

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 this order.

IN THE MATTER OF
UNITED STATES TESTING COMPANY, INC.

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

Docket C-277. Complaint, Nov. 30, 1962—Decision, Nov. 30, 1962

Consent order requiring a Hoboken, N.J., corporation engaged in operating laboratories in various States and in the testing of products for manufacturers and merchandisers, to cease representing falsely that it was connected with the U.S. Government and that the tests were made or approved by that Government, through use of the words "United States" on the "Seal of Quality", its corporate name, and the seal of the United States Testing Company, use of which it permitted for a consideration in advertisements of products on television and radio broadcasts and in magazines, newspapers, and other advertising material distributed to the public.

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 the United States Testing Company, Inc., hereinafter referred to as respondent, has 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 United States Testing Company, 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 1415 Park Avenue, Hoboken, N.J.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the solicitation of accounts for their business and in the conduct of tests of materials, products and commodities for manufacturers and merchandisers, who advertise, sell and distribute such tested articles in commerce to the purchasing public.

PAR. 3. In the course and conduct of its business, as aforesaid, from its principal place of business located in Hoboken, New Jersey, respondent has maintained and operated, and is now maintaining and operating business offices and laboratories in various States of the United States, other than the State of New Jersey. In connection with the control and operation of its business, respondent is now and has been transmitting and receiving through the United States mail, advertising matter, reports, letters, contracts, checks, money orders and other written instruments which are sent and received between respondent's principal place of business in the State of New Jersey and respondent's places of business and laboratories located in States other than the State of New Jersey, and between the respondent and corporations, firms and individuals located in various other States of the United States; and thereby has engaged in extensive commercial intercourse in commerce and has maintained at all times mentioned herein a constant, substantial trade in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of its business, as aforesaid, respondent, for a consideration, has issued its "Seal of Quality" and has permitted the use of said "Seal of Quality", its corporate name "United States Testing Company" and the Seal of the United States Testing Company, Inc., in the advertisements of the materials, products or commodities of certain manufacturers and merchandisers on nationwide and local television and radio broadcasts, in magazines of national circulation, in newspapers of general circulation and in various pamphlets and other advertising material, distributed directly to or available to the general public. Typical, but not all inclusive of such advertising are the following:

Seal of U.S.
Testing
Company

1. OFFICIAL REPORT FROM U.S. TESTING COMPANY
ON 1962 CHEVROLET, FORD AND PLYMOUTH . . .
2. Parliament is tested for uniformity, month after month by
the United States Testing Company . . .

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3. FOR DIAMOND PERFECTION

This Seal is $\left\{ \begin{array}{c} \text{Seal} \\ \text{of} \\ \text{Quality} \end{array} \right\}$ Your Protection

Isn't it better to buy the best? What could be better than a PERFECT diamond? The center diamond of every "Eternally Yours" engagement ring has been tested and CERTIFIED PERFECT by the United States Testing Co. The great seal of The United States Testing Co. on the ring tags of "Eternally Yours" diamonds is your assurance of top quality. Only "Eternally Yours" diamonds are authorized to bear this seal.

PAR. 5. Through the use of the words "United States" in its trade name "United States Testing Company", accompanied either by its "Seal of Quality" or the Seal of the United States Testing Company, respondent has placed, and is now placing, in the hands of others means and instrumentalities by and through which they may mislead the public into the belief that respondent is connected with, or is an agency, branch or instrumentality of, the United States Government and that the said tests were made or approved by the United States Government.

PAR. 6. In truth and in fact, respondent is in no way connected with any branch, arm, agency or instrumentality of the United States Government in any capacity, nor is such testing, as aforesaid, made or approved in any manner by the United States Government. The aforesaid representations were, therefore, false, misleading and deceptive.

PAR. 7. In the conduct of its business at all times mentioned herein, respondent has been in substantial competition, in commerce, with corporations, firms and individuals engaged in the same business of testing, approving and permitting the use of their name in the advertising of products as the respondent.

PAR. 8. The use by the respondent of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of the products, advertised as aforesaid, by reason of said erroneous and mistaken belief.

