

IN THE MATTER OF
EXPOSITION PRESS, INC., ET AL.

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

Docket 6638. Complaint, Sept. 18, 1956—Decision, Jan. 7, 1958

Consent order requiring a publisher in New York City to cease making in advertising a variety of false claims as to the size and extent of its organization, the amount of its business, the number and quality of services rendered authors, etc., to induce authors to sign contracts for publication of their books under its "Cooperative Publishing Plan," and including such false representations as that authors paid a "minimal subsidy" when they actually paid the entire cost.

Mr. Charles S. Cox supporting the complaint.

Mr. Philip Adler, of New York City, for respondents.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on September 18, 1956, charging them with violation of the Federal Trade Commission Act as set forth in said complaint. After issuance and service of the complaint, separate answer was filed for the respondent Mildred Langer. Joint answer was also filed for respondents Exposition Press, Inc., and Edward Uhlan. After filing of these answers, hearings were held in New York City at which evidence in support of the allegations of the complaint was received. At these hearings 1,000 pages of testimony were taken and over 200 exhibits were offered. Subsequently respondents and their counsel and counsel supporting the complaint entered into an agreement containing a consent order to cease and desist from certain of the practices complained of which agreement purports to dispose of all of the issues in this proceeding. This agreement has been duly approved by the assistant director and director of the Bureau of Litigation. Said agreement has been submitted to the undersigned, heretofore designated to act as hearing examiner herein, for his consideration in accordance with section 3.25 of the rules of practice of the Commission.

It is noted that in said agreement it is stated that the individual respondent Mildred Langer, although she was vice president and secretary of the corporate respondent, Exposition Press, Inc., had no control over the acts and practices of the corporate respondent. Counsel supporting the complaint recommends that the complaint be

dismissed as to her. This is treated as a motion to dismiss as to respondent Mildred Langer both in her individual capacity and as an officer of the corporate respondent and is granted.

It is further noted that counsel supporting the complaint in said agreement recommends that the charge in the complaint relative to respondents' use of the word "Press" be dismissed, giving what is considered adequate reason therefor. These charges are contained in the first part of paragraph 6 and the first part of paragraph 7 of the complaint. This is also treated as a motion and is granted.

It is further noted that counsel supporting the complaint in said agreement states that the agreement adequately covers all other material allegations of the complaint; that any allegations not covered are minor ones on which the evidence if taken would probably not be sufficient to sustain an order and for that reason he is willing to abandon such charges. This is in effect a motion to dismiss as to any charges in the complaint not covered by the order to cease and desist in the agreement, on the ground that in the opinion of counsel such charges could not be proven, is treated as such a motion and granted.

In said agreement, respondents herein have admitted all of the jurisdictional facts alleged in the complaint and have agreed that the record may be taken as if findings of the jurisdictional facts had been made in accordance with such allegations. Said agreement provides further that respondents waive all further procedural steps before the hearing examiner and 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 the agreement. It has also been agreed that the record herein shall consist solely of the complaint and said agreement and 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 into after a full hearing and may be altered, modified or set aside in the manner provided for other orders of the Commission 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, the hearing examiner finds that the agreement and the order contained therein adequately cover all of the allegations of the com-

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plaint and provide for a fair, just and appropriate disposition of this proceeding. The order and the agreement are hereby accepted and ordered filed upon becoming a 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. Respondent, Exposition Press, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York. Individual respondent Edward Uhlan is president and treasurer and individual respondent Mildred Langer was vice president and secretary, respectively, of the corporate respondent. Individual respondent Edward Uhlan, formulates, directs, and controls the acts, practices, and policies of the corporate respondent, whereas, individual respondent Mildred Langer was vice president and secretary of the corporate respondent but subject to the direction and control of individual respondent Edward Uhlan. Respondents have their office and principal place of business at 386 Fourth Avenue, New York 16, N.Y.

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. This proceeding is in the public interest.

