

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
SCENIC PHOTO MURALS, INC., ET AL.

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

Docket 6875. Complaint, Aug. 23, 1957—Decision, Jan. 28, 1960

Consent orders requiring two individuals in Los Angeles and Chicago, respectively, to cease representing falsely—in advertisements in periodicals and by brochures supplied to distributors or dealers and by them inserted in wallpaper sample or other display books—that their so-called "Photo Murals" or "Scenic Photo Murals" were photographic murals made from enlarged photographs on photographic paper, and that they manufactured such products, which were in fact printed or mechanical reproductions of photographs purchased by them from others.

Mr. Edward F. Downs and *Mr. Garland S. Ferguson*, for the Commission.

Mr. Leo E. Aronson, of *Aronson & Aronson*, of Chicago, Ill., for respondents.

INITIAL DECISION AS TO I. W. SHELL BY J. EARL COX,
HEARING EXAMINER

The complaint charges that respondents have engaged in the sale and distribution of printed or mechanical reproductions of photographs which they have falsely represented to have been manufac-

tured by them and to be enlarged photographs and photographic murals made from enlarged photographs on photographic paper, thereby violating the provisions of the Federal Trade Commission Act.

After the issuance of the complaint, Respondent I. W. Shell, his counsel, and counsel supporting the complaint entered into an agreement containing consent order to cease and desist, which was approved by the Director and an Assistant Director of the Commission's Bureau of Litigation, and thereafter transmitted to the hearing examiner for consideration.

The agreement states that Respondent I. W. Shell is an individual who has been active in a personal and financial way in Scenic Photo Murals, Inc., the corporate respondent herein, and that his office and place of business are located at 1141 West Madison Street, Chicago, Illinois. The address set forth in the complaint for respondent Shell was erroneous.

The agreement provides, among other things, that the respondent, named therein, admits all the jurisdictional facts alleged in the complaint, and agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement; that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; that the complaint may be used in construing the terms of the order agreed upon, which may be altered, modified or set aside in the manner provided for other orders; that the agreement is for settlement purposes only and does not constitute an admission by respondent that he has violated the law as alleged in the complaint; and that the order set forth in the agreement and hereinafter included in this decision shall have the same force and effect as if entered after a full hearing.

Respondent waives any further procedural steps before the hearing examiner and the Commission, the making of findings of fact, conclusions of law, and all of the rights he may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

The agreement disposes of all of this proceeding as to the respondent, I. W. Shell, and recites that upon the basis of information which is regarded as reliable, counsel supporting the complaint state that this respondent is not now, and never has been, an officer of the corporate respondent, and that the remaining respondents to the complaint will be dealt with by further proceedings.

The order agreed upon fully disposes of all the issues raised in the complaint, and adequately prohibits the acts and practices charged therein as being in violation of the Federal Trade Commission Act. Accordingly, the Hearing Examiner finds this proceeding to be in the public interest, and accepts the agreement containing consent order to cease and desist as part of the record upon which this decision is based. Therefore,

It is ordered. That respondent I. W. Shell, an individual, and the said respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of mechanical reproductions of photographs in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, or placing in the hands of others the means of representing, directly or by implication, that respondent's products are other than mechanical reproductions of photographs;
2. Using advertisements or brochures, or placing in the hands of others advertisements or brochures, describing products, which refer to the products as "Photo Murals," "Scenic Photo Murals" or any other description of similar import;
3. Representing that respondent manufactures the products sold by him;
4. Using the words "Photo Murals" or any word or words of similar import as a trade or corporate name or as a part of a trade or corporate name.

It is further ordered. That the complaint be, and the same hereby is, dismissed as to respondent I. W. Shell as an officer of Scenic Photo Murals, Inc.

Mr. Edward F. Downs supporting the complaint.
Respondent, *pro se*.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

The complaint in this proceeding, filed on August 23, 1957, alleged that Scenic Photo Murals, Inc., a corporation, Joseph Troyan, Bernice Troyan, and I. W. Shell, individually and as officers of said corporation, violated the provisions of the Federal Trade Commission Act by representing that the mechanically reproduced photographs sold by said corporation as wall decorations are photographic murals, and that it manufactures these products.

