

Syllabus

IN THE MATTER OF

GENERAL SURVEYS, INC., JOHN H. THIES, PRESIDENT
OF GENERAL SURVEYS, INC., AND G. J. DOUCETTE, DI-
RECTOR OF GENERAL SURVEYS, INC.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4554. Complaint, Aug. 4, 1941—Decision, May 7, 1942*

Where a corporation, the president thereof who was its principal owner and controlled its policies and activities, and a second individual who was a director, stockholder, and salesman thereof, engaged in sale and interstate distribution of "The American Educator Encyclopedia," sold in sets of 10 or 20 volumes, and other books, and of a "quarterly loose-leaf extension service" and "research services" contemplating the answering of customers' questions, sold in various combinations with other books and a book case at prices ranging from \$59.50 to \$99.50;

In selling their said products under the practice by which all shipments were made on orders or contracts sent in by salesmen and canvassers, and all payments except initial payment to salesmen were remitted directly to their main office—

- (a) Represented to prospective purchasers that certain items were being given free to the particular customer for some special reason, through such statements, among others, as that books which were part of a regular combination offer were free and that purchaser paid for only the loose-leaf extension service, when in fact the price was that customarily and ordinarily charged for both books and service;
- (b) Represented to prospective purchasers, including teachers, clergymen, and students about to enter a profession, that for advertising purposes the books were given free or at an especially low price because of the purchaser's alleged prominence and in order to get his testimonial for later use in sales to the general public, or for some other reason appealing to him; the facts being said books were sold at their customary and ordinary price;
- (c) Failed to inform prospective purchasers that the securing of the loose-leaf extension service material included in said combination offer entailed an additional cost of 24 cents a copy in addition to the stated price, notwithstanding agent's representation that the price included cost of such material; and
- (d) Falsely represented to prospective purchasers generally that the usual price at which the extension service and books were being offered and sold was a special price, effective for a limited period only;

With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous belief that aforesaid representations were true, and that it was securing some special advantage, and of thus inducing substantial number of members thereof to purchase their said books and services:

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Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public, and constituted unfair and deceptive acts and practices in commerce.

Mr. L. E. Creel, Jr. for the Commission.

Mr. Henry Junge, of Chicago, Ill., for respondents.

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 General Surveys, Inc., a corporation, John H. Thies, individually, and as president of General Surveys, Inc., and G. J. Doucette, individually, and as a director of General Surveys, Inc., hereinafter referred to as respondents, have violated the provisions of said act, and it appearing to the Commission that a proceeding by it with respect thereof would be in the interest of the public, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, General Surveys, Inc., is a corporation organized and existing under the laws of the State of Illinois, with its principal office and place of business located at 203 North Wabash Avenue, Chicago, Ill. Respondent, John H. Thies, is president of General Surveys, Inc., the principal owner of the common capital stock of said corporate respondent, and controls its policies and activities, including the conduct of sales and the character of advertising representations made in connection therewith. Respondent, G. J. Doucette, is a director and stockholder of General Surveys, Inc., and is a salesman of said corporate respondent.

PAR. 2. All of respondents are now, and for several years last past have been, engaged in the sale, transportation, and distribution in interstate commerce of sets of reference books known as The American Educator Encyclopedia and other books, and a so-called quarterly loose-leaf extension service for the encyclopedia, and certain so-called research services. The American Educator Encyclopedia is sold in sets of 10 or 20 volumes. Said encyclopedia, the loose-leaf extension service, and a 10-year membership in an organization known as General Research Foundation, which answers members' questions on general subjects within the scope of encyclopedic service, are sold in a combination with certain other designated books of general or special interest and a bookcase to house them at a combined total price of \$59.50 to \$99.50, depending on the number of volumes of the encyclopedia, the combination of other books selected, and whether a bookcase is included in the order.

PAR. 3. In the course and conduct of their business, as hereinbefore described, respondents utilize the services of approximately eight salesmen and solicitors, including the respondent, G. J. Doucette, who canvass individual prospective customers located in various States of the United States. When signed orders or contracts are received by such solicitors, the orders or contracts are forwarded to the Chicago offices of respondents and the wares called for therein are shipped directly to the purchasers located at various points in the several States of the United States and in the District of Columbia. All shipments of books are on orders or contracts sent in by such salesmen. All payments made for said books, except the initial payments made to the salesmen, are remitted directly to the respondents' offices in Chicago.