ORDER

It is ordered, That respondent Exposition Press, Inc., a corporation, and its officers, and respondent Edward Uhlan, individually and as an officer of said corporate respondent, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the solicitation of contracts for the printing, promotion, sale and distribution of books, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or indirectly:

1. That they publish a new titled book each day of the year or a number in excess of those actually published for any specific period;
2. That none of the books published by them have resulted in failures;
3. That their plan of publication and promotional efforts will result in the sale of at least 650 copies or will sell out the first edition or will usually result in the author making a profit on the publication subsidy paid by him;

4. That their sales promotion includes paid space advertisements of their authors' books in the New York Times Book Review or any other newspaper or magazine, without additional charge, unless such is the fact;

5. That their subsidy charge to an author is based only on the literary merit, sales appeal, typographical and production problems of each particular book;

6. That theirs is a "cooperative" publishing plan unless they contribute a sum equal to the author's subsidy;

7. That the sales will warrant more than one edition of any book published by them or that their past sales have been such as to require more than one edition of their books in the majority of cases;

8. That their plan of publication, promotion, sales and distribution of books is endorsed or recommended by established authors, literary agents, publishers' or writers' groups who are acquainted with their method of operation, unless such is the fact;

9. That the cost of publication, promotion, sales and distribution of books by them compares favorably with the lowest cost of trade-publishers, unless such is the fact;

10. That the majority editorial opinion of their staff of a submitted manuscript is laudatory, when such is not the fact;

11. That they will consider for their imprint and will only recommend for publication those manuscripts with the requisite literary merit and sales appeal;

12. That any person has read a given manuscript, when such is not the fact;

13. That they supply their authors with the same promotion services that the largest trade book publishers give their big name best selling authors;

14. That they have salaried travelling salesmen who devote all their time in direct selling of only their books, unless such is the fact;

15. That their books are generally purchased in large numbers as a common practice by leading public, institutional and private libraries throughout the United States;

16. That their promotion will always result in placement of their books in book stores in the vicinity of the author's home or residence;

17. That they will always provide copies of the promoted book in time for local purchase at the time of an interview and guest appearances on TV and radio programs;

18. That they arrange for displays of their author's books at conventions without charge to the author, unless such is the fact;

19. That they will always arrange speaking appearances, autograph parties, TV and radio interviews or guest appearances;

20. That their books have been selected for distribution by book club groups in excess of the titled books actually selected;

21. That they have sold motion picture rights, unless such is a fact, and sold reprint rights to newspapers and magazines of their author's book in excess of the number actually sold;

22. That they publish and also bind all the copies of the titled book they agree to publish, when such is not the fact;

23. That they have sold serial rights for magazine publication of a subsidized manuscript after the author executes a contract with them, unless such is the fact.

B. Overstating, directly or indirectly:

1. The number of titled books they have published which have sold sufficient copies to repay the author the subsidy paid by him;

2. The number of authors who are satisfied with their publishing and promotional service or the number of authors who ask them to publish subsequent books.

It is further ordered, That this proceeding be and the same hereby is dismissed as to respondent Mildred Langer.

It is further ordered, That the charges in the complaint found in paragraphs numbered six and seven of the complaint in regard to use of the word "Press" in the corporate name of respondent, on letter-heads, in circulars and in advertisements and in newspapers and magazines be and the same hereby are dismissed.

It is further ordered, That all other charges in the complaint in regard to unfair methods of competition and unfair and deceptive acts and practices, except those covered by the order to cease and desist set forth above, be and the same hereby are dismissed.

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 7th day of January 1958, become the decision of the Commission; and, accordingly:

It is ordered, That the respondents Exposition Press, Inc., and Edward Uhlan 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

WELLMACED LEATHER GOODS CO. ET AL.

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

Docket 6879. Complaint, Aug. 30, 1957—Decision, Jan. 10, 1958

Consent order requiring manufacturers in New York City to cease preticketing their boys' and men's belts with fictitious and exaggerated prices and thereby placing in the hands of retail outlets means for deceiving the purchasing public as to the usual retail price of the belts.

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

Mr. Julian Buchbinder, of New York, N.Y., for respondents.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on August 30, 1957, issued and subsequently served its complaint in this proceeding against respondents Wellmade Leather Goods Co., a corporation existing and doing business under and by virtue of the laws of the State of New York, Morris Baron, Harold Baron, and Rose Baron, individually and as officers of the corporate respondent. The office and principal place of business of said respondents is at 477 Broadway, New York, N.Y.

On November 18, 1957, there was submitted to the undersigned hearing examiner an agreement between respondents and counsel supporting the complaint providing for the entry of a consent order. By the terms of said agreement, 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. By such agreement, respondents waive any further procedural steps before the hearing examiner and the Commission; waive the making of findings of fact and conclusions of law; and waive 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. Such agreement further provides that it disposes of all of this proceeding as to all parties; that the record on which this initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement; that the latter shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; that the agreement is for settlement