IN THE MATTER OF

TROPIC INDUSTRIES, INC., ET AL.

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

Docket 6397. Complaint, Aug. 23, 1955—Decision, Dec. 21, 1955

Consent order requiring two associated firms in Chicago and their two common officers to cease falsely advertising in newspapers for employees when actually seeking customers to buy their food vending machines, heating and cooking equipment and supplies, including such representations as that a purchaser of their products would service established food distribution accounts owned by respondents; must have a car and good references; and would not have to engage in canvassing or selling; would earn each month 20% of the amount invested and from $6,000 to $12,000 annually; would receive from respondents liberal financial assistance if he desired to expand, and would be given exclusive territory.

Before *Mr. J. Earl Cox*, hearing examiner.
Mr. William R. Tincher for the Commission.
Mr. Cecil W. Weiss, 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 Tropic Industries, Inc., a corporation, and Tropical Trading Company, a corporation, and Gilbert Courshon, G. C. Burd and Cecil Weiss, individually and as officers of said corporations, 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. Respondents Tropic Industries, Inc., and Tropical Trading Company are corporations duly organized, existing and doing business under the laws of the State of Illinois, with their principal office and place of business at 5 South Wabash, Chicago, Illinois. Gilbert Courshon, G. C. Burd and Cecil Weiss are President, Vice President and Secretary-Treasurer, respectively, of said corporate respondents and these individuals formulate, control and manage the policies of said corporate respondents. Their principal office and place of business is the same as that of the said corporate respondents. Respondents are now, and for more than one year last

past have been, engaged in the promotion, sale and distribution of vending machines, vending machine supplies and heating and cooking equipment and supplies.

PAR. 2. In the course and conduct of their business respondents now cause and have caused said products, when sold, to be transported from their place of business in the State of Illinois to purchasers thereof located in various other States of the United States. Respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade, in commerce, in said products.

PAR. 3. Respondents at all times mentioned herein have been in substantial competition, in commerce, with other persons and with corporations, firms and partnerships engaged in the sale of similar products.

PAR. 4. In the course and conduct of said business and for the purpose of inducing the purchase of said products, respondents have made various statements and representations concerning their said products and business methods through their salesmen and through advertisements inserted in newspapers, periodicals, letters, and other advertising literature circulated generally among the purchasing public. Typical newspaper advertisements, but not all inclusive, are as follows:

MANAGER WANTED
MALE OR FEMALE

Spare time or full time. Not Vending machines. Excellent income, national concern with reference from bank and Chamber of Commerce will hire 1 man or woman to supervise this sensational business. There is no selling or experience necessary. Income to start immediately. Qualifications as follows:

1. Good character.
2. Spare a minimum of 14 hours a week.
3. $1990.00 investment fully secured.

This is a food route. If you can meet these qualifications and desire an interview with Factory Representative, then answer this ad immediately. Please do not answer this advertisement unless you have the necessary capital available, and are a person who can make a definite decision after you know the facts, as those selected will be hired immediately * * *

WANTED

Distributor of nationally advertised products has immediate opening for man and wife or individuals who would be interested in entering the wholesale distributing field in a small way. Pre-established accounts. Part or full time to start.

Possible to earn $1,000 monthly. No sales work, not Vending.

Applicants must have car, good references and $2,175 to cover inventory, equipment, etc. Our plan is new and growing by leaps and bounds. We help finance you after you start. No high pressure people wanted as no selling required. If you can qualify, please write to District Manager, giving history, phone and address so that personal interview may be arranged * * *

OPPORTUNITY THIS AREA

National company has immediate openings for ambitious man to manage local business; can be handled in spare hours at start if desired; honesty and dependability more important than past experience. Our liberal financial assistance enables rigid expansion. This is a business operated on a very high plane for high type men of character only.

APPLICANT MUST HAVE $1200.00

(which is secured); good references and car. This opening will pay you exceptionally high weekly income immediately, and rapidly increase as business expands. Prefer applicant aspiring earnings from $6,000 to $11,000 yearly. No high pressure men wanted as no selling required. If you can qualify and have necessary cash, please write today * * *

RESIDENT MANAGERS

NATIONALLY ADVERTISED PRODUCTS

Persons who would be interested entering the wholesale distributing field in a small way. No sales work or solicitation. Pre-established accounts. Need local parties to act as resident managers. Opportunity for excellent returns for time involved. Requires about $2,250.00 to cover inventory, display units, etc. * * *

Only part time, but owner can expand to full time. Requires no selling. Should net $500 a month. Will assist. $2175.00 investment required.

