

Decision

IN THE MATTER OF
AFFILIATED BROKERS, INC., ET AL.

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

Docket 6746. Complaint, Mar. 22, 1957—Decision, July 17, 1957

Consent order requiring two Chicago real estate advertising firms and their common officer to cease representing falsely through oral and written statements and by wording of the corporate names that they were bona fide business brokers or a cooperative organization engaged in the sale of business establishments, that they had ready purchasers, and would guarantee sale of a property or refund the substantial service fee they collected.

Mr. Terral A. Jordan for the Commission.

Blowitz & Ozman, by *Mr. Max Pastin*, of Chicago, Ill., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges that respondents, in the course of their business in commerce, have represented that they operate business enterprises which offer certain services and facilities in commerce in the offering for sale, selling, buying and exchanging of business properties; and that they are bona fide business brokers or a bona fide cooperative organization engaged in the sale of business properties; that they have ready buyers, guarantee sale of properties, will make refund of "service" deposits, have funds which can be used in financing sales, and in many other respects will afford sellers exceptional brokerage services. The complaint alleges that these representations are false and misleading and in violation of the Federal Trade Commission Act.

After the issuance of the complaint, respondents, their counsel and counsel supporting the complaint entered into an agreement containing consent order to cease and desist, which was approved by the Director and the Assistant Director, Bureau of Litigation of the Commission, and thereafter transmitted to the Hearing Examiner for consideration.

The agreement states that respondents Affiliated Brokers, Inc. and Business Co-Op, Inc. are corporations existing and doing business under and by virtue of the laws of the State of Illinois; that respondent William John Madone is an individual and an officer of

each of such corporations; and that the office and principal place of business of each of the respondents is located at Suite 1700, 6 E. Monroe Street, Chicago, Illinois.

The agreement provides, among other things, that the respondents admit all the jurisdictional facts alleged in the complaint and agree that the record may be taken as if findings of jurisdictional facts had been duly 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 of the 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 disposes of 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 respondent Affiliated Brokers, Inc., a corporation, and its officers, and Business Co-op, Inc., a corporation, and its officers, and William John Madone, individually and as an officer of each of the said corporate respondents, and each of respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale or sale, in commerce, as "commerce" is defined in the Federal Trade Commission Act, of advertising in newspapers and in other advertising media and of other services and facilities in connection with the offering for sale, selling, buying or exchanging of business property or any other kind of property, do forthwith cease and desist from, directly or indirectly, representing:

1. That any sum of money deposited by a prospective seller of property with the respondents on condition that respondents will effect a sale of said property on expressed or implied conditions will be returned, unless said sum is in fact returned on the failure of respondents to comply with the conditions of the agreement;

2. That respondents have available qualified or ready purchasers for businesses unless such purchasers are in fact available;

3. That respondents will undertake the sale of property without risk, obligation or expense to the prospective seller;

4. That respondents have available through their own resources, the funds or facilities necessary to finance the sale and transfer of business property or other kinds of property or that respondents are in fact engaged in the business of financing the sale and transfer of such property.

It is further ordered, That said respondent Affiliated Brokers, Inc., a corporation, and its officers, and William John Madone, 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 or sale, in commerce, as "commerce" is defined in the Federal Trade Commission Act, of advertising in newspapers and in other advertising media and of other services and facilities in connection with the offering for sale, selling, buying or exchanging of business property or any other kind of property, do forthwith cease and desist from, directly or indirectly, representing:

That they or their agents, representatives, and employees are bonded, licensed or insured with respect to or to engage in the operation of a brokerage business for the sale of business property or any other kind of property.

It is further ordered, That said respondent Business Co-Op, Inc., a corporation, and its officers, and William John Madone, 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 or sale, in commerce, as "commerce" is defined in the Federal Trade Commission Act, of advertising in newspapers and in other advertising media and of other services and facilities in connection with the offering for sale, selling, buying or exchanging of business property or any other kind of property, do forthwith cease and desist from:

Using the word "Co-Op" as a part of a corporate or trade name, or representing in any other way or by any other means, that they operate a cooperative business.

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 17th day of July, 1957, become the decision of the Commission; and, accordingly:

It is ordered, That the above-named respondents 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
SYDCO INDUSTRIES, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION AND THE WOOL PRODUCTS LABELING ACTS

Docket 6774. Complaint, Apr. 11, 1957—Decision, July 17, 1957

Consent order requiring a dealer in New York City to cease misbranding wool-filled bed comforters by failing to disclose the nature of the fibers used in the covering materials, and to cease marking containers of such comforters with fictitious prices and with the word "Mothproof" improperly.

Michael J. Vitale and Thomas A. Ziebarth, Esqs. in support of the complaint.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

The complaint in this proceeding, issued April 11, 1957, charges the respondents Sydco Industries, Inc., a corporation, and Morton Springer, individually and as an officer of the corporate respondent, with violation of the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, and of the Rules and Regulations promulgated under authority of the said Wool Products Labeling Act, in connection with the sale, offering for sale and distribution of bed comforters under the brand name "Sweetheart Custom Made Comforter," in commerce, as "commerce" is defined in said Acts.

After the issuance of said complaint respondents, on May 28, 1957, entered into an agreement for a consent order with counsel in support of the complaint, disposing of all of the issues in this proceeding, which agreement was duly approved by the Director and Assistant Director of the Bureau of Litigation of the Federal Trade Commission. It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

By the terms of said agreement, the respondents admitted all of the jurisdictional allegations of the complaint and agreed that the record herein may be taken as though the Commission had made findings of jurisdictional facts in accordance with such allegations. By said agreement the parties expressly waived a hearing before the Hearing Examiner or the Commission, the making of findings of fact or conclusions of law by the Hearing Examiner or the Commission, the filing of exceptions and oral argument before the Com-