

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.

The agreement identifies respondent Psychological Corporation as a New York corporation with its home office located at 522 Fifth Avenue, New York, N.Y.; respondent Science Research Associates as an Illinois corporation with its home office and principal place of business located at 57 W. Grand Avenue, Chicago, Ill.; respondent World Book Company as a Delaware corporation with its home office and principal place of business located at Yonkers-on-Hudson, N.Y.; and respondent California Test Bureau as a California corporation with its home office and principal place of business located at 5916 Hollywood Boulevard, Los Angeles, Calif.

Respondents admit all the jurisdictional facts alleged in the complaint, and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

Respondents waive any further procedure before the hearing examiner and the Commission; the making of findings of fact and 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 the agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist, as contained in the agreement, when it shall have become a part of the decision of the Commission, 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; that the complaint herein may be used in construing the terms of said order; and that the agreement is for settlement purposes only, and does not constitute an admission by the respondents that they have violated the law as alleged in the complaint.

After consideration of the allegations of the complaint and the provisions of the agreement and the proposed order, the hearing examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the hearing examiner accepts the Agreement Containing Consent Order to Cease and Desist; finds that the Commission has jurisdiction over the respondents and over their acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That the respondents, Psychological Corporation,

Decision

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a corporation, Science Research Associates, a corporation, World Book Company, a corporation, and the California Test Bureau, a corporation, and said respondents' officers, agents, representatives and employees, in or in connection with the composing and publishing, offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of vocational, aptitude, psychological and similar tests and material to be used in conducting tests, do forthwith cease and desist from entering into, continuing, cooperating in, or carrying out any planned common course of action, understanding, combination or agreement, between any two or more of said respondents or between or among any one or more of said respondents and others not parties hereto to do or perform any of the following acts or practices:

- (a) Refusing to sell their said tests and material to be used in conducting tests to any purchaser or prospective purchaser;
- (b) Preparing or maintaining any lists of purchasers or prospective purchasers to whom they will not sell;
- (c) Exchanging information as to the names of purchasers or prospective purchasers to whom they will not sell.

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 19th day of November 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Psychological Corporation, a corporation; Science Research Association, a corporation; World Book Company, a corporation; and California Test Bureau, a corporation, 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.

Complaint

IN THE MATTER OF
G. P. HALFERTY & CO., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 2(c) OF THE CLAYTON ACT*Docket 7035. Complaint, Jan. 14, 1958—Decision, Nov. 19, 1958*

Consent order requiring a Seattle, Wash., broker of sea food, particularly canned salmon—selling its own pack as well as acting as broker for various principals—to cease violating the brokerage provision of the Clayton Act by selling its principals' products to certain favored buyers at lower net prices than those accounted for to the principals; by selling its own products to certain favored buyers at net prices lower than those to non-favored buyers, which reflected brokerage or a discount in lieu thereof; and by granting to at least one large direct buyer a rebate of 2½% percent, the customary brokerage fee, under the guise of promotional allowances.

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondent named in the caption hereof, and herein-after more particularly designated and described, have been and are now violating the provisions of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Sec. 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. The respondent G. P. Halferty & Co., hereinafter sometimes referred to as corporate respondent, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Washington, with its principal office and place of business located at 508 Colman Building, Seattle, Wash.

PAR. 2. Respondent Guy P. Halferty is an individual and is president of corporate respondent. He maintains his principal office and place of business at 508 Colman Building, Seattle, Wash. He is sometimes referred to herein as individual respondent or as respondent Halferty. Respondent Halferty owns, all or substantially all of the capital stock of corporate respondent and is responsible for its acts and practices, including its purchase, sales and distribution policies. Respondent Halferty also owns substantial interest in and is president of Halferty Canneries, Inc., a Washington corporation which owns and operates canneries in Kodiak, Cordona, and Juneau, Alaska. Respondent Halferty