

Decision

IN THE MATTER OF
ILLINOIS TRAVELING MEN'S HEALTH ASSOCIATION

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

Docket 6454. Complaint, Nov. 18, 1955—Decision, Sept. 25, 1956

Consent order requiring a Chicago insurance company to cease misrepresenting the terms and conditions of its accident and health insurance policies in advertising matter and statements made by its agents.

Mr. William A. Somers for the Commission.

Ryan, Condon & Livingston, by *Mr. Earle Hurley* and *Mr. Hayes Kennedy*, of Chicago, Ill., for respondent.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on November 18, 1955, issued and subsequently served its complaint in this proceeding against respondent Illinois Traveling Men's Health Association, a corporation existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 332 South Michigan Avenue, Chicago, Illinois.

On August 14, 1956, there was submitted to the undersigned hearing examiner an agreement between the respondent and counsel supporting the complaint providing for the entry of a consent order. By the terms of said agreement, respondent admits all the jurisdictional facts alleged in the complaint; agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations; and agrees that the answer of respondent herein to the complaint shall be considered as having been withdrawn. By such agreement, respondent waives any further procedural steps before the hearing examiner and the Commission; waives the making of findings of fact and conclusions of law; and waives all of the rights it 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 consti-

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tute an admission by respondent that it has 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 respondent, 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, Illinois Traveling Men's Health Association, is a corporation existing and doing business under the laws of the State of Illinois, with its office and principal place of business located at 332 South Michigan Avenue, Chicago, Illinois.

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, Illinois Traveling Men's Health Association, a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of any accident insurance policy, or health insurance policy, do forthwith cease and desist from:

- (A) Representing, directly or by implication:

- (1) That said insurance policy may be continued in effect indefinitely or for any period of time, when, in fact, said policy provides that it may be cancelled by respondent or terminated under any circumstances over which the insured has no control, during the period of time represented.

- (2) That said policy of accidental insurance provides for indemnification to insured in cases of accident generally or in any or all cases of all accident, when such is not the fact.

- (3) That said policy of health insurance provides for indemnification to insured for all disability caused by illness generally when such is not the fact.

- (4) That said accident policy provides for the payment of certain benefits in addition to other benefits when such is not a fact.

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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 25th day of September, 1956, become the decision of the Commission; and, accordingly:

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

Complaint

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IN THE MATTER OF
BYMART-TINTAIR, INC.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 2(d)
OF THE CLAYTON ACT

Docket 6521. Complaint, Mar. 5, 1956—Decision, Sept. 25, 1956

Consent order requiring a manufacturer of hair coloring preparations in Newark, N.J., to cease violating Sec. 2(d) of the Clayton Act by paying certain of its customers for advertising its products on television programs, while not making such payments available on proportionally equal terms to all their competitors.

Before *Mr. J. Earl Cox*, hearing examiner.

Mr. Donald R. Moore for the Commission.

Hughes, Hubbard, Blair & Reed, by *Mr. Richard W. Hogue, Jr.*, *Mr. Kalman A. Oravetz* and *Mr. Allen S. Hubbard, Jr.*, of New York City, for respondent.

COMPLAINT

This complaint is issued by the Federal Trade Commission against the respondent, Bymart-Tintair, Inc., a corporation, because the Commission has reason to believe the corporation has violated the provisions of subsection (d) of Section 2 of the Clayton Act, as amended (15 U.S.C., Section 13). The charges are as follows:

PARAGRAPH 1. Bymart-Tintair, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware. Its factory and general offices are at 250 Hillside Avenue, Newark, New Jersey. It also maintains executive offices at 677 Fifth Avenue, New York, New York.

PAR. 2. Bymart-Tintair, Inc., is engaged in the manufacture and sale of hair coloring preparations, including Tintair, Touch-Up and Lightening Change. It sells these products to customers with places of business located throughout the several states of the United States and in the District of Columbia for resale within the United States to consumers. Among these customers are retail drug chains, independent retail drug stores, department stores, variety stores and beauty salons.

PAR. 3. Bymart-Tintair is now, and for many years has been, engaged in commerce, as that term is defined in the Clayton Act. It transports, or causes to be transported, its products from the state of manufacture to customers located in other States of the United States and the District of Columbia, as well as in the state of manufacture. There is, and has been, a constant stream of trade and