

IN THE MATTER OF
AMERICAN EDUCATION SOCIETY, INC., ET AL.

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

Docket C-859. Complaint, Nov. 19, 1964—Decision, Nov. 19, 1964

Consent order requiring Yonkers, N.Y., sellers of books through door-to-door salesmen to cease misrepresenting that their solicitors are church-sponsored, or conducting surveys, that the books are specially priced, and that the publisher of the books sponsors scholarship funds.

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 American Education Society, Inc., a corporation, and Noel N. Marder, 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 American Education Society, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Respondent Noel N. Marder is an officer of the said corporate respondent and formulates, directs and controls the acts and practices of said corporate respondent, including the acts and practices hereinafter set forth. The offices and principal place of business of both the corporate and individual respondent is located at 733 Yonkers Avenue, Yonkers, New York.

PAR. 2. Respondents are now, and for several years last past have been, engaged in the advertising, sale and offering for sale of books, including an encyclopedia called the Universal World Reference Encyclopedia. Respondents cause their said books, including the Universal World Reference Encyclopedia, when sold, to be transported from the State of New York to purchasers thereof located in various other States of the United States. Respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in said books in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. Respondents sell said books, including the Universal World Reference Encyclopedia, at retail to the general public. Sales are made by respondents' agents, representatives or employees who contact prospective purchasers in their homes or at their places of business. These agents, representatives or employees operate in the usual and customary manner of door-to-door salesmen.

Respondents have formulated, developed and carried out a plan for selling their said books, including the Universal World Reference Encyclopedia, which is commonly known and referred to as their "Church Lead" program. Under this plan or program, respondents obtain or cause to be obtained a list of the members of various churches from the pastors of such churches. Respondents supply their agents, representatives or employees with, and instruct them to use and follow, and said agents, representatives or employees do use and follow, printed sales presentations in orally soliciting the purchase of respondents' books, including the Universal World Reference Encyclopedia, by church members whose names were obtained under the "Church Lead" program.

Respondents, in said printed sales presentations and other printed material, and respondents' agents, representatives or employees, in the course of their sales talks, make many statements and representations concerning the offer, price, publication and origin of respondents'

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books, including the Universal World Reference Encyclopedia, the status of respondents' agents, representatives or employees and the benefits which will allegedly accrue to prospective customers if they purchase respondents' said books.

Typical, but not all inclusive, of said statements and representations are the following:

1. That respondents' sales representatives were calling on prospective customers at the suggestion, recommendation or instructions of the prospect's pastor.

2. That respondents' agents, representatives or employees were not acting in the capacity of sales agents, but were engaged in conducting research and surveys.

3. That respondents are publishers of books and bibles used in churches and schools throughout the country, and that respondents prepared, compiled and published the Universal World Reference Encyclopedia and other reference books sold and offered for sale by respondents.

4. That respondents are offering the Universal World Reference Encyclopedia and other books sold singly or in combination therewith to specially selected families at a special introductory price in return for the prospect's agreement to display the said books in his home, to recommend to friends that they purchase the said books, and to write a letter commending said books.

5. That respondents' agents, representatives or employees are representatives of, that they are sent to call on prospective customers by, and that they make their offers of respondents' said books pursuant to the suggestion of a church organization, and that such organization is known as the "Council of Christian Education."

6. That scholarship funds and scholarship programs have been established in the prospective customers' church, and that respondents donate to such funds and programs the monies which they would otherwise expend in advertising their encyclopedia set and other books.

7. That by purchasing respondents' said encyclopedia set and other books, the children of the prospect and other children will be able to secure a college education.

PAR. 4. In truth and in fact:

1. In a substantial number of instances respondents' sales representatives were not calling on prospective customers at the suggestion, recommendation, instructions or other sponsorship of the prospective customers' pastor or other person or organization other than the respondents; and furthermore, representations of pastoral or other endorsement or sponsorship were false and misleading because the said

sales representatives failed to reveal the material fact that compensation was paid for the said endorsement or sponsorship of respondents' merchandise in those instances where such endorsement or sponsorship was accorded.

2. Respondents' agents, representatives or employees, when calling on prospective customers, were not conducting surveys or research but made such representations for the purpose of gaining entrance into prospects' homes with the ultimate objective of making a sale of respondents' merchandise.

3. Respondents do not publish and did not compile the Universal World Reference Encyclopedia or any of the other books sold, and offered for sale by them.

4. Respondents' offer of the Universal World Reference Encyclopedia and other books was not a special offer made to selected families but was made to all prospects generally.

5. The prices quoted to prospects by respondents' agents, representatives and employees for the Universal World Reference Encyclopedia and other books were not special introductory prices lower than those to which the respondents in good faith expected to increase the said prices at a later date, nor lower than the prices at which the said merchandise had actually been sold by the respondents, nor lower than bona fide prices at which the said merchandise had been offered by the respondents to the public on a regular basis for a substantial period of time, but were the respondents usual and regular selling prices for the said encyclopedia and other books.

