

order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with the order to cease and desist.

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IN THE MATTER OF  
UNITED ARTISTS RECORDS, INC.

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

*Docket 7804. Complaint, Mar. 2, 1960—Decision, May 19, 1960*

Consent order requiring a New York City manufacturer and distributor of phonograph records to cease giving concealed "payola" to television and radio disc jockeys to induce playing their records in order to increase sales.

*Mr. John T. Walker* and *Mr. James H. Kelley* supporting the complaint.

*Mr. Sidney Shemel*, of New York, N.Y., for respondent.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondent on March 2, 1960, charging it with having violated the provisions of the Federal Trade Commission Act by unfairly paying money or other valuable consideration to induce the playing of phonograph records over radio and television stations in order to enhance the popularity of such records.

After issuance and service of the complaint, the above-named respondent, its attorney, and counsel supporting the complaint en-

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## Order

tered into an agreement for a consent order. 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 the Commission, and the order may be altered, modified, or set aside in the manner provided by statute for other orders; respondent waives 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 respondent that he has violated the law as alleged in the complaint.

The undersigned hearing examiner having considered the agreement and proposed order, hereby accepts such agreement, makes the following jurisdictional findings, and issues the following order:

## JURISDICTIONAL FINDINGS

1. Respondent United Artists Records, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its office and principal place of business located at 792 Seventh Avenue, New York, New York.

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

## ORDER

*It is ordered,* That respondent United Artists Records, Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with phonograph records which have been distributed, in commerce, or which are used by radio or television stations in broadcasting programs in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Giving or offering to give, without requiring public disclosure, any sum of money or other material consideration, to any person,

directly or indirectly, to induce that person to select, or participate in the selection of, and the broadcasting of, any such records in which respondent has a financial interest of any nature.

(2) Giving or offering to give, without requiring public disclosure, any sum of money, or other material consideration, to any person, directly or indirectly, as an inducement to influence any employee of a radio or television broadcasting station, or any other person, in any manner, to select, or participate in the selection of, and the broadcasting of, any such records in which respondent has a financial interest of any nature.

There shall be "public disclosure" within the meaning of this order, by any employee of a radio or television broadcasting station, or any other person, who selects or participates in the selection and broadcasting of a record when he shall disclose, or cause to have disclosed, to the listening public at the time the record is played, that his selection and broadcasting of such record are in consideration for compensation of some nature, directly or indirectly, received by him or his employer.

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 May, 1960, become the decision of the Commission; and, accordingly:

*It is ordered*, That the respondent herein shall within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.