

## Decision

IN THE MATTER OF  
ATLAS ENTERPRISES, INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF  
THE FEDERAL TRADE COMMISSION ACT*Docket 7122. Complaint, Apr. 16, 1958—Decision, Oct. 17, 1958*

Consent order requiring sellers in Hopkins, Minn., of vending machines for cigarettes and other products, to purchasers including disabled, retired, and inexperienced individuals, to cease making, in newspaper advertising and by their agents, purported offers of employment to develop leads for sales; and to cease representing falsely the net profits to be expected by purchasers, and help given in locating and securing profitable locations, disposing of machines for dissatisfied customers, etc.

*Mr. Brockman Horne* supporting the complaint.

*Mr. Eugene C. Wann*, of New Prague, Minn., for respondents.

## INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on April 16, 1958, charging them with having violated the Federal Trade Commission Act as set forth in said complaint.

After being served with the complaint respondents entered into an agreement, dated August 20, 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 and acting assistant 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 Section 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

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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 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 Sections 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 Atlas Enterprises, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Minnesota, with its office and principal place of business located at 420 East Excelsior Boulevard, Hopkins, Minn. It sometimes trades as G. & E. Placement Service and as D.A.V. Distributors, Inc.

2. Individual respondents Gil R. Zaun and Edward R. Zaun, Sr., are president and vice-president, respectively, of said corporation, and they formulate, direct and control its policies, acts and practices. Their business address is the same as that of the corporate respondent, and their home addresses are: Gil R. Zaun, 1837 Edgewood Avenue, Minneapolis, Minn., and Edward R. Zaun, Sr., 1600 Hillsboro South, St. Louis Park, Minn.

3. 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 Atlas Enterprises, Inc., a corporation, and its officers, and Gil R. Zaun and Edward R. Zaun,

Sr., individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of vending machines, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

1. That any offer is an offer of employment when, in fact, the real purpose is to obtain purchasers of their machines.

2. That the purchase price of respondents' machines is secured, other than by the machines themselves.

3. That net profits in any specific amount will be realized by a purchaser of such machines, unless based upon known profits which are customarily earned by the operator of vending machines in the locality of the purchaser, taking into consideration the experience of the purchaser in operating vending machines and the character of locations to be secured by respondents.

4. That surveys have been made to determine locations which would prove profitable for the installation of such machines.

5. That profitable locations will be secured for a purchaser's machines.

6. That, should a location for a purchaser's machine prove to be unprofitable, said machine will be relocated by respondents.

7. That locations secured will be within a reasonable distance of the purchaser.

8. That no selling or soliciting is required of the purchaser in the operation of such machines.

9. That purchased machines will be delivered without undue delay.

10. That a satisfactory credit-rating, employment stability or car ownership is required before the machines will be sold.

11. That the business of operating cigarette or any other vending machines is a stable one, or remains profitable during a depression, under all circumstances and conditions.

12. That respondents will resell or otherwise dispose of the machines sold by them in the event the purchaser becomes dissatisfied with the profit derived therefrom.

DECISION OF THE COMMISSION AND ORDER TO FILE  
REPORT OF COMPLIANCE

The Commission having considered the hearing examiner's initial decision herein, filed September 2, 1958, wherein the hear-

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ing examiner accepted an agreement containing a consent order to cease and desist theretofore executed by the respondents and counsel in support of the complaint and entered his order in conformity therewith; and

It appearing that through inadvertence said initial decision recites that the complaint states a cause of action against the respondents under the Fur Products Labeling Act as well as under the Federal Trade Commission Act; and

The Commission being of the opinion that this clerical error should be corrected:

*It is ordered*, That the initial decision be, and it hereby is, modified by striking from paragraph "3" of the findings, for jurisdictional purposes, the words "Fur Products Labeling Act and the."

*It is further ordered*, That the initial decision, as so modified, shall, on the 17th day of October 1958, become the decision of the Commission.

*It is further ordered*, That the respondents, Atlas Enterprises, Inc., a corporation, and Gil R. Zaun and Edward R. Zaun, Sr., individually and as officers of said corporation, shall, within sixty (60) days after service upon them of this decision, file with the Commission, a report, in writing, setting forth in detail the manner and form in which they have complied with the order contained in the aforesaid initial decision.

## Decision

IN THE MATTER OF  
NATHAN GLIKSMAN  
TRADING AS ATLANTIC TEXTILE COMPANY

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE  
FEDERAL TRADE COMMISSION AND THE WOOL PRODUCTS LABELING ACTS

*Docket 7167. Complaint, May 29, 1958—Decision, Oct. 17, 1958*

Consent order requiring a manufacturer in Malden, Mass., to cease violating the Wool Products Labeling Act by tagging as "90% Wool 10% Synthetics," woolen stock which contained substantially more than 10 percent of nonwoolen fibers, and by failing in other respects to comply with the labeling requirements of the Act.

*Mr. John T. Walker* for the Commission.

No appearance for the respondent.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondent with misbranding certain wool products in violation of the Wool Products Labeling Act and the Rules and Regulations promulgated thereunder, and the Federal Trade Commission Act. An agreement has now been entered into by respondent and counsel supporting the complaint which provides, among other things, that respondent admits all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondent specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified, or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondent that he has violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and