

Decision

IN THE MATTER OF
ROY M. BLOOM, INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 6723. Complaint, Feb. 11, 1957—Decision, June 21, 1957*

Consent order requiring a seller in New York City to cease representing falsely in advertisements in newspapers, in circulars, etc., and by use of the words "Air Conditioner", that its "Port-a-Temp" device—a rubber and plastic receptacle in which a fan drew air through a fiber glass filter over two small cans of refrigerant (required to be cooled periodically in the refrigerator) and expelled it through grilled openings in the front of the housing—performed all the functions of an air conditioner, and would purify and deodorize and significantly dehumidify and cool hot air in the home, office, automobile, etc.

Mr. Floyd O. Collins for the Commission.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

Roy M. Bloom, Inc., and Roy M. Bloom, individually, hereinafter called respondents, are charged with making false, misleading and deceptive statements and representations through advertisements in newspapers and circulated pamphlets that a device "Port-A-Temp", which they offered for sale, was an air conditioner, whereas, the complaint alleges, said device is not an air conditioner as such descriptive term is commonly understood by the trade and the public.

After issuance and service of the complaint, the respondents and counsel supporting the complaint entered into an agreement for a consent order. The order disposes of all the matters complained about. The agreement has been approved by the Director and Assistant Director of the Bureau of Litigation.

The pertinent provisions of said agreement are as follows: 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 the 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 conclusion of law; respondents waive further procedural steps before the Hearing Examiner and the Commission; 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 thereof will be in the public interest, hereby accepts such agreement, makes the following jurisdictional findings, and issues the following order:

JURISDICTIONAL FINDINGS

1. The respondent Roy M. Bloom, Inc., is a corporation organized and doing business under the laws of the State of New York, with its office and principal place of business located at 274 Madison Avenue, New York, New York. The individual respondent Roy M. Bloom is the president of said corporation and his office and principal place of business is the same as that of the corporation.

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 respondent Roy M. Bloom, Inc., a corporation, and its officers and respondent Roy M. Bloom, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of their device or apparatus designated "Port-A-Temp", or any other device or apparatus of substantially similar construction and designed to operate on the same or similar principle, whether sold under the same name or any other name, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "Air Conditioner", or any other word or words of similar import or meaning, either alone or in combination with any other word or words, to designate, describe or refer to said device or apparatus.

2. Representing, directly or by implication, that said device will purify, dehumidify, deodorize or cool air.

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

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Order

of June, 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.

Complaint

53 F.T.C.

IN THE MATTER OF

INSTITUTIONAL FOODS COMPANY, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
SEC. 2(C) OF THE CLAYTON ACT*Docket 6733. Complaint, Feb. 21, 1957—Decision, June 21, 1957*

Consent order requiring a corporate distributor of canned and packaged foods principally to schools in eastern North Carolina, with office in Raleigh, N. C., to cease violating sec. 2(c) of the Clayton Act by receiving illegal brokerage from sellers on substantial purchases of food products made through an incorporated brokerage firm in which its president and his wife owned a half interest and of which the president was also the salaried manager.

Mr. Cecil G. Miles for the Commission.

Mr. Labon Thornton, of Raleigh, N. C., *pro se* and also for Institutional Foods Co., Inc.

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondent named in the caption hereof, and hereinafter more particularly designated and described, have violated and are now violating the provisions of sub-section (c) of Section 2 of the Clayton Act (U.S.C., Title 15, Section 13), as amended by the Robinson-Patman Act, approved June 19, 1936, hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent, Institutional Foods Company, Inc., hereinafter sometimes referred to as respondent corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of North Carolina, with its principal office and place of business located at 1010 Greene Street, Raleigh, North Carolina. Respondent corporation is a wholesale distributor engaged in the sale and distribution of canned and packaged foods to various institutions, principally schools, in eastern North Carolina. Its average sales approximate \$400,000 annually.

PAR. 2. Respondent Labon Thornton is president and half owner of respondent Institutional Foods, Inc., and, along with his wife owns a half interest in J. A. Richardson of Raleigh, Inc., a brokerage firm, both located in Raleigh, North Carolina. Respondent Thornton owns 31 of the 64 shares of the capital stock of the brokerage firm and his wife owns one share making up the 50 percent ownership thereof. Respondent Thornton is also manager of the brokerage concern and receives a salary for his services as said manager.