

Decision

55 F.T.C.

IN THE MATTER OF
JACK J. BERLINER ET AL. DOING BUSINESS
AS J. J. BERLINER & STAFF, ETC.

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

Docket 7034. Complaint, Jan. 14, 1958—Decision, July 26, 1958

Consent order requiring the operators of a New York clipping service to cease representing falsely, through use of their trade name and in advertising matter circulated to prospects, that they were a society engaged in research, were experts in all management problems and maintained an extensive research staff, supplying the latest information, domestic and foreign, in the fields of management, engineering, and chemistry; and that they authenticated all information they distributed.

Mr. Harold A. Kennedy and Mr. Thomas F. Howder supporting the complaint.

Hecht & Glaser by Mr. Samuel Hecht of New York, N.Y., for respondents.

INITIAL DECISION BY JOHN B. POINDEXTER,
HEARING EXAMINER

On January 14, 1958, the Federal Trade Commission issued a complaint alleging that Jack J. Berliner and Sara Berliner, doing business as J. J. Berliner & Staff and as the American Research Society for Better Management, hereinafter called respondents, had violated the provisions of the Federal Trade Commission Act by making false, misleading and deceptive statements and representations with respect to the nature of their business, a "clipping service," and the value and quality of such service.

After issuance and service of the complaint, the respondents, their counsel, and counsel supporting the complaint entered into an agreement for a consent order. The order disposes of the matters complained about. The agreement has been approved by the director and assistant director of the Bureau of Litigation.

The pertinent provisions of said agreement are as follows: Respondents admit all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and the said agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission; the record herein shall consist

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solely of the complaint and the agreement; respondents waive the requirement that the decision must contain a statement of findings of fact and conclusions of law; respondents waive further procedural steps before the hearing examiner and the Commission, and the order may be altered, modified or set aside in the manner provided by statute for other orders; respondents waive any right to challenge or contest the validity of the order entered in accordance with the agreement and the signing of 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.

The undersigned hearing examiner having considered the agreement and proposed order and being of the opinion that the acceptance thereof will be in the public interest, hereby accepts such agreement, makes the following jurisdictional findings, and issues the following order:

JURISDICTIONAL FINDINGS

1. Respondents Jack J. Berliner and Sara Berliner are co-partners, doing business and trading as J. J. Berliner & Staff and as the American Research Society for Better Management. Their office and principal place of business is located at 684 Broadway, New York, N.Y.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Jack J. Berliner and Sara Berliner, individually and doing business as the American Research Society for Better Management, or under any other name, their agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of their publications or printed matter, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using a trade, business or corporate name which includes the words "research" or "society," or representing, directly or by implication, through the use of any trade, business or corporate name, that respondents, or either of them, engage in research or operate or maintain a society of any nature;

2. Using a trade, business or corporate name which includes

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the word "management," or representing in any manner, directly or by implication, through the use of any trade, business or corporate name, that respondents, or either of them, are experts in management problems or are qualified as management consultants.

It is further ordered, That respondents Jack J. Berliner and Sara Berliner, individually and doing business as J. J. Berliner & Staff, or under any other name, their agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of their publications or printed matter, 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 they are engaged in any research other than the reading, indexing, selecting, editing and compiling of previously published articles or other works;

(b) That the information which they distribute contains the latest information, either domestic or foreign, unless such is the fact, in the fields of management, engineering or chemistry; or

(c) That they authenticate any of the information distributed by them.

2. Offering for sale, selling or distributing publications or printed matter previously published by others without clear and conspicuous disclosure of such fact in advertising and on the publications and printed matter themselves.

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 26th day of July 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.

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IN THE MATTER OF
NORTH AMERICAN ACCIDENT
INSURANCE COMPANY

Docket 6456. Complaint, Nov. 18, 1955—Order, July 29, 1958

Order vacating desist order of February 20, 1957, 53 F.T.C. 701, prohibiting alleged deceptive claims for health and accident insurance.

Before *Mr. Frank Hier*, hearing examiner.

Mr. Philip R. Melangton and *Mr. Francis C. Mayer* for the Commission.

Mr. Claud C. Cox and *Mr. Jacob Logan Fox*, of Chicago, Ill., and *Watters & Donovan*, by *Mr. Thomas A. Hartnett*, of New York City, for respondent.

ORDER REOPENING PROCEEDING AND DISMISSING
COMPLAINT

The Commission, on February 20, 1957, having rendered its decision modifying the hearing examiner's initial decision in this proceeding and adopting as its own decision the initial decision as modified; and

The respondent, on April 29, 1957, having filed in the United States Court of Appeals for the Fifth Circuit a petition for review of the aforesaid decision, but the Commission not having certified and filed in the court a transcript of the record in the proceeding; and

The Commission having reconsidered the matter and having determined that the proceeding should be reopened and that its decision of February 20, 1957, should be vacated and set aside:

It is ordered, That this proceeding be reopened.

It is further ordered, That the Commission's decision entered February 20, 1957, be vacated and set aside.

It is further ordered, That the complaint herein be dismissed.

It is further ordered, That the General Counsel of the Commission be authorized and directed to take such action as may be necessary to obtain an appropriate disposition of the respondent's pending petition for review.