

Decision

IN THE MATTER OF
FREE STATE PRODUCTS, INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket 6621. Complaint, Aug. 28, 1956—Decision, Aug. 24, 1957

Consent order requiring a manufacturer in Baltimore, Md., to cease selling punchboards and push cards to manufacturers and dealers who assembled them with assortments of candy, cigarettes, clocks, razors, cosmetics, clothing, etc., and thereafter sold the merchandise by means of the lottery devices.

Mr. John W. Brookfield, Jr., for the Commission.

Mr. Horace J. Donnelly, Jr., of Washington, D.C., for respondent.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes hereinafter referred to as the Commission), on August 28, 1956, issued its complaint herein under the Federal Trade Commission Act against the above-named respondents, Free State Products, Inc., a corporation, and Allen B. Tabakof and Jules J. Greenspan, individually and as officers of said corporation, charging said respondents with having violated the provisions of the Federal Trade Commission Act in certain particulars. The respondents were duly served with process. Respondents' answer was filed October 3, 1956. After several continuances for good cause had been granted upon the several or joint applications of counsel for the parties, the initial hearing was held April 12, 1957, in Washington, D.C., and a further hearing ordered to be held was subsequently canceled pending the negotiation by the parties of an agreement containing a consent order to cease and desist.

On July 2, 1957, there was submitted to the undersigned hearing examiner of the Commission for his consideration and approval an "Agreement Containing Consent Order To Cease And Desist," which had been entered into by and between each of the respondents and John W. Brookfield, Jr., counsel supporting the complaint, and Horace J. Donnelly, Jr., counsel for respondents, under date of June 21, 1957, and subject to the approval of the Bureau of Litigation of the Commission. Such agreement had been thereafter duly approved by the Director and Assistant Director of the Commission's Bureau of Litigation.

On due consideration of the said Agreement Containing Consent Order To Cease And Desist, the hearing examiner finds that said agreement both in form and content is in accord with said Section 3.25 of the Rules of Practice and Procedure of the Commission and that by said agreement the parties have specifically agreed that:

1. Respondent, Free State Products, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Maryland with its office and principal place of business located at 425 Eastern Avenue, in the City of Baltimore, Maryland. Respondent, Allen B. Tabakof is president and respondent, Jules J. Greenspan is vice-president and secretary of said corporate respondent. Said individual respondents formulate, direct and control the policies, acts and practices of respondent corporation and have their office and place of business at the same address as that of corporate respondent.

2. Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on August 28, 1956, issued its complaint in this proceeding against respondents and a true copy was thereafter duly served on respondents.

3. 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.

4. This agreement disposes of all of this proceeding as to all parties.

5. Respondents waive:

- a. Any further procedural steps before the hearing examiner and the Commission;
- b. The making of findings of fact or conclusions of law; and
- c. All of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement.

6. 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.

7. This agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

8. This 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 parties have further specifically agreed that the proposed order to cease and desist included in said agreement may be entered in this proceeding by the Commission without further notice to respondents; that when so entered it shall have the same force

and effect as if entered after a full hearing; that it 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.

Upon due consideration of the complaint filed herein and the said "Agreement Containing Consent Order To Cease And Desist," the latter is hereby approved, accepted and ordered filed, the same not to become a part of the record herein, however, unless and until it becomes part of the decision of the Commission. The hearing examiner finds from the complaint and the said "Agreement Containing Consent Order To Cease And Desist" that the Commission has jurisdiction of the subject matter of this proceeding and of the persons of each of the respondents herein; that the complaint states a legal cause for complaint under the Federal Trade Commission Act against each of the respondents both generally and in each of the particulars alleged therein; that this proceeding is in the interest of the public; that the following order as proposed in said agreement is appropriate for the just disposition of all of the issues in this proceeding, such order to become final only if and when it becomes the order of the Commission; and that said order therefore should be, and hereby is, entered as follows:

ORDER

It is ordered, That the respondent Free State Products, Inc., a corporation, and its officers, and respondents Allen B. Tabakof, Jules J. Greenspan, individually and as officers of said corporation and respondents' agents, representatives and employees, directly or through any corporate or other device, do forthwith cease and desist from:

1. Selling or distributing in commerce, as "commerce" is defined in the Federal Trade Commission Act, push cards, punch boards, or other lottery devices which are designed or intended to be used in the sale and distribution of merchandise to the public by means of a game of chance, gift enterprise or lottery scheme.

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 24th day of August, 1957, become the decision of the Commission; and, accordingly:

It is ordered, That 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.

IN THE MATTER OF
JACOB SCHACHTER TRADING AS J. SCHACHTER

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

Docket 6762. Complaint, Apr. 4, 1957—Decision, Aug. 24, 1957

Consent order requiring a manufacturer in New York City to cease labeling bed comforters falsely as to the wool and other fiber content and failing to label them as required, in violation of the Wool Products Labeling Act; and to cease representing falsely on advertising streamers and inserts enclosed in individual containers of the comforters that the filling was 100% new material, that the comforters were treated with Westinghouse ultraviolet ray lamps, and that a fictitious and excessive figure was the usual retail price.

Mr. Harry E. Middleton, Jr., for the Commission.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

The complaint in this proceeding charges that Jacob Schachter, erroneously referred to in the complaint as "Jacob Schachter," trading as J. Schachter, hereinafter called respondent, violated the provisions of the Federal Trade Commission Act, the Wool Products Labeling Act, and the Rules and Regulations promulgated thereunder, in the operation of his business.

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

The material provisions of said agreement are as follows: Respondent admits 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 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; respondent waives the requirement that the decision must contain a statement of findings of fact and conclusion of law; respondent waives 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; respondent waives 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 consti-