

Decision

IN THE MATTER OF
AVON PUBLICATIONS, INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 6911. Complaint, Oct. 7, 1957—Decision, Oct. 21, 1958*

Consent order requiring three affiliated concerns in New York City to cease selling abridged books or newly titled reprints without disclosing the abridgment and the original title clearly and conspicuously on the front cover and title page in a position readily apparent to the buyer.

Charles S. Cox, Esq., for the Commission.

William Gold, Esq., 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 October 7, 1957, charging them with having violated the Federal Trade Commission Act by misrepresenting the books they sell in commerce. Respondents appeared by counsel and at the conclusion of the case-in-chief 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 further 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 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. Respondents Avon Publications, Inc., Avon Publishing Co., Inc., and Avon Book Sales Corporation are each a corporation existing and doing business under and by virtue of the laws of the State of New York, except that heretofore on December 13, 1956, Avon Publishing Co., Inc., was duly merged into Avon Publications, Inc. Individual respondents Joseph M. Mann, Harry Rebell and William Gold are vice president, treasurer and secretary, respectively, of each of said corporate respondents. All of said respondents except Harry Rebell and William Gold have an office and principal place of business located at 575 Madison Avenue, in the city of New York, State of New York. Harry Rebell maintains his office at 39 Broadway, New York City, and William Gold maintains his office at 236 East 49th Street, New York City.

2. Subsequent to the issuance of the complaint herein, individual respondent Joseph Meyers departed this life on November 3, 1957, at Cedars of Lebanon Hospital, Los Angeles, Calif. Individual respondent William Gold is an attorney at law and is regularly and actively engaged in the practice of law in New York City. As the attorney for the said corporate respondents, he agreed, at the request of said Joseph Meyers, to serve as secretary to each of said corporate respondents. Furthermore, at no time did said William Gold own any shares of stock or, other financial interest in said corporate respondents, and had no part in the running or operation of the business or in formulating the acts and policies of said corporate respondents. Accordingly, the

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parties agreed that the complaint should be dismissed as to individual respondents William Gold and Joseph Meyers.

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 Avon Publications, Inc., a corporation, Avon Publishing Co., Inc., a corporation, and Avon Book Sales Corporation, a corporation, and their officers, and respondents Joseph M. Mann and Harry Rebell, individually and as officers of said corporate respondents Avon Publications, Inc., Avon Publishing Co., Inc., and Avon Book Sales Corporation, 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 books in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Offering for sale or selling any abridged copy of a book unless one of the following words, "Abridged," "abridgement," "condensed" or "condensation," or any other word or phrase stating with equal clarity that said book is abridged appears in clear conspicuous type upon the front cover and upon the title page of the book, either in immediate connection with the title or in another position adapted readily to attract the attention of a prospective purchaser;

2. Using or substituting a new title for, or in place of, the original title of the reprinted book unless the original title of the book as previously published appears in clear and conspicuous type upon the front cover and upon the title page of the book, either in immediate connection with the title or in another position adapted readily to attract the attention of a prospective purchaser.

It is further ordered, That this proceeding be and the same hereby is dismissed as to respondents Joseph Meyers and William Gold.

DECISION OF THE COMMISSION AND ORDER TO FILE
REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice,

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the initial decision of the hearing examiner shall, on the 21st day of October 1958, become the decision of the Commission; and, accordingly:

It is ordered, That the above-named respondents except respondents Joseph Meyers and William Gold, 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.

Order

IN THE MATTER OF
EDUCATORS MUTUAL INSURANCE COMPANYORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 6308. Complaint, Mar. 11, 1955—Order, Oct. 22, 1958*

Order dismissing, for lack of jurisdiction, following the ruling of the Supreme Court of the United States in *Federal Trade Commission v. National Casualty Company* and *Federal Trade Commission v. The American Hospital and Life Insurance Company*, 357 U.S. 560, complaint charging an insurance company in Lancaster, Pa., with false advertising of its health and accident policies.

Before Mr. Frank Hier, hearing examiner.

Mr. Francis C. Mayer for the Commission.

Mr. A. Alvis Layne, Jr. and Mr. T. S. L. Perlman, of Washington, D.C., for respondent.

FINAL ORDER

This matter having come on to be heard upon respondent's appeal from the hearing examiner's initial decision filed prior to the *per curiam* opinion of the United States Supreme Court in the combined cases of *Federal Trade Commission v. National Casualty Company* and *Federal Trade Commission v. The American Hospital and Life Insurance Company*, 357 U.S. 560 (decided June 30, 1958); and

Counsel for respondent additionally having filed a motion to dismiss the complaint, based primarily upon the aforesaid decision of the Supreme Court, which motion is unopposed by counsel supporting the complaint; and

The Commission having considered respondent's motion to dismiss and the record, and having concluded that this proceeding should be dismissed on jurisdictional grounds upon the authority of said ruling of the Supreme Court:

It is ordered, That the initial decision herein be, and it hereby is, vacated and set aside.

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