

which they have complied with the order to cease and desist.

IN THE MATTER OF

R. C. MYRICK TRADING AS CAREY SURGICAL
APPLIANCE CO. ET AL.

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

Docket 7330. Complaint, Dec. 10, 1958—Decision, Sept. 26, 1959

Order dismissing for failure of efforts to serve respondent with notice of hearing, complaint charging seller of a hernia truss with misrepresenting effectiveness, comparative merits, unique nature, and other relevant facts concerning his devices.

Mr. Charles W. O'Connell for the Commission.

No appearance for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

This matter is before the hearing examiner upon a motion filed by counsel supporting the complaint to dismiss the complaint without prejudice. The complaint was issued on December 10, 1958, and the initial hearing was set for February 19, 1959, in Chicago, Illinois.

It appears that service of the complaint was obtained upon both of the respondents in regular course.

On January 16, 1959, in response to a letter received by the hearing examiner from respondent R. C. Myrick, an order was issued extending to February 6, 1959, the time for the filing by respondents of their answers to the complaint. No answers having been filed by February 17, 1959, (subsequently on April 2, 1959, an answer was filed by respondent Dorothy M. Myrick) and it appearing that there would be no contest of the proceeding, an order was issued by the hearing examiner on that date postponing the initial hearing to March 17, 1959, and changing the place of hearing from Chicago, Illinois, to Washington, D.C. Service of this notice, however, was not obtained upon respondent R. C. Myrick, and on March 6, 1959, a further order was issued by the hearing examiner postponing the initial hearing to April 21, 1959. Again there was a failure to obtain service upon respondent R. C. Myrick, and a further order was issued by the hearing examiner on April 17, 1959, cancelling the initial hearing, subject to its being reset at any time in the future upon ten days' notice.

In summary, it appears that except for the complaint itself it has not been possible to obtain service of any of the notices of hearing upon respondent R. C. Myrick, although efforts to obtain service have been made not only by registered mail but also by the Commission's Bureau of Investigation.

Apparently respondent R. C. Myrick, who is the principal respondent in the proceeding, has discontinued his business operations, and respondent Dorothy M. Myrick, who seems to have been only an employee in the business, is now employed by another business concern. Even if service could be obtained upon respondent R. C. Myrick, it appears very doubtful that there is any longer any public interest in the proceeding.

ORDER

It is therefore ordered. That the complaint be, and it hereby is, dismissed, without prejudice to the right of the Commission to take such further action in the matter in the future as may be warranted by the then existing circumstances.

DECISION OF THE COMMISSION

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 26th day of September, 1959, become the decision of the Commission.

Decision

IN THE MATTER OF

CHESTER G. SCHWEDLER DOING BUSINESS AS
SOUTHWEST BUSINESS SERVICECONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 7501. Complaint, May 29, 1959—Decision, Sept. 26, 1959*

Consent order requiring an individual in Phoenix, Ariz., to cease using deception in selling real estate advertising, including such false claims as that his advertising would sell properties, that he disseminated flyers to a great number of prospective buyers throughout the country describing the property for sale, and that he continued to advertise each property until it was sold.

Mr. John J. Mathias and Mr. John W. Brookfield, Jr., supporting the complaint.

Respondent, *Pro Se*.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

On May 29, 1959, the Federal Trade Commission issued a complaint charging Chester G. Schwedler, an individual trading and doing business as Southwest Business Service, hereinafter referred to as respondent, with violating the provisions of the Federal Trade Commission Act by use of false, misleading and deceptive representations, acts and practices in connection with his business of soliciting the sale of advertising, and advertising for sale, real estate and other properties.

After issuance and service of the complaint, the respondent and counsel supporting the complaint entered into an agreement for a consent order. The agreement has been approved by the Director and the Assistant Director of the Bureau of Litigation. The agreement disposes of the matters complained about.

The pertinent provisions of said agreement are as follows: Respondent admits all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and the said agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission; the record herein shall consist solely of the complaint and the agreement; respondent waives the requirement that the decision must contain a statement of findings of fact and conclusions of law; respondent waives further procedural steps before the hearing examiner and