

IN THE MATTER OF
ENDEAVOR PRESS ET AL.

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

Docket 7602. Complaint, Oct. 1, 1959—Decision, May 27, 1960

Consent order requiring a New York City concern engaged in selling to the public written material consisting of slogans, titles, names, compositions and answers, together with box tops, labels, and entry blanks, to cease advertising falsely that users of their said material would win large amounts of cash, homes, cars, annuities, and other substantial awards or prizes in competitive contests; and that they sold their said material to a limited number of selected persons.

Mr. Frederick McManus for the Commission.

Mr. Jacob Friedman, of New York, N.Y., for respondents.

INITIAL DECISION BY HARRY R. HINKES, HEARING EXAMINER

The complaint in this matter charges the respondents with violation of the Federal Trade Commission Act in connection with the offering for sale, sale and distribution of written material designed to win prizes in competitive contests.

An agreement has now been entered into by the respondents, their counsel and counsel supporting the complaint which provides, among other things, that the principal office and place of business of all respondents is not as stated in the complaint but is instead located at 33 East 74th Street, New York, New York; that respondents admit all the jurisdictional facts alleged 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 the agreement; that the making 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 this proceeding without further notice to the respondents and when entered shall have the same force and effect as if entered after a full hearing, respondents specifically waiving all the rights they may have to challenge or contest the validity of the order; that the order may be altered, modified or set aside in the manner provided for other orders; that the complaint may be used in construing the terms of the order; 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; and 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.

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

1. Respondent Endeavor Press is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondents Rebecca B. Roberts and Nancy Roberts are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth.

Respondent Rebecca B. Roberts does business under the names of

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Betty Davis, R. B. Roberts, Contest Editor and National Contest Headquarters.

The principal office and place of business of all respondents is located at 33 East 74th Street, in the City of New York, State of New York.

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 Endeavor Press, a corporation, and its officers, and Nancy Roberts, individually and as an officer of said corporation, and Rebecca B. Roberts, individually and as an officer of said corporation, and doing business under the names of Betty Davis, R. B. Roberts, Contest Editor, National Contest Headquarters and any other name or names, 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 written material consisting of slogans, titles, names, compositions and answers, designed to win prizes or awards in competitive contests, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from disseminating, or causing to be disseminated any advertisement, which represents directly or by implication that:

1. Users of said written material, as entries in competitive contests, can win homes, cars, annuities, substantial sums of money or any other awards or prizes without clearly disclosing that said entries are subject to invalidation under competitive contest rules and practices which require that all entries be the original creation of the entrant.

2. The sale of said written material is limited to a small number of persons.

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 27th day of May, 1960, become the decision of the Commission; and, accordingly:

It is ordered, That 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.

Complaint

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IN THE MATTER OF

ELMER CANDY COMPANY, INC.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 2(a)
OF THE CLAYTON ACT*Docket 7678. Complaint, Dec. 3, 1959—Decision, May 27, 1960*

Consent order requiring a New Orleans candy manufacturer to cease discriminating in price in violation of Sec. 2(a) of the Clayton Act by selling its products to some purchasers at higher prices than it sold to their competitors; for example, granting 10% and 20% price discounts to certain drugstores but none to competing drugstores, some of which sold more of its products than those favored.

COMPLAINT

The Federal Trade Commission, having reason to believe that Elmer Candy Company, Inc., hereinafter referred to as "respondent" and more particularly designated and described, has violated and is now violating the provisions of subsection (a) of Section 2 of the Clayton Act, as amended (U.S.C., Title 15, Section 13), hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Louisiana with its principal office and place of business at 540 Magazine Street, New Orleans, Louisiana.

PAR. 2. Respondent is engaged in the business of manufacturing and selling candy and related products. Respondent's total sales for the fiscal year ending August 31, 1958, were approximately \$2,500,000.00.

PAR. 3. Respondent has for several years last past maintained and operated, and still maintains and operates, a plant in New Orleans, Louisiana, at which are manufactured the aforesaid products.

PAR. 4. These products were, and are, sold by respondent for use, consumption, or resale within the United States, and when so sold respondent either ships or causes said products to be shipped and transported from the State of Louisiana to purchasers thereof located in other states of the United States, including the State of Mississippi. Respondent has maintained for the last several years, and still does maintain, a course of trade in commerce in said products, as "commerce" is defined in the aforesaid Clayton Act, as amended.