

Decision

IN THE MATTER OF
PIEDMONT PRODUCTS CO., INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 6886. Complaint, Sept. 11, 1957—Decision, Mar. 18, 1958*

Consent order requiring sellers in Chicago, Ill., of electric shavers, cameras, and other articles of merchandise to cease furnishing push cards or other lottery devices to operators for their use in selling the merchandise to the public.

Mr. William A. Somers for the Commission.

Cole, Wishner, Epstein & Manilow, by *Mr. Franklin A. Cole*, of Chicago, Ill., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on September 11, 1957, charging respondents with the use of a sales plan or method involving distribution of merchandise by means of chance, lottery or gift enterprise, which constitutes an unfair act and practice in violation of the Federal Trade Commission Act.

Thereafter, on January 17, 1958, respondents, their counsel, and counsel supporting the complaint herein entered into an agreement containing consent order to cease and desist, which was approved by the director and the assistant director of the Commission's Bureau of Litigation, and thereafter submitted to the hearing examiner for consideration.

The agreement identifies respondent Piedmont Products Co., Inc., as an Illinois corporation, with its office and principal place of business located at 14 N. Peoria Street, Chicago 7, Ill., and respondents Esther Kane, Roberta Layfer, and Mrs. Leslie Lanser as individuals and officers of said corporate respondent, with the same office and principal place of business as the corporate respondent.

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.

Respondents waive any further procedure before the hearing examiner and the Commission: the making of findings of fact and 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. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist, as contained in the agreement, when it shall have become a part of the decision of the Commission, 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; that the complaint herein may be used in construing the terms of said order; and that the agreement is for settlement purposes only, and does not constitute an admission by the respondents that they have violated the law as alleged in the complaint.

After consideration of the allegations of the complaint and the provisions of the agreement and the proposed order, the hearing examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the hearing examiner accepts the agreement containing consent order to cease and desist; finds that the Commission has jurisdiction over the Respondents and over their acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That Respondents Piedmont Products Co., Inc., a corporation, and its officers, and Esther Kane, Roberta Layfer, and Mrs. Leslie Lanser, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of electrical appliances, cameras, or any other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Supplying to, or placing in the hands of others, push cards, punch boards, or any other lottery devices, either with merchandise or separately, which are designed or intended to be used in the sale or distribution of merchandise to the public by means of a game of chance, gift enterprise or lottery scheme;
2. Selling or otherwise disposing of any merchandise 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 18th day of March 1958, become the decision of the Commission; and, accordingly:

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Decision

It is ordered, That respondents Piedmont Products Co., Inc., a corporation, and Esther Kane, Roberta Layfer, and Mrs. Leslie Lanser, individually and as 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.

IN THE MATTER OF
DURITE LEATHER GOODS CO., INC., ET AL.

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

Docket 6897. Complaint, Sept. 27, 1957—Decision, Mar. 18, 1958

Consent order requiring a manufacturer in New York City to cease preticketing the men's belts it sold to wholesalers, retailers, and supermarket chains, with purported regular retail prices which were fictitiously high.

Mr. Franklin A. Snyder and Mr. Francis C. Mayer supporting the complaint.

Mr. Herbert Baer Brill of Brill, Bergenelf & Brill of New York, N.Y., for respondents.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

The Federal Trade Commission issued its complaint on September 27, 1957, charging the above-named respondents with violation of the Federal Trade Commission Act as set forth in said complaint. After all respondents were duly served with said complaint, respondents Durite Leather Goods Co., Inc. and Sol Wechsler individually and as an officer of the corporate respondent and their attorney, on January 6, 1958, entered into an agreement with counsel supporting the complaint containing a consent order to cease and desist from the practices complained of, which agreement purports to dispose of all the issues in this proceeding as to these respondents. The agreement has been duly approved by the assistant director and the acting director of the Bureau of Litigation and has been submitted to the undersigned, heretofore designated to act as hearing examiner herein, for his consideration, in accordance with rule 3.25 of the rules of practice of the Commission.

On January 9, 1958, counsel supporting the complaint filed a motion, which was duly served on the parties hereto, to dismiss as to the respondent Alfred Shure (erroneously named in the complaint as Alfred Schure) both as an individual and as an officer of the corporate respondent. This motion is supported by affidavit of Alfred Shure setting forth that he was an employee only of the corporate respondent, that he held a nominal office of vice president only and had nothing to do with formulating, directing or controlling the policies, acts or practices of the corporate respondent. Counsel supporting the complaint states in said motion that there is no evidence