Under date of December 23, 1958, the hearing examiner issued his initial decision containing an order to cease and desist in this proceeding with respect to the individual respondents Joseph Troyan and Bernice Troyan upon the basis of their failure to file answer

to the complaint within the time provided and to appear at the time and place fixed for the hearing.

Thereafter, upon motion filed by the individual respondents Joseph and Bernice Troyan, the Commission ordered said initial decision vacated and set aside and the case reopened as to said respondents Joseph and Bernice Troyan. The case was remanded to the hearing examiner for further proceedings.

The individual respondent Joseph Troyan and counsel supporting the complaint have now 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 states that the respondent Scenic Photo Murals, Inc., a corporation, was adjudged a bankrupt on November 6, 1957, in an involuntary proceeding in the District Court for the Southern District of California, and, therefore, the complaint should be dismissed as to that respondent. It is further provided that the complaint shall be dismissed as to Bernice Troyan, individually and as an officer of Scenic Photo Murals, Inc., for the reason that there is no evidence that she had any individual responsibility for the formulation, direction, or control of the policies, acts, or practices of Scenic Photo Murals, Inc. The agreement disposes of all the proceedings as to the respondent Joseph Troyan. The complaint as to the respondent I. W. Shell will be otherwise disposed of.

Said agreement further provides as follows: Respondents admit 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; respondents waive the requirement that the decision must contain a statement of findings of fact and conclusions of law; respondents waive further procedural steps before the hearing examiner and the Commission, and the order may be altered, modified, or set aside in the manner provided by statute for other orders; respondents waive any right to challenge or contest the validity of the order entered in accordance with the agreement and the signing of said 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.

Upon consideration of said agreement the undersigned hearing examiner hereby accepts said agreement, makes the following jurisdictional findings, and issues the following order:

JURISDICTIONAL FINDINGS

1. Respondent Joseph Troyan is an individual who has been active in a personal and financial way in Scenic Photo Murals, Inc., the corporate respondent herein. The former address of respondent Joseph Troyan was 1900 South La Cienega Boulevard, Los Angeles, California. His present address is 3117 Bagley Street, Los Angeles, California.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent Joseph Troyan and the proceeding is in the public interest.

ORDER

It is ordered, That respondent Joseph Troyan, an individual, and his agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution, of mechanical reproductions of photographs in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, or placing in the hands of others the means of representing, directly or by implication, that respondent's products are other than mechanical reproductions of photographs;

2. Using advertisements or brochures, or placing in the hands of others advertisements or brochures, describing his products, which refer to the products as "Photo Murals," "Scenic Photo Murals," or any other description of similar import;

3. Representing that respondent manufactures the products sold by him;

4. Using the words "Photo Murals" or any word or words of similar import as a trade or corporate name or as a part of a trade or corporate name.

It is further ordered, That the complaint be, and the same hereby is, dismissed as to corporate respondent Scenic Photo Murals, Inc., Bernice Troyan, individually and as an officer of Scenic Photo Murals, Inc., and Joseph Troyan as an officer of Scenic Photo Murals, Inc., without prejudice to the right of the Commission to take such further action against said respondents as future facts may warrant.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORTS OF COMPLIANCE

The hearing examiner on December 23, 1958, having filed an initial decision wherein he accepted an agreement containing a consent order to cease and desist executed by respondent I. W. Shell and

counsel in support of the complaint, the effective date of which was by order of the Commission issued February 11, 1959, extended until further order of the Commission; and

The substitute hearing examiner on December 10, 1959, having filed another initial decision wherein he accepted an agreement containing a consent order to cease and desist executed by respondent Joseph Troyan and counsel in support of the complaint; and

The Commission having considered the matter and having determined that the two initial decisions constitute an adequate and appropriate disposition of this proceeding: Accordingly,

It is ordered, That the aforesaid initial decisions together shall, on the 28th day of January, 1960, become the decision of the Commission.

It is further ordered, That the respondents, I. W. Shell and Joseph Troyan, respectively, 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 he has complied with the order to cease and desist contained in the initial decision applicable to him.