

Decision

IN THE MATTER OF
BUSCH & SONS JEWELERS, INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 7199. Complaint, July 18, 1958—Decision, Nov. 18, 1958*

Consent order requiring two associated jewelry retailers, one with two stores located in Newark and Summit, N.J., respectively, and the other with two in Dallas and Abilene, Tex., to cease representing falsely in advertising in newspapers that they offered for sale smuggled diamonds purchased from the Government at 15% above the price paid, including individual diamonds of weights set forth in the three-column list in the advertisements; facts being the diamonds bought from the Government were a bulk lot and no particular amount was paid for any particular diamond, and many of the individual diamonds of the weights set out were not included in the lot purchased from the Government.

Mr. S. F. House for the Commission.

No appearance for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondents with making certain misrepresentations in connection with the sale of diamonds to the public. An agreement has now been entered into by respondents and counsel supporting the complaint which provides, among other things, that respondents admit 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, respondents 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 respondents that they have violated the law as alleged in the complaint.

Order

55 F.T.C.

The hearing examiner having considered the agreement and proposed order and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional finds made and the following order issued:

1. Respondent Busch & Sons Jewelers, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 875 Broad Street, Newark, N.J.

Respondent Busch & Sons of Texas, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business located at 1707 Main Street, Dallas, Tex.

Individual respondents George J. Busch, Jr., and Raymond F. Sargent are officers of both corporations. Their address is 875 Broad Street, Newark, N.J.

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 Busch & Sons Jewelers, Inc., a corporation, Busch & Sons of Texas, Inc., a corporation, and their officers and George J. Busch, Jr., and Raymond F. Sargent, individually and as officers of said corporations, 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 diamonds or other articles of merchandise 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 merchandise offered for sale has been purchased by respondents at a certain stated price or for certain stated amounts, unless such is the fact.

2. That any specific article of merchandise offered for sale was acquired by respondents as a result of a certain described purchase or from a certain stated source, unless such is the fact.

3. That merchandise is offered for sale at a certain stated percentage or amount above the purchase price, unless such is the fact.

749

Decision

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 18th day of November 1958, become the decision of the Commission; and, accordingly:

It is ordered, That 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.

IN THE MATTER OF
PSYCHOLOGICAL CORPORATION, ET AL.

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

Docket 6967. Complaint, Nov. 29, 1957—Decision, Nov. 19, 1958

Consent order requiring the nation's four largest publishers of vocational, aptitude, and psychological tests and related material—constituting the only source of supply for much of said products—to cease refusing concerted to sell to concerns conducting tests by mail, maintaining lists of such firms and persons, and exchanging such lists and information concerning prospective customers to whom they would not sell.

Mr. Floyd O. Collins and Mr. L. E. Creel, Jr., for the Commission.

Paul, Reiss, Rifkind, Wharton & Garrison, by Mr. Howard A. Seitz, Mr. Jay H. Topkis and Mr. Samuel J. Silverman, of New York, N.Y., for Psychological Corporation and Science Research Associates;

Breed, Abbott & Morgan, by Mr. Kendall B. DeBevoise and Mr. John J. Campbell, of New York, N.Y., for World Book Co. Respondent California Test Bureau, for itself.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

On November 27, 1957, the Federal Trade Commission issued its complaint in this proceeding, charging respondents with violating the provisions of §5 of the Federal Trade Commission Act by entering into and thereafter carrying out understandings, agreements and a planned common course of action to restrict and restrain competition and interstate trade and commerce in the sale and distribution of vocational, aptitude and psychological tests and materials to be used in conducting tests.

On September 11, 1958, respondents, their counsel, and counsel supporting the complaint herein entered into an Agreement Containing Consent Order to Cease and Desist, which was signed on the original copy by all respondents except California Test Bureau, and by that respondent on an identical carbon copy; both signed copies of the agreement were then approved by the director and an assistant director of the Commission's Bureau of Litigation, and thereafter the agreement was submitted to the hearing examiner for consideration.