6. The Council of Christian Education is a trade name and an organization established by the respondents. Respondents' agents, representatives and employees accordingly are not representatives of, are not sent to call on prospective customers by, and do not make offers of encyclopedia sets and other books on behalf of a bona fide church organization known as the "Council of Christian Education".

7. Scholarship funds and scholarship programs have not been established in the various churches whose members are solicited by respondents' agents, representatives or employees to purchase respondents' encyclopedia set and other books. Respondents do not donate to such funds the monies which they would otherwise spend in advertising their said books.

8. Prospective customers have no assurance that in purchasing respondents' encyclopedia set and other books, they will thereby enable their own children and other children to obtain a college education.

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

PAR. 5. Furthermore, in the course and conduct of their business, respondents have caused the corporate name "American Education Society, Inc.", to appear on their business stationery, advertising material and other printed material and other printed matter.

Through use of the corporate name "American Education Society, Inc." respondents have represented, directly or by implication, that their business is a society of educators.

PAR. 6. In truth and in fact, respondents' business is not a society of educators.

Therefore, the representation referred to in Paragraph Five is false, misleading and deceptive.

PAR. 7. By supplying their agents, representatives or employees with the printed sales presentations described in Paragraph Four, respondents placed in the hands of said agents, representatives or employees the means and instrumentality for misleading and deceiving the public.

PAR. 8. In the course and conduct of their business, respondents have been, and now are, in direct and substantial competition in commerce with other corporations, individuals and firms in the sale of books of the same general nature as those sold by respondents.

PAR. 9. The use by respondents of the aforesaid false, misleading and deceptive statements and representations has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that such statements and representations were and are true, and to enter into contracts for respondents' products because of such erroneous and mistaken belief.

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, within the intent and meaning of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act and the respondents 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 respondents and counsel for the Commission having thereafter

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executed an agreement containing a consent order, an admission by respondents 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 respondents 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, American Education Society, 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 733 Yonkers Avenue, in the city of Yonkers, State of New York.

Respondent Noel N. Marder is an officer of said corporation and his 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 respondent American Education Society, Inc., a corporation, and its officers, and respondent Noel N. Marder, individually and as an officer 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 encyclopedias or other books or publications, or any other articles of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

1. That the respondents' sales representatives are calling on prospective customers at the suggestion, recommendation, instructions or under other sponsorship of the prospective customer's pastor or any other person or organization, other than respondents unless respondents establish that such is the fact, and, in immediate conjunction with any representation respecting pastoral or other ascribed suggestion, recommendation, instruction, sponsorship, a full, truthful and nondeceptive disclosure is made to prospective purchasers of the amount and type of any considera-

tion theretofore and thereafter to be accorded for such suggestion, recommendation, instruction or sponsorship.

2. That respondents' sales representatives or sales agents or employees are engaged in conducting a survey or research or that the purpose of the call or interview by respondents' sales representatives or sales agents relates to other than the sale of books, merchandise or services; or that any other of respondents' representatives or agents are engaged in conducting a survey or research unless respondents establish that such is the fact.

3. That respondents are publishers of the Universal World Reference Encyclopedia; or representing, directly or by implication, that respondents are publishers of, or have compiled or prepared, any other book or publication offered for sale by them unless respondents establish that such is the fact.

4. That prospective purchasers of respondents' merchandise have been specially selected; *Provided, however*, That nothing herein shall prohibit respondents from making a full truthful and non-deceptive statement of the reasons why such prospect is being solicited and stating when such is the case, that a prospect's name was obtained from a designated person or organization and that respondents' sales solicitation has been inspired by information respecting the prospect's race and his financial ability to purchase respondents' merchandise.

5. That any price at which respondents' books are offered for sale is a special introductory price or a reduced price, unless respondents establish that it is less than the price to which the respondents in good faith expected to increase the price at a later date; or that the price at which the books are offered for sale is a price which is lower than the genuine former price at which the said books were actually sold; or is lower than the bona fide price at which the said books were offered to the public on a regular basis for a substantial period of time.

6. That respondents or respondents' agents, representatives or employees are representatives of, or are sent to call on prospective customers by, or are offering respondents' books pursuant to the suggestion of, the "Council of Christian Education".

7. That scholarship funds and scholarship programs have been established in the churches of prospective customers, or that by purchasing respondents' books, the children of the prospect or other children will be able to secure a college education, unless respondents establish that such is the fact.

8. That respondents donate to scholarship funds and scholarship programs the monies which they would otherwise expend in advertising and promoting their books; and

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It is further ordered, That respondent American Education Society, Inc., a corporation, and its officers, and respondent Noel N. Marder, individually and as an officer 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 encyclopedias or other books or publications, or any other articles of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Using the corporate name "American Education Society, Inc." or any other name of similar import to designate or refer to respondents' business, or otherwise representing that their business is a society of educators.

It is further ordered, That the 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 this order.