

IN THE MATTER OF  
PAGEANT PRESS, INC., ET AL.

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

*Docket 6693. Complaint, Dec. 13, 1956—Decision, Apr. 13, 1957*

Consent order requiring a company in New York City which, in advertisements in magazines, newspapers, etc., solicited contracts to publish books at the expense of their authors and to promote and sell such books, to cease misrepresenting the services it gave authors under such subsidy plan.

*Mr. S. F. House* for the Commission.

*Mr. Joseph Benisch*, of New York City, for respondents.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on December 13, 1956, charging them with violation of the Federal Trade Commission Act as set forth in said complaint. After issuance and service of the complaint both respondents and their attorney on February 1, 1957, entered into an agreement with counsel supporting the complaint for a consent order to cease and desist from the practices complained of which agreement purports to dispose of all the issues in this proceeding without hearing. Subsequently, on February 4, 1957, respondents, through their attorney, filed answer to the complaint, denying material allegations of the complaint. By letter to the hearing examiner dated February 15, 1957, treated as a motion, respondents' attorney requested that the answer be withdrawn, which motion was granted in separate order. The aforesaid agreement for a consent order to cease and desist has been duly approved by the Assistant Director and Director of the Bureau of Litigation and has been submitted to the undersigned, heretofore designated to act as hearing examiner herein for his consideration in accordance with Rule 3.25 of the Rules of Practice of the Commission.

It is noted that in the said agreement counsel supporting the complaint states that in his opinion there is insufficient evidence available to sustain the charge set out in Paragraph Seven of the complaint and therefore requests that this charge be dismissed. This is in effect a motion to dismiss as to Paragraph Seven of the complaint, is treated as such and granted.

Respondents Pageant Press, Inc., a corporation and Simon A. Halpern, individually and as an officer of said corporation in the

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aforesaid agreement have admitted all the jurisdictional facts alleged in the complaint and have agreed that the record may be taken as if findings of the jurisdictional facts had been made in accordance with such allegations. Said agreements provides further that respondents waive all further procedural steps before the hearing examiner or the Commission, including the making of findings of fact or conclusions of law and the right to challenge or contest the validity of the order to cease and desist entered into in accordance with the agreement. It has also been agreed that the record herein shall consist solely of the complaint and said 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 said 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, that said order to cease and desist 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 of the Commission and that the complaint may be used in construing the terms of the order.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing the consent order and it appearing that the agreement and order cover all the allegations of the complaint and provide for appropriate disposition of this proceeding, the order and agreement are hereby accepted and ordered filed upon becoming part of the Commission's decision pursuant to Section 3.21 and 3.25 of the Rules of Practice and the hearing examiner accordingly makes the following findings for jurisdictional purposes and order:

1. Respondent Pageant Press, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of New York with its office and principal place of business formerly located at 130 West 42nd Street in the City of New York, State of New York, but now located at 101 Fifth Avenue in the same city.

2. Respondent Simon A. Halpern is President of said corporation. He formulates, directs and controls the acts, practices and policies of said corporation. His address is the same as that of the corporate respondent.

## ORDER

*It is ordered,* That respondent Pageant Press, Inc., a corporation, and its officers, and respondent Simon A. Halpern, individually and as an officer of said corporate respondent, and respondents' agents, representatives and employees, directly or through any corporate or

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other device, in connection with the solicitation of contracts for the publication of books for authors and prospective authors and in the promotion, sale, and distribution in commerce of books of authors who have entered into such contracts with respondents, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or indirectly:

(a) That the cost of publication paid to respondents under their contracts is treated in any different manner, for income tax purposes, than are the costs of publication paid to competitors under their contracts.

(b) That other publishers, as distinguished from respondents, do not have sales departments.

(c) That they differ from other publishers in that they allow bookstores to return unsold books for credit or refund.

(d) That they are recommended by editors, authors, literary agents or organizations, or any of them, unless such is the fact.

(e) That they secure motion picture rights to books published by them, unless such is the fact.

(f) That the amount paid by authors as subsidies to respondents are lower than that paid to their competitors, unless such is the fact.

(g) That the amount of promotion, publicity or paid national advertising given the books published by them is greater than that given by royalty houses, unless such is the fact.

*It is further ordered,* That the charge in Paragraph Seven of the Complaint, that the use of the word "Press" in the name of the corporate respondent is deceptive, be and the same hereby is dismissed without prejudice to the right of the Commission to take such action in the future as may be warranted by subsequent events.

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 13th day of April, 1957, become the decision of the Commission; and accordingly:

*It is ordered,* That 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.

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IN THE MATTER OF  
JAMES H. GATES ET AL. DOING BUSINESS AS  
SEABOARD EQUIPMENT COMPANY

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATIONS OF SEC. 3 OF THE  
CLAYTON ACT

*Docket 6632. Complaint, Sept. 12, 1956—Decision, Apr. 16, 1957*

Order dismissing—for the reason that respondent partnership was superseded by a corporation in the management of which the principal individual respondent was not active—complaint charging several Surfside, Calif., sellers of "Mercury" outboard motors and parts and accessories therefor, with making sales to retail dealers on condition that purchasers not deal in similar commodities of a competitor.

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

*Mr. William J. D. Lane*, of Los Angeles, Calif., for respondents.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

DISMISSING COMPLAINT WITHOUT PREJUDICE

This proceeding is before the hearing examiner upon motion of counsel in support of the complaint to dismiss the complaint without prejudice for the reason that the partnership composed of the respondents had been discontinued and was superseded on October 1, 1955, by a corporation styled Seaboard Equipment Company, Inc., and that the principal respondent James H. Gates does not appear to be active in the management of the present corporation, and the hearing examiner having considered said motion and the record herein and being now duly advised in the premises.

*It is ordered*, That the complaint herein be dismissed without prejudice.

DECISION OF THE COMMISSION

The Commission having determined that the hearing examiner's initial decision, filed January 30, 1957, dismissing the complaint constitutes an appropriate disposition of this proceeding:

*It is ordered*, That said initial decision be, and it hereby is, adopted as the decision of the Commission.