

Decision

IN THE MATTER OF
MIDWEST INDUSTRIAL SUPPLY, INC., ET AL.

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

Docket 7413. Complaint, Feb. 16, 1959—Decision, June 20, 1959

Consent order requiring a St. Paul, Minn., concern to cease selling vending and radio tube testing machines through false employment offers in newspaper advertising, exaggerated earnings claims, misrepresentations of exclusive territories and established sales routes, assistance to customers, etc.

Mr. Garland S. Ferguson for the Commission.

Mr. Carl F. Dever, of Minneapolis, Minn., for respondents.

INITIAL DECISION BY EVERETT F. HAYCRAFT, HEARING EXAMINER

On February 16, 1959, the Federal Trade Commission issued its complaint against the above-named respondents charging them with violating the provisions of the Federal Trade Commission Act in connection with the sale of vending and other machines, including machines for vending cigarettes and coffee and for testing radio tubes. On April 15, 1959, the respondents and their attorney and counsel supporting the complaint entered into an agreement containing a consent order to cease and desist in accordance with Section 3.25(a) of the Rules of Practice and Procedure of the Commission.

Under the foregoing agreement, the respondents admit the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and shall have the same force and effect as if entered after a full hearing. The agreement includes a waiver by the respondents of all rights to challenge or contest the validity of the order issuing in accordance therewith; and recites that the said agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission, and that it 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. The hearing examiner finds that the content of the said agreement meets all the requirements of Section 3.25(b) of the Rules of Practice.

Order

55 F.T.C.

This proceeding having now come on for final consideration by the hearing examiner on the complaint and the aforesaid agreement for consent order, and it appearing that said agreement provides for an appropriate disposition of this proceeding as to all parties, the aforesaid agreement is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Section 3.21 of the Rules of Practice; and in consonance with the terms of said agreement, the hearing examiner makes the following jurisdictional findings and order:

1. Corporate respondent Midwest Industrial Supply, 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 Room 306, Liberty Bank Building, 180 North Snelling Street, St. Paul, Minn.

Individual respondents James Knudsen, Helen Knudsen, and Gordon Bjurback are officers of said corporation. They formulate, direct and control the policies and practices of the corporate respondent. The address of all individual respondents is the same as that of the corporate respondent.

2. 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 Midwest Industrial Supply, Inc., a corporation, and its officers, and James Knudsen, Helen Knudsen and Gordon Bjurback, 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, tube testing machines or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication that:

1. Employment is offered by respondents when in fact the real purpose of respondents' advertisements is to obtain purchasers for respondents' products.

2. The earnings or profits derived from the operation of respondents' machines are any amounts in excess of those which

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have been, in fact, customarily earned by operators, of respondents' machines.

3. The amount invested in respondents' products is secured.

4. Purchasers are given exclusive territory within which their machines may be placed for operation.

5. It is necessary for a person to have a car or a satisfactory background in order to qualify for respondents' offer.

6. Surveys are made by respondents or their agents in any locality or for any purpose.

7. Sales routes have previously been established for purchasers or that respondents or their sales representatives have obtained satisfactory locations, or will obtain satisfactory locations for the machines after purchase or will relocate said machines.

8. The machines being sold by respondents are of a certain structural design or of a certain capacity, unless such is the fact.

9. Respondents will repurchase or resell the machines purchased from them.

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 20th 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
THE MAY DEPARTMENT STORES COMPANY

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

Docket 7306. Complaint, Nov. 18, 1958—Decision, June 23, 1959

Consent order requiring a corporation operating some 30 department stores throughout the United States, including stores in the Los Angeles metropolitan area, to cease violating the Fur Products Labeling Act by failing to comply with the labeling, invoicing, and advertising requirements; and, specifically, by advertising in Los Angeles and other newspapers which failed to disclose the names of animals producing the fur in certain products or the fact that some products contained artificially colored or cheap or waste fur and named animals other than those producing some furs; which represented prices as reduced from so-called regular prices which were in fact fictitious, illustrated higher priced products than those available at the advertised selling prices, and named the United States falsely as the country of origin of imported furs; and by failing to keep adequate records as a basis for said pricing claims.

Mr. John T. Walker and Mr. Eugene Kaplan for the Commission.

Mr. J. Phillip Nevins for *Lawler, Felix and Hall*, of Los Angeles, Calif., for respondent.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) on November 18, 1958, issued its complaint herein, charging the above-named respondent with having violated the provisions of both the Federal Trade Commission Act and the Fur Products Labeling Act, together with the Rules and Regulations promulgated thereunder, and the respondent was duly served with process.

On May 7, 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 respondent and the attorneys for both parties, under date of April 24, 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