

IN THE MATTER OF
GREENWICH BOOK PUBLISHERS, INC., ET AL.

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

Docket 7223. Complaint, Aug. 5, 1958—Decision, June 12, 1959

Consent order requiring two affiliated New York City publishers to cease representing falsely that they operated a publishing plan under which they shared expenses with authors, their misrepresentations including such matters as so-called "royalties," the nature, size and operation of the business, and the effectiveness of the publicity and promotional aid purportedly rendered author-customers.

Mr. Charles S. Cox for the Commission.

Mr. J. David Delman, of New York, N.Y., for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges respondents with violation of the Federal Trade Commission Act in the solicitation of contracts for the publication of books. 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.

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

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agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondents Greenwich Book Publishers, Inc., and The American Press are corporations organized, existing, and doing business under and by virtue of the laws of the State of New York, with their office and principal place of business located at 489 Fifth Avenue, New York 17, N.Y.

Respondents Carl Buehler, Edwin Ezorsky, and Lyla Ezorsky are individuals and are president, vice president, and secretary-treasurer, respectively, of each of said corporate respondents. The individual respondents formulate, direct, and control the acts and practices of the corporate respondents. Their office and principal place of business is at the same address as the corporate respondents.

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 Greenwich Book Publishers, Inc., a corporation, The American Press, a corporation, and their officers, and Carl Buehler, Edwin Ezorsky, and Lyla Ezorsky, individually and as officers of said corporate respondents, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the solicitation of contracts for the printing, promotion, sale, and distribution of books in commerce, as "commerce" is defined in the Federal Trade Commission Act and in connection with the printing, promotion, sale, and distribution of books in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing directly or indirectly that:

1. They operate a cooperative publishing plan in which they share with the author in the expense of editing, printing, binding, promotion, and sale of the book, or that they are partners with the author;
2. They publish on a partial subsidy basis;
3. Under their plan of publication an author will recover his or her entire investment in the publication of his or her book, except in rare instances;
4. They bind all the copies listed in the contract of the first edition of an author's book;

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5. Their organization has numerous employees, or that they have an art or sales department; or that they have any other department, unless such is the fact;

6. They accept and have accepted for publication only those manuscripts with merit or sales appeal possibilities; or that they "risk" their own money in publishing authors' manuscripts;

7. They have a board of editors or that the reports of their readers are "Editorial reports"; that their reports are impartial or a full and frank disclosure of the merit and sales potential of the submitted manuscript;

8. They have publicity and promotion departments, or that their promotion and sales reach any significant number of book trade outlets in North America;

9. They reinforce their sales promotion of authors' books with national direct mail drives;

10. They have dealings with retail stores, libraries, universities, wholesalers, or department stores except to a limited extent, or that retail stores, libraries, universities, wholesalers, and department stores buy any great number of the books published through respondents;

11. Authors' books published through them have been selected for sale to or through book clubs for the membership thereof or that they sell or have sold reprint rights to their authors' books to pocket book reprint companies;

12. They sell or have sold subsidiary rights to their authors' books to foreign publishers, television producers, motion picture studios, digest or serialized periodicals;

13. They pay their authors a royalty of 40% or any other percentage or sum until after the author recoups and is reimbursed for his or her investment;

14. They arrange for reviews of their authors' books published through them in key periodicals; or any other periodicals, unless such is the fact;

15. They offer an author an exclusive book service or one which is different from that of other subsidy publishers;

16. They have never sold at reduced prices, or otherwise disposed of, any of their authors' poetry, christian or fiction books for lack of continued sales;

17. They are accredited with large book wholesalers, jobbers, or retail outlets to any significant extent.

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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 12th day of June 1959, become the decision of the Commission; and, accordingly:

It is ordered, That the 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
MAX GRODNICK TEXTILE CORP., ET AL.

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

Docket 7418. Complaint, Feb. 20, 1959—Decision, June 12, 1959

Consent order requiring distributors in New York City to cease violating the Wool Products Labeling Act by removing, prior to sale, tags attached to wool products when delivered to them, and by failing in other respects to comply with the labeling requirements.

S. F. House, Esq. for the Commission.

Joseph L. Klein, Esq., of New York, N.Y., for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) on February 20, 1959, issued its complaint herein, charging the above-named respondents with having violated the provisions of both the Federal Trade Commission Act and the Wool Products Labeling Act, together with the Rules and Regulations promulgated thereunder, and the respondents were duly served with process.

On April 20, 1959, there was submitted to the undersigned hearing examiner of the Commission for his consideration and approval an "Agreement Containing Consent Order to Cease and Desist," which had been entered into by and between respondents and the attorneys for both parties, under date of March 25, 1959, subject to the approval of the Bureau of Litigation of the Commission, which had subsequently duly approved the same.

On due consideration of such agreement, the hearing examiner finds that said agreement, both in form and in content, is in accord with §3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and that by said agreement the parties have specifically agreed to the following matters:

1. Respondents Max Grodnick Textile Corp., Henry Gewirtz Textile Corp., Fleet Fabrics, Inc., and Makel Textile, Inc., are corporations existing and doing business under and by virtue of the laws of the State of New York. The Henry Gewirtz Textile Corp. has its office and principal place of business located at 241 W. 37th Street, New York City, N.Y. The remaining corporations aforementioned have their office and principal place of