

it hereby is, dismissed without prejudice, however, to the right of the Commission to issue a new complaint or to take such further or other action against the respondent at any time in the future as may be warranted by the then existing circumstances.

IN THE MATTER OF
MAJESTIC UTILITIES CORPORATION ET AL.

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

Docket C-588. Complaint, Sept. 17, 1963—Decision, Sept. 17, 1963

Consent order requiring Denver sellers of furniture, appliances, magazines and dictionaries through door-to-door salesmen, to cease representing falsely that a copy of "Webster's Home University Dictionary" would be given

Complaint

63 F.T.C.

free or as a gift with the purchase of a 5-year subscription to "Look" magazine; and to cease using the registered trade name "Educators Institute", with its deceptive implication that their commercial enterprise was an institution of higher learning.

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 Majestic Utilities Corporation, a corporation, and Phillip Winn and Jack Darby, individually and as officers 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 Majestic Utilities Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Colorado, with its principal office and place of business located at 1514 Arapaho Street, Denver, Colorado.

Respondents Phillip Winn and Jack Darby are officers of said corporation. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and have been for more than one year last past, engaged in the sale and distribution of furniture, appliances, magazines and dictionaries to the public.

PAR. 3. In the course and conduct of their business, respondents did cause their said merchandise, when sold, to be shipped from their place of business in the State of Colorado and a branch store in the State of Nebraska to purchasers in various other States of the United States, and maintain, and at all times herein mentioned have maintained, a substantial course of trade in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of merchandise of the same general kind and nature as that sold by respondents.

PAR. 5. Respondents' method of selling magazines and dictionaries is by door-to-door salesmen who, in the course of the presentation, have stated or represented, directly or by implication, among other things, that a copy of "Webster's Home University Dictionary" would be given free or as a gift with the purchase of a 5-year subscription to "Look" magazine.

PAR 6. In truth and in fact, the dictionary is not given free or as a gift with the purchase of the subscription, but on the contrary, the price of the dictionary is included in the total purchase price of the combination offer.

Therefore, the statements and representations set forth in Paragraph 5 are false, misleading and deceptive.

PAR 7. In the course and conduct of their business, the respondents use the registered trade name of "Educators Institute", thereby representing, directly or by implication, that they are conducting an institution of higher learning with a staff of competent, experienced and qualified educators offering instruction in the arts, sciences and subjects of higher learning.

PAR 8. In truth and in fact, respondents' business is not an "Institute" as described in Paragraph 7, but on the contrary, is a commercial enterprise engaged in selling magazine subscriptions and dictionaries for a profit.

Therefore, the statements and representations set forth in Paragraph 7 are false, misleading and deceptive.

PAR 9. The use by the respondents 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 respondents' magazine subscriptions and dictionaries.

PAR 10. The aforesaid acts and practices of respondents, as herein alleged, were, and are, all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid

draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondents that the law has been violated as alleged in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having reason to believe that the respondents have violated the Federal Trade Commission Act, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings and enters the following order:

1. Respondent Majestic Utilities Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Colorado, with its office and principal place of business located at 1514 Arapaho Street, in the city of Denver, State of Colorado.

Respondents Phillip Winn and Jack Darby are officers of said corporation, and their address is the same as that of said corporation.

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, Majestic Utilities Corporation, a corporation and its officers, and Phillip Winn and Jack Darby, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of magazine subscriptions or any other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that dictionaries or other items of value sold in conjunction with magazine subscriptions or other merchandise are given to a customer or purchaser "free" or as a gift;

2. Using the words "Institute" or "Educators Institute" either singly or together or in conjunction with any other word or words of similar import and meaning, or any abbreviation or simulation thereof, as part of respondents' trade or corporate name or using said word or words in any other manner to designate, describe or refer to respondents' business, or otherwise misrepresenting the nature of their business in any manner.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the

