

Decision

IN THE MATTER OF
ADVERTISERS ASSOCIATES OF AMERICA, INC., ET AL.

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

Docket 7304. Complaint, Nov. 18, 1958—Decision, May 6, 1959

Consent order requiring three affiliated New York concerns to cease selling advertising promotional plans, including contests described as "A Millionaire's Weekend Trip to Las Vegas," "Juvenile Delinquency Essay Contest," and "Safety On the Highways Essay Contest," to radio and television stations and local merchants by means of a variety of misrepresentations as in the order below set forth.

Mr. Morton Nesmith for the Commission.

Mr. Norman D. Levy, of New York, N.Y., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on November 18, 1958, charging respondents with violation of the Federal Trade Commission Act by the use of false, misleading and deceptive statements and practices in connection with their business of offering for sale and selling advertising promotional plans to radio and television stations and to merchants in areas surrounding such stations, and entering into contracts with stations and merchants with respect to such plans, which included contests of various types and the awarding of prizes furnished by respondents to the winners.

Thereafter, on January 14, 1959, respondents, their counsel, and counsel supporting the complaint herein entered into an Agreement Containing Consent Order to Cease and Desist, which was approved by the director and an assistant director of the Commission's Bureau of Litigation, and thereafter submitted to the hearing examiner for consideration.

The agreement identifies respondents Advertisers Associates of America, Inc., and Teleradio Advertisers, Inc., as New York corporations; respondent United Publicity, Inc., as a New Jersey corporation; and respondent Arthur Hammel as an officer of said corporations, trading and doing business as Teleradio Advertisers; all respondents having their principal office and place of business located in the Empire State Building at 350 Fifth Avenue, New York, N.Y.

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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.

Respondents waive any further procedure before the hearing examiner and the Commission; the making of findings of fact and conclusions of law; and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist, as contained in the agreement, when it shall have become a part of the decision of the Commission, 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; that the complaint herein may be used in construing the terms of said order; and that the agreement is for settlement purposes only, and does not constitute an admission by the respondents that they have violated the law as alleged in the complaint.

After consideration of the allegations of the complaint and the provisions of the agreement and the proposed order, the hearing examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the hearing examiner accepts the Agreement Containing Consent Order to Cease and Desist; finds that the Commission has jurisdiction over the respondents and over their acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That respondents, Advertisers Associates of America, Inc., a corporation, and its officers; Teleradio Advertisers, Inc., a corporation, and its officers; United Publicity, Inc., a corporation, and its officers; and Arthur Hammell, individually and as an officer of said corporations and trading as Teleradio Advertisers, or trading under any other name or names; and said respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale or selling of advertising promotional plans and materials in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Withholding any sums of money due radio or television

broadcasting stations pursuant to contracts hereafter executed or hereafter endorsing checks made payable to said stations without authority;

2. Hereafter representing directly or by implication:

(a) That their sales representatives or agents are representatives or agents of radio or television broadcasting stations, unless such station has authorized such representation;

(b) That only one business of a kind in a specific area will be permitted to advertise a promotional project unless such is the fact;

(c) That all of the leading businessmen in a community are subscribing to or supporting a promotional project;

(d) That subscribing merchants will be allowed to exhibit their merchandise on television or that such merchandise will be picked up at the merchant's place of business prior to the telecast;

(e) That they will run an advertisement in a local newspaper concerning their promotional project;

(f) That they will provide a free trip to Las Vegas for a weekend as a prize to each contest winner as declared by the radio or television broadcasting station, or give in lieu thereof \$250 to said contest winner, or misrepresenting in any manner the nature of the prize to be awarded in any contest;

(g) That the backdrop advertising used in television broadcasts will conform to the sample shown merchants at the time of subscription;

(h) That they will furnish subscribing merchants with a desirable or attractive display bearing the call letters of the radio station; or misrepresenting the nature of the display to be furnished;

(i) That they will change the commercial copy monthly.

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 6th day of May 1959, become the decision of the Commission; and, accordingly:

It is ordered, That the respondents named in the caption hereof 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
BLAUNER'S, ET AL.

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

Docket 6955. Complaint, Nov. 25, 1957—Decision, May 8, 1959

Consent order requiring a department store in Philadelphia, Pa., to cease violating the Fur Products Labeling Act by failing to comply with the labeling and invoicing requirements; and by advertising in newspapers which falsely identified the animals producing certain furs and failed to disclose that certain products contained artificially colored or cheap fur, compared "original" prices with "now" prices without designating the time of the former, and used comparative prices and percentage savings claims and represented prices as reduced without maintaining adequate records as a basis for such claims.

