

IN THE MATTER OF
BERT GOODMAN ET AL. TRADING AS INTERSTATE
EXCHANGE CO.

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

Docket 6964. Complaint, Nov. 27, 1957—Decision, Apr. 29, 1958

Consent order requiring a Chicago real estate firm to cease telling would-be sellers that their property was undervalued and that the asking price should be increased, in order to increase listing fees collectible in advance; refusing to make promised refunds when the property was not sold; and representing falsely that it had prospective buyers interested in the purchase of sellers' specific properties, that its salesmen were bonded and insured, that it maintained a finance department and would finance the purchase of listed properties, and that it would furnish expert appraisers to evaluate listed properties.

Mr. John W. Brookfield, Jr., and Mr. Thomas A. Sterner for the Commission.

Mr. Milroy R. Blowitz, of Blowitz & Osmon, of Chicago, Ill., 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, Bert Goodman, and Melvin C. Crown, individually and as copartners trading as Interstate Exchange Co., with having violated the provisions of the Federal Trade Commission Act, in certain particulars. Respondents were duly served with process.

On February 26, 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 respondents Bert Goodman and Melvin C. Crown, and attorneys for both parties, under date of February 20, 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 section 3.25 of the Commission's rules of practice for adjudicative pro-

ceedings and that by said agreement the parties have specifically agreed that:

1. Respondents Bert Goodman and Melvin C. Crown are individuals and copartners trading and doing business as Interstate Exchange Co., with their office and principal place of business located at 30 North LaSalle Street in the city of Chicago, State of Illinois. The home addresses of respondents are as follows: Bert Goodman, 7606 North Kilbourn Street, Chicago, Ill., and Melvin C. Crown, 7530 North Ridge Avenue, Chicago, Ill.

2. Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on November 27, 1957, issued its complaint in this proceeding against 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 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

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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 Bert Goodman and Melvin C. Crown, individually or as copartners trading as Interstate Exchange Co., or under any other name, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, or sale, of advertising in newspapers and in other advertising media, or of other services and facilities in connection with the offering for sale, selling, buying or exchanging of business or any other kind of property, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication:

(a) That respondents have available prospective buyers who are interested in the purchase of specific property;

(b) That property will be sold as a result of respondents' efforts.

(c) That the property sought to be listed is underpriced or that the asking price should be increased, or that respondents can or will sell the property at the increased price;

(d) That respondents' sales representatives are bonded or insured;

(e) That respondents maintain a financial department, or that they finance the purchase of listed property;

(f) That the listing fee is an advance on the selling commission or will be refunded to the property owner;

(g) That respondents furnish qualified, experienced or expert appraisers to evaluate property listed with them.

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 29th day of April 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Bert Goodman and Melvin C.

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Crown, individually or as copartners trading as Interstate Exchange Co., 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
HAMBURG BROS., INC.

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

Docket 6721. Complaint, Feb. 5, 1957—Decision, Apr. 30, 1958

Order dismissing—for the reason that price differences were justified on the basis of cost of sale or sale of distress merchandise or were so small that they could not substantially lessen competition—complaint charging the exclusive wholesale distributor of RCA television receivers to retail dealers in a tri-State area covering parts of Pennsylvania, Ohio, and West Virginia, with discriminating in price in violation of subsection 2(a) of the Clayton Act by selling television receivers to some of its customers at higher prices than to their competitors.

Mr. Cecil G. Miles and Mr. James R. Fruchterman, supporting the complaint.

Kaplan, Finkel & Roth and Mr. Paul J. Winschel and Reed, Smith, Shaw & McClay of Pittsburgh, Pa., for respondent.

SECOND INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

PRELIMINARY STATEMENT

Commission complaint was issued February 5, 1957, charging the respondent with violation of section 2(a) of the Clayton Act as amended in connection with the sale of television receivers. Answer was filed August 19, 1957, which admitted (1) the corporate set up (2) that respondent was engaged in business as a wholesale distributor of household appliances including television receivers as alleged in the complaint, (3) that respondent's said business was substantial, totaling approximately \$20 million annually. The other allegations of the complaint were denied.

In an initial decision filed September 20, 1957, the complaint was dismissed without prejudice. This action was based on motion of respondent and answer thereto by counsel supporting the complaint. The answer did not oppose the motion to dismiss and gave the reasons, which were: (1) since the issuance of the complaint, the data in regard to respondent's pricing practices had been submitted to and reviewed by the accounting division of the Bureau of Investigation of the Commission, (2) that division after a review of the data submitted had reported that respondent's pricing practices, challenged in the complaint, were justified in all significant respects and (3) in