

Decision

IN THE MATTER OF
UNITED STATES ASPHALT CORPORATION ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 7181. Complaint, July 11, 1958—Decision, Oct. 16, 1958*

Consent order requiring distributors in New York City to cease misrepresenting the availability and price of their "Neva-Leak Asbestos Roof Coating" by advertising letters advising prospects falsely of "substantial discounts" offered on purported overages from shipments to other purchasers in a particular locality.

Garland S. Ferguson, Esq., for the Commission.

Breed, Abbot & Morgan, of New York, N.Y., for respondents.

INITIAL DECISION BY ROBERT L. PIPER, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on July 11, 1958, charging them with having violated the Federal Trade Commission Act by misrepresenting the availability and regular prices of their product. Respondents appeared by counsel and entered into an agreement dated August 25, 1958, 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 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 §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, that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission, that said agreement is

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for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint, that said order to cease and desist 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, and that the complaint may be used in construing the terms of the order.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing the consent order, and it appearing that the order and agreement cover all of the allegations of the complaint and provide for appropriate disposition of this proceeding, the agreement is hereby accepted and ordered filed upon this decision and said agreement becoming part of the Commission's decision pursuant to §§3.21 and 3.25 of the Rules of Practice, and the hearing examiner accordingly makes the following findings, for jurisdictional purposes, and order:

1. Respondent, United States Asphalt Corporation, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York. Its office is located at 576 Fifth Avenue, New York, N.Y. Individual respondents Stanley Legum and Alvin Legum are officers of said corporation. They formulate, direct and control the policies and practices of the corporate respondent. The address of Alvin Legum is the same as that of the corporate respondent. The address of Stanley Legum is 418 Timothy Avenue, Norfolk, Va.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named. The complaint states a cause of action against said respondents under the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That respondents United States Asphalt Corporation, a corporation, and its officers, and Stanley Legum and Alvin Legum, individually and as officers of said corporate respondent, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of roofing material or any other products in commerce, as "commerce" is defined

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by the Federal Trade Commission Act, do forthwith cease and desist from representing directly or by implication:

1. That a certain sale of their product has been made to a purchaser in a specific locality, unless such is the fact;
2. That respondents have an overage or surplusage of their product in a certain area as a result of a certain sale, unless such is the fact;
3. That any amount is respondents' regular price for a product when such amount is in excess of the price at which respondents sell such product in their normal and usual course of business;
4. That any amount is a reduced price for a product unless it is less than the price at which respondents sell their product in their normal and usual course of business.

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 16th day of October 1958, become the decision of the Commission; and, accordingly:

It is ordered, That the above-named respondents 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
SKYE PUBLISHING COMPANY, INC., ET AL.

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

Docket 7197. Complaint, July 18, 1958—Decision, Oct. 16, 1958

Consent order requiring publishers of magazines in New York City to cease selling reprinted publications and magazine articles without clearly disclosing that they had been previously published.

Mr. Michael J. Vitale, counsel supporting the complaint.
Respondents, *pro se*.

INITIAL DECISION BY JOHN LEWIS, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on July 18, 1958, charging them with the use of unfair and deceptive acts and practices and unfair methods of competition, in commerce, in violation of the Federal Trade Commission Act, by failing to adequately disclose that certain of their magazines or articles therein are reprints of earlier editions of one or more of their magazines or of articles which have appeared in earlier editions of such magazines. After being served with said complaint, respondents appeared and entered into an agreement, dated August 29, 1958, containing a consent order to cease and desist purporting to dispose of all of this proceeding as to all parties. Said agreement, which has been signed by all respondents and by counsel supporting the complaint, and approved by the director and acting assistant director of the Commission's Bureau of Litigation, has been submitted to the above-named hearing examiner for his consideration, in accordance with Section 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings.

Respondents, pursuant to the aforesaid agreement, have admitted all the jurisdictional facts alleged in the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. Said agreement further provides that respondents waive any further procedural steps before the hearing examiner and the Commission, the making of findings of fact or 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