

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

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such agreement. It has been agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if entered after a full hearing and that the complaint may be used in construing the terms of said order. It has also been agreed that the record herein shall consist solely of the complaint and said agreement, and that 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.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing consent order, and it appearing that the order provided for in said agreement covers all of the allegations of the complaint and provides for an appropriate disposition of this proceeding as to all parties, said agreement is hereby accepted and is ordered filed upon this decision's becoming the decision of the Commission pursuant to Sections 3.21 and 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and the hearing examiner, accordingly, makes the following jurisdictional findings and order:

1. Respondent, Skye Publishing Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 16 East 55th Street, New York, N.Y.

Individual respondents Arthur Bernhard, Alan Sills, and Robert Salomon are president, vice-president and secretary, respectively, of the corporate respondent, and have the same address as that of the corporate respondent.

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 respondent Skye Publishing Company, Inc., a corporation, and its officers, and Arthur Bernhard, Alan Sills, and Robert Salomon, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of magazines or any other publications in commerce, as "commerce" is defined in the

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Federal Trade Commission Act, do forthwith cease and desist from:

1. Offering for sale or selling any reprinted magazine or other publication, unless the word "reprinted" or any other word or phrase stating with equal clarity that said magazine or other publication is a reprint, appears in clear, conspicuous type upon the front cover and upon the title page of the magazine or other publication, either in connection with the name of the magazine or in another position adapted readily to attract the attention of a prospective purchaser.

2. Offering for sale or selling any magazine or other publication which contains reprints of articles previously published, unless a statement which reveals that the article has been previously published, appears in clear, conspicuous type upon the title page of the magazine or other publication and upon the page where the article appears or in another position adapted readily to attract the attention of a prospective purchaser.

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 respondents herein shall with 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.

Decision

IN THE MATTER OF
GUILD MOCCASIN ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 6860. Complaint, Aug. 13, 1957¹—Decision, Oct. 17, 1958*

Consent order requiring manufacturers in Los Angeles, Calif., to cease representing factory-made moccasins and handbags falsely as Indian products and, through use of the word "Guild" in their corporate and trade names, that their business was an association of Indian craftsmen.

Mr. Kent P. Kratz for the Commission.

Mr. Casimir A. Miketta, of Los Angeles, Calif., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The amended complaint, which was substituted for the original complaint by order of the hearing examiner, alleges that respondents have used, in various advertising media, certain false, misleading and deceptive statements, symbols and depictions, representing directly and by implication that their moccasins, handbags and other related items were Indian products made by Indians.

The amended complaint further alleges that respondents, by the use of the word "Guild" as part of the corporate name and of the names under which they have traded, and in their advertising, have falsely represented that their business is an association or guild.

The amended complaint charges that the use by respondents of said false and misleading representations constitutes unfair and deceptive acts and practices and unfair methods of competition in commerce, in violation of the Federal Trade Commission Act (15 U.S.C. 41, et seq.; more specifically, 15 U.S.C. 45).

After the issuance of the amended complaint, respondents, their counsel, and counsel supporting the complaint entered into an agreement containing consent order to cease and desist, which was approved by the director and an assistant director of the Commission's Bureau of Litigation, and thereafter transmitted to the Hearing Examiner for consideration.

The agreement identifies respondents as follows:

¹ Amended Nov. 8, 1957.