

TONEMASTER MANUFACTURING COMPANY ET AL.

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

*Docket 7301. Complaint, Nov. 14, 1958—Decision, Oct. 14, 1960*

Order dismissing false advertising charges against two former officials of respondent corporation, seller of hearing aids, as to which the same charges were settled by a consent order dated May 9, 1959, 55 F.T.C. 1750.

Before *Mr. John B. Poindexter*, hearing examiner.

*Mr. William A. Somers* for the Commission.

No appearance for respondents.

## INITIAL DECISION DISMISSING COMPLAINT AS TO CERTAIN RESPONDENTS

On March 20, 1959, the undersigned hearing examiner issued an Initial Decision in this proceeding as to the respondents Tonemaster Manufacturing Company, a corporation, Paul B. H. Smith, and Margaret H. Smith, individually and as officers of said corporation, based upon a consent agreement executed by said corporation, Paul B. H. Smith, and Margaret H. Smith, individually and as officers of said corporation, and counsel supporting the complaint. It was contemplated that the proceeding with respect to the remaining respondents Harold A. Lyons and John L. Lyons would be disposed of by a separate Initial Decision.

Counsel supporting the complaint has now filed a motion requesting that the complaint be dismissed as to the respondents Harold A. Lyons and John L. Lyons, individually and as officers of the corporate respondent. As grounds for the motion counsel states, among other things, that neither respondent Harold A. Lyons nor John L. Lyons was served with a copy of the complaint and, although counsel has made diligent inquiry as to the whereabouts, activities, and present addresses of said remaining respondents Harold A. Lyons and John L. Lyons, he has been unable to ascertain the same; that neither Harold A. Lyons nor John L. Lyons had any interest in, was not an officer of, was not employed in any capacity by, nor had office space in or with the corporate respondent Tonemaster Manufacturing Company eight months prior to the issuance of the complaint herein, as shown by the affidavit of Paul B. H. Smith, one of the respondents herein and President of said corporate respondent. This affidavit was attached to the motion to dismiss.

Upon consideration of said motion and the affidavit attached thereto, the hearing examiner is of the opinion that it will be in the public interest to dismiss the complaint with respect to the above-named remaining respondents. Accordingly,

*It is ordered,* That the complaint in this proceeding be, and the same hereby is, dismissed as to the respondents Harold A. Lyons and John L. Lyons, individually and as officers of respondent Tonemaster Manufacturing Company, a corporation, without prejudice to any action the Commission may take in the future as the facts and circumstances may warrant.

## DECISION OF THE COMMISSION

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner as to respondents Harold A. Lyons and John L. Lyons did, on the 14th day of October 1960, become the decision of the Commission.

## Complaint

## IN THE MATTER OF

## SCEPTER MUSIC, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF  
THE FEDERAL TRADE COMMISSION ACT*Docket 7896. Complaint, May 20, 1960—Decision, Oct. 15, 1960*

Consent order requiring New York City manufacturers of phonograph records to cease paying concealed payola to disk jockeys and other personnel of television and radio stations to induce frequent playing of their records in order to increase sales.

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Scepter Music, Inc., a corporation, and Florence Greenberg, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Scepter Music, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 1650 Broadway, in the City of New York, State of New York.

Respondent Florence Greenberg is an officer of the corporate respondent. She formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Her address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the manufacture and distribution, offering for sale, and sale, of phonograph records to distributors.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said records, when sold, to be shipped from one state of the United States to purchasers thereof located in various other States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said phonograph records in commerce, as "commerce" is defined in the Federal Trade Commission Act.