PAR. 4. Respondents' salesmen and solicitors, including the respondent, G. J. Doucette, have used the following means, methods, and practices in soliciting the sale of and in selling the said books to the purchasing public:

1. Said agents or solicitors have falsely represented to prospective purchasers that certain items, which were in fact a part of a regular combination offer and included in the price thereof, as above described, were being given free to the particular customer for some special reason, thereby influencing such customer to purchase said books. Among such representations was the representation that the books were free and that the prospective purchaser was to pay for and did pay for only the loose-leaf extension service, whereas, in truth and in fact, the price purported to be charged for the loose-leaf extension service was and is the customary and ordinary price charged for said books and the loose-leaf extension service.

2. Said agents or solicitors have falsely represented to prospective purchasers that, for advertising purposes and as a part of an advertising program, said books were given free, or at an especially low price, because of the alleged prominence of the prospective purchaser and in order to get his testimonial of their quality for later use in sales to the general public, or for some other reason appealing to such prospective purchaser, when in truth and in fact such books were not given free or at an especially low price to such prospective purchaser for any reason, but were sold at the price at which said books are customarily and ordinarily sold by the respondents. This representation was frequently made to teachers, to clergymen, and to students about to enter a profession, to whom it was represented that the said books were being given free or at an especially low price, the respondents representing that such special offer was being made to

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them in order that they might boost respondents' wares or give to the respondents a testimonial of value to respondents in a later sale of similar sets of books to the general public at a higher price.

3. Said agents or solicitors in many instances failed or neglected to inform prospective purchasers that the securing of the loose-leaf extension service material included in said combination offer entailed an additional cost of 24 cents a copy in addition to the price stated to such prospective purchasers, although said agents or solicitors represented that the stated price included such loose-leaf extension material.

4. Said agents or solicitors in many instances represented to prospective purchasers of said books generally that the price at which said loose-leaf extension service and said books were being offered for sale and sold was a special price effective for a limited period of time only, when in truth and in fact the price at which the said loose-leaf extension service and said books were offered for sale and sold was the usual and customary price at which they were generally and regularly sold.

PAR. 5. The effect of the use of the aforesaid means, methods and practices by the respondents is to lead the individual prospective purchaser to believe that he is securing some advantage in purchasing said books and services which is not available to members of the public generally, whereas, in truth and in fact, any member of the public can purchase said books and services on the identical terms and conditions at which they are offered such individual prospective purchasers.

PAR. 6. The use by the respondents of the aforesaid means, methods and practices in offering for sale and selling said books and services in said commerce has had, and now has, a capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said representations are true and into the erroneous and mistaken belief that they are securing some special advantage not available to all members of the purchasing public. As a result of this erroneous and mistaken belief, induced as aforesaid, a substantial number of members of the purchasing public have purchased respondents' said books and services.

PAR. 7. The foregoing acts and practices of the respondents, as herein alleged, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on August 4, 1941, issued and subsequently served its complaint in this proceeding upon the respondents, General Surveys, Inc., a corporation, John H. Thies, individually, and as president of General Surveys, Inc., and G. J. Doucette, individually, and as a director of General Surveys, Inc., charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and filing of respondents' answers, the Commission, by order entered herein, granted the motion of respondents, General Surveys, Inc., and G. J. Doucette, for permission to withdraw their said answers and to substitute therefor an answer admitting all the material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearing as to said facts, which substitute answer was duly filed in the office of the Commission. Said motion calls the attention of the Commission to the physical and mental incapacity of respondent, John H. Thies, to participate in this proceeding and is accompanied by a statement of a physician indicating permanent incapacity. Thereafter this proceeding regularly came on for final hearing before the Commission on the said complaint and substitute answer and the Commission having duly considered the matter and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, General Surveys, Inc., is a corporation organized and existing under the laws of the State of Illinois, with its principal office and place of business located at 203 North Wabash Avenue, Chicago, Ill. Respondent, John H. Thies, is President of General Surveys, Inc., the principal owner of the common capital stock of said corporate respondent, and controls its policies and activities, including the conduct of sales and the character of advertising representations made in connection therewith. Respondent, G. J. Doucette, is a director and stockholder of General Surveys, Inc., and is a salesman of said corporate respondent.

