

Decision

IN THE MATTER OF

GORDON L. VAN DER BOOM ET AL. DOING BUSINESS AS
HOME STUDY EDUCATORSCONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 6795. Complaint, May 14, 1957—Decision, Nov. 6, 1957*

Consent order requiring a Los Angeles, Calif., correspondence school to cease advertising falsely that its correspondence course in fish, forestry, and wildlife covered essential requirements for State and federal jobs in those fields and that it provided a placement service for students completing its course; and to cease misrepresenting the educational requirements, opportunities for employment and advancement, and starting salaries, among other things.

John J. McNally, Esq., for the Commission.

Henry Junge, Esq., of Chicago, Ill., for respondents.

INITIAL DECISION BY ROBERT L. PIPER, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on May 14, 1957, charging them with having violated the Federal Trade Commission Act by making false and misleading representations concerning their product, a correspondence course of instruction, their business organization, and opportunities afforded purchasers of said product. Respondents entered into an agreement, dated August 12, 1957, containing a consent order to cease and desist, disposing of all the issues in this proceeding without hearing, which agreement has been duly approved by the Director of the Bureau of Litigation. Said agreement has been submitted to the undersigned, heretofore duly designated to act as hearing examiner herein, for his consideration in accordance with Section 3.25 of the Rules of Practice of the Commission.

Respondents, pursuant to the aforesaid agreement, have admitted all of the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been made duly in accordance with such allegations. Said agreement further provides 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 in accordance with such agreement. It has also been agreed that the record herein shall consist solely of the com-

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plaint 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, 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 order and agreement cover all of the allegations of the complaint and provide for appropriate disposition of this proceeding, the agreement is hereby accepted and ordered filed upon this decision and said agreement becoming part of the Commission's decision pursuant to Sections 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. Respondents Gordon L. Van der Boom, John J. McNaughton and Arnold Heiderich are individuals trading and doing business under the name and style of Home Study Educators, with their office and principal place of business located at 1036-1038 South La Brea Avenue, Los Angeles 19, California.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named. The complaint states a cause of action against said respondents under the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That respondents Gordon L. Van der Boom, John J. McNaughton and Arnold Heiderich, individually and doing business as Home Study Educators, or under any other name, their agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of their course of instruction pertaining to fish, forestry and wildlife, or any other similar course, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or indirectly:

- (a) The said course of instruction is a complete course or that it covers the essential requirements for all positions with the fish,

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forestry or wildlife departments of each of the States of the United States or of the United States Government, or misrepresenting in any manner the extent or coverage of said course of instruction.

(b) That testimonials set out in respondents' advertisements are unbiased or unsolicited when such is not the fact.

(c) That respondents provide a placement service for those completing their course of instruction or render service to them in obtaining positions in cases involving civil service employment.

(d) That an expert on fish, forestry or wildlife is on respondents' staff, unless such is the fact.

(e) That respondents provide consultation service or personal counseling to those who purchase their course of instruction, unless such is the fact.

(f) That their course of instruction is offered at a saving unless the represented saving is based upon the price at which the course of instruction is usually and customarily sold.

2. Misrepresenting the necessary basic educational requirements or experience, or lack of either of them, to qualify persons for positions referred to in 1(a) above.

3. Misrepresenting the openings and opportunities for employment in the various fields referred to in 1(a) above.

4. Misrepresenting the salaries and opportunities for advancement for any of the types of employment referred to in 1(a) above.

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 6th day of November, 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.

IN THE MATTER OF
THE SWEETS COMPANY OF AMERICA, INC.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
SEC. 2(d) OF THE CLAYTON ACT

Docket 6460. Complaint, Nov. 21, 1955—Decision, Nov. 7, 1957

Consent order requiring a candy manufacturer in Hoboken, N.J., to cease violating Sec. 2(d) of the Clayton Act by making special allowances to certain customers—such as those granted for promotion of anniversary sales to food chains in Philadelphia, Pa., and Washington, D.C.—without making them available to competing customers on proportionally equal terms.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof, and hereinafter more particularly described, has violated the provisions of subsection (d) of Section 2 of the Clayton Act (U.S.C. Title 15, Sec. 13), as amended by the Robinson-Patman Act, hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent, The Sweets Company of America, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia, with its office and principal place of business located at Hoboken, New Jersey.

PAR. 2. Respondent is now and has been engaged in the manufacture, sale and distribution of candy products, the principal ones of which are sold under the trade name "Tootsie." Respondent sells its candy products through brokers, distributors, and direct to retail customers, including retail chain store organizations. Sales made by respondent of its products are substantial, amounting in the year 1954 to \$12,486,065.

PAR. 3. In the course and conduct of its business respondent has engaged and is now engaging in commerce, as "commerce" is defined in the Clayton Act as amended. Respondent sells and causes its products to be transported from the respondent's principal place of business, located in New Jersey, to customers located in other States of the United States and in the District of Columbia.

PAR. 4. In the course and conduct of its business in commerce, respondent paid or contracted for the payment of something of value to or for the benefit of some of its customers as compensation or in consideration for services or facilities furnished by or through such customers in connection with their offering for sale or sale of products sold to them by respondent, and such payments were not made