purchasers of respondent's products cannot lose their investments.

7. Financial security will be realized by the person who participates in respondent's proposal.

8. The operation of respondent's machines provides the safest or surest business on earth, or misrepresenting in any other manner the safety or surety of said business.

9. The profits derived from the operation of respondent's machines provide financial assurance to old persons and those suffering from permanent or partial disability.

10. The machines sold by respondent are insured by him without charge to the purchaser.

11. Respondent or his sales representatives or agents obtain, or assist in obtaining, satisfactory or other locations for machines purchased, unless such is the fact.

12. Respondent or his sales representatives or agents will aid or assist purchasers in learning the vending machine business and furnish literature and instructions in connection therewith, unless such is the fact.

13. Respondent will purchase the vending machines if purchasers are not satisfied.

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 15th day of January 1958, become the decision of the Commission; and, accordingly:

It is ordered, That the respondent herein shall within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist.

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IN THE MATTER OF
NAN DUSKIN, INC., ET AL.

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

Docket 6845. Complaint, July 22, 1957—Decision, Jan. 15, 1958

Consent order requiring furriers in Philadelphia, Pa., to cease violating the Fur Products Labeling Act by removing from fur products the original manufacturer's labels and substituting labels which failed to include all the required information; by failing to conform to the labeling and invoicing requirements; and, in newspaper advertisements, failing to disclose the names of animals producing certain furs, the fact that certain furs were artificially colored, and the name of the country of origin of imported furs, and using comparative price and savings claims not based on current market values.

Mr. Charles W. O'Connell for the Commission

Mr. Burton Caine, of Philadelphia, Pa., for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (hereinafter referred to as the Commission) issued its complaint herein, charging the respondents with having violated the Federal Trade Commission Act and the Fur Products Labeling Act as well as the rules and regulations promulgated under the latter act by the Commission. Each of the respondents was duly served with process and time of respondents to file answer was extended and the initial hearing canceled pending negotiations of counsel for a consent agreement.

On November 27, 1957, 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 counsel supporting the complaint and the respondents and Burton Caine, their counsel, under date of November 19, 1957, subject to the approval of the Bureau of Litigation of the Commission. Such agreement had been thereafter duly approved by that Bureau. It appears from said agreement that respondent Anne D. Lincoln was erroneously referred to in the complaint as Mrs. August A. Lincoln and that the respondent Milton Schneidman was erroneously referred to in the complaint as

Milton Schneiderman, but said respondents, Anne D. Lincoln and Milton Schneidman, have each, both individually and as officers of the respondent Nan Duskin, Inc., a corporation, duly executed said agreement by their true names.

On due consideration of said "Agreement containing consent order to cease and desist," the hearing examiner finds that said agreement both in form and in content is in accord with section 3.25 of the Commission's rules of practice for adjudicative proceedings and that by said agreement the parties have specifically agreed that:

1. Respondent Nan Duskin, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business located at 1729 Walnut Street, in the city of Philadelphia, State of Pennsylvania.

Respondents Anne D. Lincoln, Milton Schneidman, and August A. Lincoln are president, secretary, and vice president-treasurer, respectively, of said Nan Duskin, Inc., and their office and place of business is the same as that of the corporate respondent.

2. Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, the Federal Trade Commission on July 22, 1957, issued its complaint in this proceeding against respondents, and a true copy was thereafter duly served on respondents.

3. 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.

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

5. 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.

6. 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.

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

8. This agreement is for settlement purposes only and does not

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constitute an admission by respondents that they have violated the law as alleged in the complaint.

Upon due consideration of the complaint filed herein, and the said "Agreement containing consent order to cease and desist," the latter is hereby approved, accepted and ordered filed, the same not to become a part of the record herein, unless and until it becomes a part of the decision of the Commission. The hearing examiner finds from the complaint and the said "Agreement containing consent order to cease and desist" that the Commission has jurisdiction of the subject matter of this proceeding and of the persons of respondent; that the complaint states a legal cause for complaint under the Federal Trade Commission Act and under the Fur Products Labeling Act and the rules and regulations thereunder; both generally and in each of the particular charges alleged therein; that this proceeding is in the interest of the public; that the following order as proposed in said agreement is appropriate for the full disposition of all the issues in this proceeding, such order to become final only if and when it becomes the order of the Commission; and the said order, therefore, should be, and hereby is, entered as follows:

ORDER

It is ordered, That respondent Nan Duskin, Inc., a corporation, and its officers and respondents Anne D. Lincoln, Milton Schneidman, and August A. Lincoln, 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 introduction into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce, of fur products, or in connection with the sale, advertising, offering for sale, transportation, or distribution of fur products which have been made in whole or in part of fur which has been shipped and received in commerce, as "commerce," "fur," and "fur products" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

1. Failing to affix labels to fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

(b) That the fur product contains or is composed of used fur, when such is the fact;

(c) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

