

IN THE MATTER OF
VENDIT, INC., ET AL.

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

Docket 6955. Complaint, Dec. 18, 1956—Decision, Apr. 20, 1957

Consent order requiring a company in Cleveland, Ohio, engaged in the promotion, sale, and distribution of vending machines and vending machine supplies, to cease representing falsely in "bait" advertisements placed in the "Help Wanted" section of newspapers to obtain leads to purchasers, that employment with opportunities for exceptional profits was offered to selected persons, that money invested was completely safe, that respondents assisted in locating vending machines, etc.

Mr. William A. Somers for the Commission.

Mr. Don C. Miller, of Cleveland, Ohio, for respondents.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

The complaint in this proceeding charges the respondents with violation of the Federal Trade Commission Act through the making of certain representations in connection with the sale of vending machines and supplies therefor.

An agreement has been entered into between respondents, their counsel, and counsel supporting the complaint which provides, among other things, the following: Respondents admit all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and said 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; respondents waive the requirement that the decision must contain a statement of findings of fact and conclusions of law; respondents waive further procedural steps before the Hearing Examiner and the Commission, and the order may be altered, modified, or set aside in the manner provided by statute for other orders; respondents waive any right to challenge or contest the validity of the order entered in accordance with the agreement; and the signing of 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.

The Hearing Examiner having considered the agreement and proposed order and being of the opinion that the acceptance of the agreement will be in the public interest, hereby accepts such agree-

ment, makes the following jurisdictional findings, and issues the following order:

1. Respondent, Vendit, Inc., is a corporation organized and doing business under the laws of the State of Ohio, with its office and principal place of business located at 2012 West 25th Street, Cleveland, Ohio. Respondent Susan D. Clark is president of said corporation. Her address is the same as that of the corporate respondent.

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.

ORDER

It is ordered, That respondents Vendit, Inc., a corporation, and its officers, and Susan D. Clark, individually and as an officer of said corporation, 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 or vending machine 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. Employment is offered by respondents when, in fact, the real purpose of the advertisement is to obtain purchasers for respondents' products.

2. Their offer is made to selected persons.

3. The earnings or profits derived from the operation of respondents' machines are any amounts in excess of those which have been, in fact, customarily earned by operators of their machines.

4. It is necessary for a person to have a car or to furnish references in order to qualify for respondents' offer.

5. The amount invested in respondents' products is secured either by inventory or otherwise.

6. The purchasers of respondents' products can not lose their investments.

7. The operation of respondents' machines provides the safest or surest business on earth or misrepresenting in any other manner the safety or surety of said business.

8. The machines sold by respondent will empty twice a week or within any other period of time that is not usual or customary.

9. The profits derived from the operation of respondents' machines provide financial assurance for old persons or those suffering from permanent or partial disability.

Decision

53 F.T.C.

10. Respondents or their sales representatives obtain or assist in obtaining, satisfactory or other locations for machines purchased, unless such is the fact.

11. Respondents will send a list of specific locations where the machines purchased may be placed, unless such is the fact.

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 20th day of April, 1957, become the decision of the Commission; and, accordingly:

It is ordered, That the 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.

Decision

IN THE MATTER OF
AMERICAN ALBUMS, INC., ET AL.

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

Docket 6571. Complaint, June 18, 1956—Decision, Apr. 23, 1957

Order requiring a seller in Cleveland, Ohio, of photograph albums together with certificates for photographs to be taken at independent affiliated studios in various States, to cease representing falsely, through salesmen calling upon mothers of new-born children usually, in their homes, that the persons solicited had been especially selected and would receive free a leather-bound album, and at a reduced price for the combination offer; and to cease giving exaggerated fictitious prices as the customary price of the albums.

Mr. Edward F. Downs for the Commission.

Kahn & Danaceau, by *Mr. Harold H. Kahn*, of Cleveland, Ohio, for respondents.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

THE CASE

Complaint herein, issued June 18, 1956, charged respondents with the use of false, deceptive and misleading representations in the interstate sale of photograph albums in violation of the Federal Trade Commission Act (15 U.S.C.A. 45). Specifically the complaint charged that in such sale respondents or their representatives, represented, contrary to the fact, that prospective purchasers had been especially selected, would receive an album free, that the price of \$49.95 was a special promotional and reduced price, that the album was bound in leather, and that the albums customarily sold at retail for much higher prices. Respondents' answer admitted only their corporate and officer description and that they were selling photograph albums. Two hearings were held for the reception of evidence in support of the complaint, other evidence, both offensive and defensive, was stipulated and incorporated in the record as exhibits and the proceedings finally closed February 1, 1957. Thereafter, on March 4, 1957, all counsel submitted to the hearing examiner proposed findings of fact and conclusions of law, upon consideration of which, and of the entire record, the latter finds this proceeding to be in the public interest and makes the following findings of fact and conclusions. Any proposed finding of fact or conclusion not hereinafter specifically found or concluded is herewith rejected.