

Decision

IN THE MATTER OF

ABRAHAM STURISKY ET AL. TRADING AS ALLISON'S
CO. ET AL.

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

Docket 7014. Complaint, Dec. 30, 1957—Decision, June 6, 1958

Consent order requiring distributors in Brooklyn, N.Y., engaged in selling to wholesalers and jobbers assortments of candy and toys of varying value packed in identical small packages so that the ultimate purchaser could not know what he paid for until after a purchase was made and the package broken open, to cease distributing assortments of merchandise designed or intended to be sold to the purchasing public by lottery or chance.

John W. Brookfield, Jr., Esq., for the Commission.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

The complaint in this proceeding, issued December 30, 1957, charges the respondents Abraham Sturisky and Seymour Feldman, individuals and copartners trading as Allison's Co., and Harry V. Schechter, an individual trading as H.V. Schechter Sales Associates, with violation of the Federal Trade Commission Act in connection with the offering for sale, sale and distribution of candy and toy assortments or other merchandise so packed and assembled as to involve the use of a lottery scheme when sold and distributed to the consuming public.

After the issuance of said complaint respondent Harry V. Schechter, on February 12, 1958, and respondents Abraham Sturisky and Seymour Feldman, on February 27, 1958, entered into separate agreements for consent order with counsel in support of the complaint, disposing of all of the issues in this proceeding, which agreements were duly approved by the Director and Assistant Director of the Bureau of Litigation of the Federal Trade Commission. Said agreements are substantially the same in all material respects, having been separately executed for the convenience of the parties respondent for which reason they will be considered as original counterparts for the purposes of this proceeding.

By the terms of said agreements, the respondents admitted all of the jurisdictional allegations of the complaint and agreed that the record herein may be taken as though the Commission had made findings of jurisdictional facts in accordance with such allegations.

By said agreements the parties expressly waived a hearing before the hearing examiner or the Commission, the making of findings of fact or conclusions of law by the hearing examiner or the Commission, the filing of exceptions and oral argument before the Commission, and all further and other procedure before the hearing examiner and the Commission to which the respondents may otherwise be entitled under the Federal Trade Commission Act or the rules of practice of the Commission.

By said agreements, respondents further agreed that the order to cease and desist issued in accordance with said agreements shall have the same force and effect as though made after full hearing, presentation of evidence and findings and conclusions thereon, and specifically waived any and all right, power or privilege to challenge or contest the validity of such order.

It was further provided that said agreements, together with the complaint, as amended, shall constitute the entire record herein; that the complaint herein, as amended, may be used in construing the terms of the order issued pursuant to said agreements; and that the said order may be altered, modified or set aside in the manner provided by statute for other orders of the Commission.

Said agreements recite that respondent Harry V. Schechter is an individual trading and doing business as H. V. Schechter Sales Associates, with his office and principal place of business located at 165 East 19th Street, in the city of Brooklyn, N.Y.; and that respondents Abraham Sturisky and Seymour Feldman are individuals and copartners trading as Allison's Co., with their office and principal place of business located at 470 Alabama Avenue, in the city of Brooklyn, N.Y.

The hearing examiner has considered such agreements and the orders therein contained, and, it appearing that such provide for an appropriate disposition of this proceeding, the same are hereby accepted and, without further notice to respondents, are ordered filed upon becoming part of the Commission's decision in accordance with sections 3.21 and 3.25 of the rules of practice, and in consonance with the terms of said agreements, the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of all the respondents named herein, and that this proceeding is in the interest of the public, wherefore, he issues the following order.

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Decision

ORDER

It is ordered, That respondents Harry V. Schechter, an individual trading as H. V. Schechter Sales Associates, and Abraham Sturisky and Seymour Feldman, individuals and copartners trading as Allison's Co., or under any other trade name, their agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale or sale and distribution of candy, toys, or any other articles of merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Selling or distributing, to jobbers or other dealers, candy and toys, or other merchandise, so packed and assembled that the sales of such candy, toys, or other merchandise to the general public are to be made, or are intended or designed to be made, by means of a lottery, gaming device or gift enterprise.

2. Selling or distributing any assortments of candy, toys, or other merchandise, which are designed or intended to be used in the distribution of merchandise to the public by lottery or chance.

3. 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 6th day of June 1958, become the decision of the Commission; and, accordingly:

It is ordered, That the respondents herein 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
SIDNEY FINK ET AL. DOING BUSINESS AS MAJOR
BRAND TUBE CO., ETC.

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

Docket 7019. Complaint, Dec. 31, 1957—Decision, June 7, 1958

Consent order requiring mail order sellers with office in Harrison, N.J., to cease representing falsely in newspapers and other advertising media that all the receiving radio and television tubes listed in their advertisements were new, unused, and of first quality; that they tested and had tested all the tubes they sold; that the cathode-ray picture tubes they offered were new; and failing to disclose in said advertisements, on cartons, on tubes, or in invoices or shipping memoranda, that some of their receiving tubes were used, factory seconds and rejects, or that the cathode-ray tubes contained used envelopes or shells.

Mr. Harold A. Kennedy and *Mr. Thomas F. Howder* for the Commission.

Mr. Jack E. Brown, of New York, N.Y., for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (hereinafter referred to as the Commission) on December 31, 1957, issued its complaint herein under the Federal Trade Commission Act against the above-named respondents, Sidney Fink and Jack Fink, individuals doing business as Major Brand Tube Co., Teltron Electric Co., Video Electric Co. and Solar Electronics. The complaint charges respondents with having violated in certain particulars the provisions of said act. The respondents were duly served with process.

On April 7, 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 respondents, their counsel, and counsel supporting the complaint, under date of April 1, 1958, and subject to the approval of the Bureau of Litigation of the Commission. Such agreement had been thereafter duly approved by the Director and an Assistant Director of 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