

IN THE MATTER OF
MODERN SALES & SUPPLY CO. ET AL.

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

Docket 6932. Complaint, Nov. 8, 1957—Decision, Mar. 19, 1958

Consent order requiring sellers in Minneapolis, Minn., to cease representing falsely in advertising for purchasers of their automatic coin machines for vending cigarettes, that they were making offers of employment, that purchasers' investment was secured, that specified high earnings were assured and guaranteed, that they would grant purchasers exclusive territory and relocate machines or refund the cost if purchasers were dissatisfied, that they paid a bonus or promotional fee for featuring their particular brand of cigarettes in or on the machines, etc.

Mr. William A. Somers for the Commission.

Mr. John J. Remes, Minneapolis, Minn., 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, Modern Sales & Supply Co., a corporation, and James K. Sorenson, individually and as an officer of said corporation, with having violated the provisions of the Federal Trade Commission Act in certain particulars. Respondents were duly served with process and in due course filed their joint answer. The initial hearing was canceled pending negotiations of counsel for a consent agreement.

On January 30, 1958, 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 the respondent corporation and James K. Sorenson, both individually and as an officer of the corporate respondent, and attorneys for both parties, under date of January 29, 1958, 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 § 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 Modern Sales & Supply Co. is a corporation existing and doing business under and by virtue of the laws of the State of Minnesota. Respondent James K. Sorenson is an individual and officer of said corporate respondent. Said corporate and individual respondents have their office and principal place of business located at 5620 West Broadway, Minneapolis, Minn.

2. Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on November 8, 1957, issued its complaint in this proceeding against the respondent and a true copy was thereafter duly served on the respondents.

3. The 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 this proceeding as to all parties.

5. The 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 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 a 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 person of the respondents signatory to said agreement; that the complaint states a legal cause for complaint under the Federal Trade Commission Act both generally and in each

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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 Modern Sales & Supply Co., a corporation, and its officers, James K. Sorenson, individually and as an officer 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 vending machines in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that:

1. Employment is offered by respondents when, in fact, the real purpose of the advertisement is to obtain purchasers for respondents' products;
2. The amount invested in respondents' products is secured;
3. The earnings or profits derived from the operation of respondents' machines are any amounts in excess of those which have been, in fact, customarily earned by operators of their machines;
4. Respondents have established routes or will establish routes for their machines which will produce earnings or profits in any specific amount;
5. That earnings derived from the operation of respondents' machines are guaranteed;
6. Respondents grant exclusive territory in which machines purchased by them may be located;
7. Respondents refund the purchase price of vending machines sold by them or resell them to another person, in case the purchaser is dissatisfied;
8. Respondents obtain satisfactory and profitable locations for the vending machines purchased from them or that they will relocate such machines if the location is not profitable or satisfactory;
9. Purchasers of respondents' machines must have special qualities or are especially selected;
10. Cigarette manufacturers pay a specific bonus or promotional fee to the purchasers of its vending machines.

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 19th day of March 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Modern Sales & Supply Co., a corporation, and its officers, James K. Sorenson, individually and as an officer 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

DUPLER'S ART FURS, INC., ET AL.

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

Docket 6937. Complaint, Nov. 8, 1957—Decision, Mar. 19, 1958

Consent order requiring furriers in Salt Lake City, Utah, to cease violating the Fur Products Labeling Act by failing to comply with the invoicing and labeling requirements; by advertising in newspapers which failed to disclose that furs in certain products were artificially colored, contained names of animals other than those producing certain fur, and used comparative prices not based on the usual retail prices: and by failing to keep adequate records disclosing the facts upon which the pricing claims were based.

Ross D. Young, Esq., for the Commission.

Respondents, pro se.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on November 8, 1957, charging them with having violated the Fur Products Labeling Act, the rules and regulations issued thereunder, and the Federal Trade Commission Act by misbranding, falsely advertising and falsely invoicing their fur products. Respondents entered into an agreement, dated December 24, 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 assistant director and 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 complaint and said agreement,