PAR. 2. All of respondents are now, and for several years last past have been, engaged in the sale, transportation and distribution in

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interstate commerce of sets of reference books known as "The American Educator Encyclopedia" and other books, and a so-called quarterly loose-leaf extension service for the encyclopedia, and certain so-called research services. "The American Educator Encyclopedia" is sold in sets of ten or twenty volumes. Said encyclopedia, the loose-leaf extension service, and a 10-year membership in an organization known as General Research Foundation, which answers members' questions on general subjects within the scope of encyclopedic service, are sold in a combination with certain other designated books of general or special interest and a bookcase to house them at a combined total price of \$59.50 to \$99.50, depending on the number of volumes of the encyclopedia, the combination of other books selected, and whether a bookcase is included in the order.

PAR. 3. In the course and conduct of their business, as hereinbefore described, respondents utilize the services of approximately eight salesmen and solicitors, including the respondent, G. J. Doucette, who canvass individual prospective customers located in various States of the United States. When signed orders or contracts are received by such solicitors, the orders or contracts are forwarded to the Chicago offices of respondents and the wares called for therein are shipped directly to the purchasers located at various points in the several States of the United States and in the District of Columbia. All shipments of books are on orders or contracts sent in by such salesmen. All payments made for said books, except the initial payments made to the salesmen, are remitted directly to the respondents' offices in Chicago.

PAR. 4. Respondents' salesmen and solicitors, including the respondent, G. J. Doucette, have used numerous methods and practices in soliciting the sale of the said books to members of the purchasing public. Respondents' agents have falsely represented to prospective purchasers that certain items which were in fact a part of a regular combination offer and included in the price thereof, as above described, were being given free to the particular customer for some special reason, thereby influencing such customer to purchase said books. Among such representations made was the representation that the books were free and that the prospective purchaser was to pay for, and did pay for, only the loose-leaf extension service, whereas, in truth the price purported to be charged for the loose-leaf extension service was the customary and ordinary price charged for said books and the loose-leaf extension service.

Another method used by the agents of respondents in soliciting the sale of said books was the method of falsely representing to prospec-

tive purchasers that for advertising purposes and as a part of an advertising program said books were given free or at an especially low price, because of the alleged prominence of the prospective purchaser and in order to get his testimonial of their quality for later use in sales to the general public, or for some other reason appealing to such prospective purchaser, when in fact such books were not given free or at an especially low price to such prospective purchaser for any reason, but were sold at the price for which the books are customarily and ordinarily sold by the respondents. This representation was frequently made to teachers, clergymen, and to students about to enter a profession.

Another practice engaged in by the agents of respondents was the practice of failing or neglecting to inform prospective purchasers that the securing of the loose-leaf extension service material included in said combination offer entailed an additional cost of 24 cents a copy in addition to the price stated to such prospective purchasers, although said agents represented that the stated price included the cost of the loose-leaf extension material.

The agents of respondents in many instances represented to prospective purchasers of said books generally that the price at which said loose-leaf extension service and said books were being offered for sale and sold was a special price, effective only for a limited period of time, when in fact the price at which such extension service and books were offered for sale and sold was the usual and customary price at which they were generally and regularly sold.

PAR. 5. The effect of the use of the aforesaid means, methods and practices by the respondents is to lead the individual prospective purchaser to believe that he is securing some advantage in purchasing said books and services which is not available to members of the public generally, whereas, in truth and in fact, any member of the public can purchase said books and services on the identical terms and conditions at which they are offered such individual prospective purchasers.