ASSOCIATE INVESTORS

Finance equipment for chain of restaurants and other eating places. Should earn around 20% monthly with small amount of personal attention. No risk. Solid Business. $2200 to $6600.00 required * * *

PAR. 5. Through the use of the statements set forth in Paragraph 4 and others similar thereto but not specifically set out therein, respondents have represented and do now represent, directly or by implication, to a substantial portion of the purchasing public, that:

1. Respondents offer employment to certain selected persons.
2. Persons selected will service established and existing food distribution accounts owned by respondents.
3. Persons selected must have a car, good references, and a specified sum of money.
4. Persons selected will invest a stated amount and said amount will be secured by an inventory of merchandise worth the amount invested and there will be no risk involved to the investor.
5. Persons selected will not be required to engage in any selling.
6. Persons selected will earn each month 20% of the amount they invested.
7. Persons selected will earn from $6,000 to $12,000 annually.
8. If the persons selected desire to expand, respondents will give them liberal financial assistance.

9. The persons selected will be given an exclusive territory in which to operate.

PAR. 6. The foregoing representations and implications are grossly exaggerated, false, and misleading. In truth and in fact:

1. Respondents are not offering employment to persons reading their advertisements.

2. Respondents are not seeking employees to service established and existing food distribution accounts owned by respondents. Respondents are seeking purchasers of said food distribution equipment. The food distribution accounts are not established and existing at the time the advertisement is placed or at the time the food distribution equipment is sold to the persons who have previously read and answered the advertisement.

3. The only qualification necessary to participate in respondents' proposals is to possess the amount of cash stated in the advertisement the purchaser reads. Respondents do not require that the purchaser possess a car and good references.

4. The amount of cash required is a purchase price for said machines or food distribution equipment and is not secured by an inventory of merchandise worth a major or reasonable portion of that amount. The purchaser undertakes a considerable risk as his success or failure is determined by factors many of which are not subject to his control. His risk is further increased by the fact that the merchandise he purchases from respondents has little or no resale value if the purchaser finds it necessary to, or is forced to, terminate the venture.

5. Purchasers of respondents' products are required to engage in extensive canvassing and selling.

6. Purchasers of respondents' products do not earn 20% of their purchase price each month or even a major or reasonable portion of that amount. Said purchasers' earnings are very small, and, in many cases, non-existent.

7. Purchasers of respondents' products do not earn $6,000 to $12,000 a year. The quoted figures are a theoretical possibility under perfect conditions. Even these theoretical amounts could be earned only if the purchasers invested sums considerably larger than the advertisements specify.

8. Respondents do not give financial assistance to purchasers of their products desiring to expand their operations. Such persons can expand only by purchasing more merchandise from respondents.

9. Respondents do not give purchasers of their products an exclusive territory in which to operate.

PAR. 7. In the course and conduct of their said business, respondents employ salesmen who conduct and solicit business for respondents in various States of the United States other than Illinois. Respondents supply these salesmen with sales aids and literature and direct them to call upon those members of the general public who request an interview as a result of reading respondents' aforesaid advertisements. When making such calls, respondents' salesmen orally make many statements, among and typical of which are the following:

1. No selling will be required of purchasers of respondents' products.

2. Persons purchasing respondents' products may earn 20% of their purchase price in one month or will earn $6,000 to $12,000 annually.

3. Respondents have established or will establish locations for vending machines or accounts for food distribution equipment sold to their purchasers. Said locations will be in first-class cafes and restaurants, department stores or other desirable commercial establishments. A list of said locations containing the signature of the owners or operators of the locations authorizing the location shall be furnished to the purchasers. Said locations shall be subject to approval by the purchaser and, if the purchaser does not approve of the locations, replacement locations which do meet the purchaser's approval will be obtained by respondents' representatives.

4. Respondents or their representatives will dispose of or assist in the disposal of, or refund the purchase price of, products purchased from respondents in the event the venture is not profitable or if the purchaser is otherwise dissatisfied.