PAR. 9. The aforesaid acts and practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public and of respondent's competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive

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acts and practices in commerce, in violation of Section 5(a)(1) of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereof with violation of the Federal Trade Commission Act, and the respondent having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondent of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as set forth in such complaint, and waivers and provisions as required by the Commission's rules, and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent, United States Testing Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 1415 Park Avenue, in the city of Hoboken, State of New Jersey.

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

ORDER

It is ordered, That the United States Testing Company, Inc., a corporation, and its officers, and said respondent's agents, representatives and employees, directly or through any corporate or other device, in the conduct of testing materials, products or commodities, of manufacturers or merchandisers or others, and furnishing reports of such tests, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Furnishing any report of any such test under any corporate name, or with any seal or insignia containing the words "United States" to any person, firm or corporation for use in advertising

to the general public the materials, products or commodities tested by respondent, or in any manner designating, describing or referring to respondent's business as, or otherwise representing, directly or by implication, in any such report that respondent is, an agency, branch or instrumentality of the United States Government, or that its business is in any way connected with the United States Government.

2. Placing in the hands of others for use in advertising any means or instrumentalities, by and through which the general public may be misled into the belief that the respondent is connected with or is an agency, branch or instrumentality of the United States Government, or that such tests of said materials, products or commodities were made or approved by the United States Government.

It is further ordered, That the United States Testing Company, Inc., a corporation, and its officers, and said respondent's agents, representatives and employees shall, affirmatively and in good faith, include in any report to, or in any contract, agreement or understanding with any person, firm or corporation, for whom respondent shall test said materials, products and commodities, an express provision that under no circumstances may the respondent's corporate name, seal or any insignia, containing the words "United States", be used in advertising said materials, products or commodities to the general public.

It is further ordered, That the respondent United States Testing Company, Inc., a corporation, and its officers, and said respondent's agents, representatives and employees, shall, within sixty days after service upon it of this order, have notified all persons, firms and corporations with which respondent is presently under contract to test materials, products and commodities and to submit reports of such tests, or which are presently authorized by respondent to use, in advertising, reports of tests, previously made, that from the date of such notice, said persons, firms and corporations shall not use the corporate name of the respondent, its seal or any insignia, containing the words "United States" in the advertising of said materials, products or commodities to the general public.

It is further 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 this order.

Complaint

IN THE MATTER OF

ALEXANDER MINER SALES CORP.*

CONSENT ORDERS, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
SEC. 2(d) OF THE CLAYTON ACT

*Docket 8102. Complaint Aug. 25, 1960**—Decision, Dec. 5, 1962*

Consent orders requiring eight toy manufacturers in various States to cease violating Sec. 2(d) of the Clayton Act by granting promotional payments for the advertising of their products to certain wholesale customer publishers of toy catalogs—which were distributed by such wholesalers to their retailer outlets for redistribution to consumers—without offering payments on proportionally equal terms to all their other distributor customers competing with those so favored.

COMPLAINT

The Federal Trade Commission, having reason to believe that the respondents named in the caption hereof, and hereinafter more particularly designated and described, have violated and are now violating the provisions of subsection (d) of Section 2 of the Clayton Act (U.S.C. Title 15, Sec. 13), as amended by the Robinson-Patman Act, hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Alexander Miner Sales Corp., Docket 8102, is a corporation organized and doing business under the laws of the State of New York, with its principal office and place of business located at 430 Southern Boulevard, Bronx, New York.

Respondent The A. C. Gilbert Company, Docket 8104, is a corporation organized and doing business under the laws of the State of Maryland, with its principal office and place of business located at Erector Square, New Haven 6, Conn.

Respondent Aurora Plastics Corp., Docket 8225, is a corporation organized and doing business under the laws of the State of New York, with its principal office and place of business located at 44 Cherry Valley Road, West Hempstead, Long Island, N.Y.

Respondent Multiple Products Corporation, Docket 8229, is a corporation organized and doing business under the laws of the State of New York, with its principal office and place of business located at 55 West 13th Street, New York, N. Y.

*and the following related cases: The A. C. Gilbert Company, Docket 8104; Aurora Plastics Corp., Docket 8225; Multiple Products Corporation, Docket 8229; Horsman Dolls, Inc., Docket 8241; Tonka Toys, Incorporated, Docket 8242; Radio Steel & Mfg. Co., Docket 8244; Hamilton Steel Products, Inc., Docket 8257.

**Complaints are combined.