PAR. 6. The use by the respondents of the aforesaid means, methods and practices in offering for sale and selling said books and services in said commerce has had, and now has, a capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said representations are true and into the erroneous and mistaken belief that they are securing some special advantage not available to all members of the purchasing public. As a result of this erroneous and mistaken belief, induced as aforesaid, a substantial number of members of the purchasing public have purchased respondents' said books and services.

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CONCLUSION

The foregoing acts and practices of the respondents, General Surveys, Inc., and G. J. Doucette, as herein found, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondents, General Surveys, Inc., and G. J. Doucette, in which answer said respondents admit all the material allegations of fact set forth in said complaint and state that they waive all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and its conclusion that respondents, General Surveys, Inc., and G. J. Doucette have violated the provisions of the Federal Trade Commission Act.

It is ordered, That respondent, General Surveys, Inc., a corporation, its officers, representatives, agents, and employees, and respondent, G. J. Doucette, individually and as a director of General Surveys, Inc., his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of books, loose-leaf material, or other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

1. That any books, loose-leaf material, or other merchandise the cost of which is included in the purchase price of articles in combination with which any such books, loose-leaf material, or other merchandise are offered, are "free," either by the use of the term stated or by any other word or words of similar import or meaning.

2. That the price at which any books, loose-leaf material, or other merchandise are customarily or regularly offered for sale or sold, separately or in combination, in the ordinary course of business, is lower than the customary or regular price, or is a special or reduced price to selected customers, or is a special or reduced price available only to particular groups or classes of persons, or is available only for a limited time.

3. That any books, loose-leaf material, or other merchandise or services for which payment is later demanded or collected will be

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furnished to purchasers of other articles or services without additional charge.

It is further ordered, That respondents, General Surveys, Inc., and G. J. Doucette, shall, within 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.

It is further ordered, That in view of the showing made as to the probable permanent incapacity of respondent, John H. Thies, this proceeding be, and the same hereby is, closed as to said respondent without prejudice to the right of the Commission, should future facts so warrant, to reopen the same as to said respondent and resume trial in accordance with its regular procedure.

IN THE MATTER OF
STEVEN ANGELL AND ASIMO LIAMPOS, TRADING AS
S. ANGELL & COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 4520. Complaint, June 12, 1941—Decision, May 11, 1942

Where two individuals, engaged in competitive interstate sale and distribution of furs and fur garments—

- (a) Furnished various devices and plans of merchandising which involved the operation of games of chance, gift enterprises, or lottery schemes in sale and distribution thereof to the ultimate consumer; typical plan involving a push card and scheme, in accordance with which the person selecting from 100 feminine names displayed thereon that corresponding with name under card's master seal became entitled to one of their fur garments, and the amount of money paid for a chance was determined by the number pushed from the card; and thereby

Supplied to and placed in the hands of their agents and operators and members of the purchasing public the means of conducting lotteries in the sale of their furs and fur garments in accordance with said plan involving sale of chance to procure such a product at much less than its normal retail price, contrary to an established public policy of the United States Government, and in competition with many who, unwilling to use any such or other method contrary to public policy, refrain therefrom;

With the result that many persons were attracted by said sales plan and the element of chance involved therein, and were thereby induced to buy and sell their said furs and fur garments in preference to those offered by their said competitors, from whom substantial trade in commerce was unfairly diverted to them; to the substantial injury of competition in commerce; and

Where said individuals, by means of tags and labels attached to their products, advertisements in magazines and newspapers, and circulars, price lists, and other advertising material distributed among prospective purchasers—

- (b) Represented that certain of such products were made from mink or seal peltries, respectively, through use of such designations as "Minkolet," "Minkolene," and "Marmink;" and "Nubian Seal," "V Shape Seal," "Hud-seal," and "Sealine;"
- (c) Represented that certain of their products were made from beaver, or Silvertone muskrat peltries, respectively, through designations "Beaver-ette" and "Mendoza Beaver," and "Silvertone Muskrat;"
- (d) Represented that certain of their products were made from skunk or sable peltries through use of such terms as "Skunkette" and "Skunkolene" and "Sabellette" to designate them; and
- (e) Represented that certain of their products were made from squirrel or broadtail lamb peltries through use of such terms as "Squirrellette" and "Broadtail;"