

Order

67 F.T.C.

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.

IN THE MATTER OF
SANDURA COMPANY

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

Docket 7042. Complaint, Jan. 15, 1958—Decision, June 28, 1965

Modified order requiring manufacturer of "Sandran" vinyl plastic used in covering floors, counter tops, and walls, to cease fixing and maintaining distributors' and dealers' resale prices of its products and related restrictive practices;

The Court of Appeals, Sixth Circuit, on Dec. 30, 1964, 339 F. 2d 847, deleted the portions of the Commission's order of Sept. 26, 1962, 61 F.T.C. 756, which prohibited the use of closed distributor and dealer territories, holding that they were economically justified in the circumstances of the case.

ORDER ON REMAND

This matter having been remanded to the Commission by the United States Court of Appeals for the Sixth Circuit by an order filed on December 30, 1964 [7 S.&D. 1077], in the course of the review of the Commission's decision in that Court, which order directed the Commission "to modify its order to conform with the opinion" of the Court issued on December 30, 1964; and

Counsel of record for Sandura Company having formally advised the Commission on June 3, 1965, that "By 'Certificate of Amendment of Certificate of Incorporation' filed with the Secretary of the State of Delaware, May 14, 1965, the name of Respondent Sandura Company was changed to Del Penn Company";

Now, therefore, it is ordered, That the order to cease and desist is hereby modified to read as follows:

It is ordered, That respondent, formerly Sandura Company but recently renamed Del Penn Company, a corporation, and its officers, directors, agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of floor-covering, wall-covering, and countertop products, and related products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Respondent Luxor Carpets, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the District of Columbia with its office and principal place of business located at 3308 14th Street, NW., in the city of Washington, District of Columbia.

Respondent Henry Hillman 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 respondents Luxor Carpets, Inc., a corporation, and its officers and Henry Hillman, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of carpeting or other products, 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 respondents' customers are able to obtain respondents' products at little or no cost unless respondents clearly disclose in immediate conjunction therewith (1) the total number of respondents' customers (2) the number of such customers who have received their carpets at no cost and (3) the average amount of the earnings or compensation received by respondents' customers.

2. Representing, directly or by implication, that a person participating in respondents' program will receive earnings or compensation in any amount unless respondents are able to establish that participants in said program have regularly and consistently received earnings or compensation in such amounts in the regular course of respondents' business.

3. Representing, directly or by implication, that respondents have in the past, or will in the future, sell their products to persons referred to them, in any percentage or number, however expressed, unless respondents are able to establish that they regularly and consistently sold such products in such percentage or number in the regular course of their business.

4. Inducing, or seeking to induce, persons to misrepresent to others that they have received respondents' products at little or no cost to themselves, or otherwise inducing or seeking to induce, persons to misrepresent respondents' products or their sales plan to others.

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(e) Refusing to sell to dealers or distributors because of the price at which they are known to be, or suspected of, buying respondent's products from any other person.

Provided, however, That nothing contained in this Order shall be construed to prohibit respondent from petitioning the Commission to reopen and alter, modify, or set aside, in whole or in part, any provision of this Order on the ground that conditions of fact have so changed as to require such action in the public interest.

It is further ordered, That respondent, formerly Sandura Company but recently renamed Del Penn Company, a corporation, 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.

Commissioner MacIntyre not concurring.