5. Purchasers of respondents' products will be given an exclusive territory in which to operate.

6. Purchasers of respondents' products will be able to repair said products at a local repair service through arrangements made by respondents.

7. Purchasers of respondents' food distribution equipment will be able to purchase food supplies for said equipment directly from a local food broker through arrangements made by respondents.

8. Respondents are endorsed by the Chicago Better Business Bureau.

PAR. 8. The statements set out in Paragraph Seven are false, misleading, and deceptive. In truth and in fact:

1. Extensive selling is required to conduct the intended business.

2. Purchasers of respondents' products do not earn 20% of their purchase price in one month or $6,000 to $12,000 a year. Said purchasers' earnings are very small and, in many cases, nonexistent. The

quoted figures are a theoretical possibility under perfect conditions and even these figures, in the case of the $6,000 to $12,000 profit, would be possible only if the purchaser invested a sum considerably larger than the advertisements specify.

3. Respondents have not established locations or accounts for purchasers of their products prior to the sale thereof. Said locations or accounts, if obtained by respondents at all, are obtained only after the purchasers pay respondents for the products. In most instances, locations or accounts furnished the purchasers are in undesirable, unprofitable and otherwise inferior establishments. In many instances, the list of locations or accounts given to the purchasers contains fictitious or residential addresses. In many instances, the signatures appearing on the lists, and represented by respondents' representatives as being the signatures of the owners or operators of said establishments, are forgeries or signatures of an employee without authority to grant said location or account. In most instances, the purchaser is not given the opportunity to inspect or to approve the locations or accounts as respondents' representatives will not allow him to have the list until he has signed a statement that the locations or accounts are acceptable. If the purchaser refuses to sign the statement or if he does sign and subsequently finds the locations or accounts unsatisfactory, respondents do not, in most instances, obtain satisfactory replacement locations or accounts.

4. Respondents, or their representatives, do not dispose of or aid the purchaser in the disposal of or refund the purchase price of products purchased from respondents if the venture is not profitable or the purchaser is otherwise dissatisfied.

5. Respondents do not grant to purchasers an exclusive territory in which to operate.

6. Respondents do not arrange for local repair services to repair products purchased from them. The purchasers must locate their own local repair service or send the products back to the factory when they need to be repaired.

7. Respondents do not arrange for local food brokers to sell food supplies to be used by purchasers of respondents' products. Said purchasers must make their own local arrangements, if possible, or purchase their food supplies from Illinois sources recommended by respondents.

8. Respondents have not been and are not now recommended or endorsed by the Chicago Better Business Bureau.

PAR. 9. The use by the respondents of the foregoing false, deceptive, and misleading statements, representations and practices, dis-

seminated as aforesaid, in connection with the sale and distribution in commerce of said products has had and now has the tendency and capacity to and does mislead and deceive a substantial portion of the purchasers and prospective purchasers of said products into the erroneous and mistaken belief that such statements and representations are true and to the purchase of substantial quantities of the products offered for sale in commerce by respondents.

PAR. 10. The aforesaid acts and practices of respondents, as herein alleged, are all to the prejudice and injury of the public and of respondents' competitors and constitute unfair and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint alleges that respondents Tropic Industries, Inc., and Tropical Trading Company, Illinois corporations with their principal office and place of business at 5 South Wabash, Chicago, Illinois, and Gilbert Courshon, G. C. Burd and Cecil Weiss, President, Vice President and Secretary-Treasurer, respectively, of said corporate respondents, who control and manage the policies of said corporate respondents and have the same address, are now, and for more than one year last past have been, competitively engaged with other persons, corporations, firms and partnerships, in commerce, in the promotion, sale and distribution of vending machines, vending machine supplies and heating and cooking equipment and supplies; and charges that they have falsely and deceptively advertised their said products and business methods, in violation of the Federal Trade Commission Act. After the issuance of the complaint, to which no answer was filed, respondents, their counsel, and counsel supporting the complaint, on October 5, 1955, entered into an Agreement Containing Consent Order To Cease And Desist, which was approved by the Director, Bureau of Litigation of the Commission, and thereafter transmitted to the hearing examiner for consideration.

