

IN THE MATTER OF
SOUTHERN PIANO COMPANY, INC., ET AL.

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

Docket 6839. Complaint, July 15, 1957—Decision, Nov. 23, 1957

Consent order requiring sellers in Salisbury, N.C., to cease advertising new pianos falsely as bargain repossessed instruments previously sold at prices substantially higher than those at which they were presently offered.

Mr. Brockman Horne for the Commission.

Mr. Graham M. Carlton, of Salisbury, N.C., for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) issued its complaint herein charging the above-named respondents, Southern Piano Company, Inc., a corporation, and Thomas W. Willis, Mildred Ellen Willis and Dan Miller Nicholas, individually and as officers of said corporation, with having violated the provisions of the Federal Trade Commission Act in certain particulars. The respondents were duly served with process. The initial hearing and subsequent hearings ordered by the hearing examiner were canceled pending negotiations of counsel for a consent agreement.

On October 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 said respondents and by its attorney and Brockman Horne, counsel supporting the complaint, under date of October 1, 1957, and subject to the approval of the Bureau of Litigation of the Commission. Such agreement had been thereafter duly approved by that Bureau.

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 in content, is in accord with Section 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings and that by said agreement the parties have specifically agreed that:

1. Respondent Southern Piano Company, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of North Carolina, with its office and principal place of business located at 128 East Council Street, Salisbury, North Carolina.

Respondents Thomas W. Willis, Mildred Ellen Willis and Dan Miller Nicholas were, prior to about January 1, 1957, President, Vice-President, and Secretary-Treasurer, respectively, of said corporation and formulated, directed and controlled its policies, acts and practices. Subsequent to that date, Thomas W. Willis and Mildred Ellen Willis resigned as officers of said corporation. Their present address is 514 Heilig Avenue, Salisbury, North Carolina. At the same time, Dan Miller Nicholas became President of said corporation and presently formulates, directs and controls its policies, acts and practices. His address is the same as that of the corporation.

2. Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on July 15, 1957, 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.

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, unless and until it becomes part of the decision of the Commission. The hearing examiner finds from the complaint and the said "Agreement Containing Con-

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sent Order To Cease And Desist," that the Commission has jurisdiction of the subject matter of this proceeding and of the person of the respondents herein; that the complaint states a legal cause for complaint under the Federal Trade Commission Act both generally and in each of the particular charges 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 full disposition of all 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 respondents Southern Piano Company, Inc., a corporation, and its officers, and Thomas W. Willis, Mildred Ellen Willis and Dan Miller Nicholas, individually and as officers and former officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of pianos, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

1. That pianos which are new and had not been previously sold to others and used by them are repossessed pianos.
2. That pianos have previously been sold at prices higher than those at which they are offered, unless such is the fact.
3. That savings are offered on the purchase of pianos unless based upon the price at which the pianos are customarily and usually sold.
4. That any amount is the price at which respondents sell their pianos when it is in excess of the price at which said pianos are customarily and usually sold by respondents.

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 did on the 23rd day of November, 1957, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Southern Piano Company, Inc., a corporation, and its officers, and Thomas W. Willis, Mildred Ellen Willis and Dan Miller Nicholas, individually and as officers and former officers of said corporation, 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
UNIVERSAL SEWING SERVICE, INC., ET AL.

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

Docket 6844. Complaint, July 22, 1957—Decision, Nov. 26, 1957

Order requiring sellers in Cincinnati to cease using "bait" advertising and other false claims in newspapers, radio and television broadcasts, and statements of salesmen, to sell sewing machines and vacuum cleaners, including representations of unconditional guarantees, representations that installment notes would not be sold to a finance company, and representations that the instrument signed by prospective customers was a "receipt" for products left on approval when it was actually a blank contract of sale; and to cease using the name "Westinghouse" for sewing machines which were manufactured in Japan.

Edward F. Downs, Esq. and Thomas A. Sterner, Esq., supporting the complaint.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

On July 22, 1957 the Federal Trade Commission issued its complaint against the above-named respondents charging them with violation of the Federal Trade Commission Act as set forth in said complaint. From the record it appears that copies of said complaint were duly served on said respondents together with copies of an order designating and appointing James A. Purcell as hearing examiner in this proceeding. The complaint so served contained a notice that a hearing would be held in Cincinnati, Ohio on September 25, 1957 on the charges set forth in said complaint, at which time respondents would have the right to appear and show cause why an order should not be entered requiring each of them to cease and desist from violations of the law charged in the complaint. The complaint further contained a notice that respondents were afforded an opportunity to file with the Commission an answer to the complaint on or before 30 days after service.

The record shows further that no answer to the complaint was filed within the time prescribed, that after the time for filing answer had expired hearing examiner Purcell issued an order on September 11, 1957 noting the default in the matter of filing answer, cancelling the hearing set for Cincinnati, Ohio on September 25, 1957 and in lieu thereof scheduling a hearing in Room 692, Federal Trade Commission Building, Washington, D.C. on October 3, 1957 at 10:00 A.M., which order was duly served on respondents.