Mr. John T. Walker for the Commission.

Mr. Jerome E. Furman, of Philadelphia, Pa., for respondents.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated November 25, 1957, the respondents are charged with violating the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act and the Rules and Regulations made pursuant thereto.

On February 18, 1959, the respondents and their attorney entered into an agreement with counsel in support of the complaint for a consent order.

Under the agreement, the respondent admits the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and have the same force and effect as if entered after a full hearing, and the document includes a waiver by the respondent of all rights to challenge or contest the validity of the order issuing in accordance therewith. The agreement further recites that it is for settlement purposes only and does not constitute an admission by the respondent that it has violated the law as alleged in the complaint.

The hearing examiner finds that the content of the agreement meets all of the requirements of §3.25(b) of the Rules of the Commission.

The agreement contains a recommendation that the complaint be dismissed as to respondent George Gorsen, individually and

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as an employee of said corporation, which recommendation is based upon an affidavit attached to and made a part of the agreement wherein it is set forth that said respondent is no longer an employee of Blauner's, a corporation.

The hearing examiner being of the opinion that the agreement and the proposed order provide an appropriate basis for disposition of this proceeding as to all of the parties, the agreement is hereby accepted and it is ordered that the 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 following jurisdictional findings are made and the following order issued.

1. The respondent Blauner's is a corporation organized, existing, and doing business under the laws of the Commonwealth of Pennsylvania, with its office and principal place of business located at 9th and Market Streets, Philadelphia, Pa.

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.

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It is ordered, That respondent Blauner's, a corporation, and its officers, and respondent's 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 offering for sale, sale, advertising, 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 product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Misbranding fur products by:

A. Failing to affix labels to fur products showing:

(1) 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;

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

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

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(4) That the fur product is composed, in whole or in substantial part, of paws, tails, bellies, or waste fur, when such is the fact;

(5) The name or other identification issued and registered by the Commission, of one or more persons who manufactured such fur product for introduction into commerce, introduced it into commerce, sold it in commerce, advertised or offered it for sale in commerce, or transported or distributed it in commerce;

(6) The name of the country of origin of any imported furs used in the fur product;

(7) The item number or mark assigned to a fur product.

B. Setting forth on labels affixed to fur products:

(1) Information required under §4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder in abbreviated form;

(2) Information required under §4(2) of the Fur Products Labeling Act and Rules and Regulations thereunder, mingled with nonrequired information.

2. Falsely or deceptively invoicing fur products by:

A. Failing to furnish invoices to purchasers of fur products showing:

(1) 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;

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

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

(4) That the fur product is composed, in whole or in substantial part, of paws, tails, bellies, or waste fur, when such is the fact;

(5) The name and address of the person issuing such invoices;

(6) The name of the country of origin of any imported furs contained in the fur product.

B. Setting forth on invoices information required under §5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations thereunder in abbreviated form.

3. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement, or notice which is intended to aid, promote or assist, directly or

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indirectly, in the sale, or offering for sale, of fur products, and which:

A. Fails to disclose:

(1) 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;

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

(3) That the fur product is composed in whole or in substantial part of paws, tails, bellies or waste fur, when such is the fact.

B. Contains the name or names of any animal or animals other than the name or names of the animal or animals that produced the fur from which the fur product was manufactured.

C. Makes use of comparative prices by setting forth an earlier bona fide price of the fur product, unless the designated time of such earlier price is given.

4. Making price claims or representations in advertisements respecting comparative prices, percentage savings claims, and reduced prices of furs or fur products unless respondent maintains adequate records disclosing the facts upon which such claims or representations are based.

It is further ordered, That the complaint be, and hereby is, dismissed as to George Gorsen, individually and as an employee of said corporation.

DECISION OF THE COMMISSION AND ORDER TO FILE
REPORT OF COMPLIANCE

The Commission having considered the initial decision of the hearing examiner wherein he accepted an agreement containing a consent order to cease and desist executed by the respondent Blauner's and its attorney and counsel in support of the complaint, service of which initial decision was completed on April 7, 1959; and

It appearing that the initial decision may be deficient in that it fails to incorporate the substance of certain pertinent provisions of the agreement of the parties:

It is ordered, That said initial decision be, and it hereby is, amended by inserting between the second and third paragraphs thereof the following paragraph:

Under the agreement, the respondent admits the jurisdictional