The agreement provides, among other things, that respondents admit all the jurisdictional facts alleged in the complaint and that the record herein may be taken as if findings of jurisdictional facts had been made in accordance with such allegations; that 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; that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; that the complaint may be used in construing the terms of the order agreed upon, which may be altered, modified, or set

aside in the manner provided for other orders; 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 order set forth in the agreement and hereinafter included in this decision shall have the same force and effect as if entered after a full hearing.

Respondents waive any further procedural steps before the hearing examiner and the Commission, the making of findings of fact or conclusions of law, and all rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

The order agreed upon fully covers all the issues raised in the complaint, and adequately prohibits the acts and practices charged therein as being in violation of the Federal Trade Commission Act. Accordingly, the hearing examiner finds this proceeding to be in the public interest and accepts the Agreement Containing Consent Order To Cease And Desist as part of the record upon which this decision is based. Therefore,

It is ordered, That respondents Tropic Industries, Inc., a corporation, Tropical Trading Company, a corporation, Gilbert Courshon, G. C. Burd, and Cecil Weiss, individually and as officers of said corporations, and their agents, representatives and employees directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of vending machines, vending machine supplies, heating and cooking equipment and 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. Respondents are seeking employees when in fact they are seeking purchasers for their products;

2. Persons purchasing respondents' products will service established and existing food distribution accounts owned by respondents;

3. Persons purchasing respondents' products must have good references or any other requirements other than the amounts respondents charge for their products;

4. The cash required to purchase respondents' products is secured, either by an inventory of merchandise or otherwise, or that there is no financial risk involved to the purchaser of respondents' products;

5. Purchasers of respondents' products will not be required to engage in selling;

6. Purchasers of respondents' products will earn or realize any amount in excess of that which has in fact been customarily and regularly earned by previous purchasers of respondents' products;

7. Respondents will give financial assistance to their purchasers for expansion purposes;

8. The territory allotted purchasers of respondents' products is exclusive, unless respondents do in fact refrain from selling said products to other purchasers for operation in such designated territory;

9. Respondents will obtain satisfactory locations in which their purchasers may sell respondents' products unless locations are in fact obtained by respondents which are acceptable and satisfactory to said purchasers;

10. Respondents will refund the purchase money to any dissatisfied purchaser of respondents' products, or will dispose of or assist in disposing of such products in the event the venture is not profitable;

11. Purchasers of respondents' products will be able to obtain repairs for, or purchase supplies for, such products at a local repair shop or a local supply house through arrangements made by respondents;

12. Respondents are or have been endorsed by the Chicago, Illinois, Better Business Bureau.

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 21st day of December, 1955, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Tropic Industries, Inc., a corporation, and Tropical Trading Company, a corporation, and Gilbert Courshon, G. C. Burd, and Cecil Weiss, individually and as officers of said corporations, 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.

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IN THE MATTER OF

THE SERVICE LIFE INSURANCE COMPANY

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

Docket 6278. Complaint, Dec. 28, 1954—Decision, Dec. 28, 1955

Consent order requiring an insurance company in Omaha, Nebr., to cease misrepresenting in advertising the duration and coverage of its accident and health policies.

Before *Mr. William L. Pack* and *Mr. J. Earl Cox*, hearing examiners.

Mr. Robert R. Sills and *Mr. William A. Somers* for the Commission.

Mr. H. P. Westering, of Omaha, Nebr., and *Mr. Wendell Berge*, of Washington, D. C., for respondent.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as that Act is applicable to the business of insurance under the provisions of Public Law 15, 79th Congress (Title 15, U. S. Code, Sections 1011 to 1015, inclusive), and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that The Service Life Insurance Company, a corporation, hereinafter referred to as respondent, has 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, The Service Life Insurance Company, is a corporation duly organized, existing and doing business under and by virtue of the laws of the State of Nebraska, with its office and principal place of business located at 1904 Farnum Street, Omaha, Nebraska.

PAR. 2. Respondent is now, and for more than two years last past has been, engaged as an insurer in the business of insurance in commerce, as "commerce" is defined in the Federal Trade Commission Act, by entering into insurance contracts with insureds located in the various States of the United States other than the State of Nebraska, in which states the business of insurance is not regulated by state law to the extent of regulating the practices