

Complaint

69 F.T.C.

IN THE MATTER OF

JAMES W. LINT DOING BUSINESS AS EDUCATIONAL
HOME SERVICES, ETC.

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

Docket C-1049. Complaint, March 17, 1966—Decision, March 17, 1966

Consent order requiring an Alexandria, Va., book distributor to cease using various false and deceptive representations to sell his books and to recruit salesmen.

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 James W. Lint, an individual, trading and doing business as Educational Home Services, Standard Associates and Metropolitan Industries, 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 James W. Lint is an individual, trading and doing business as Educational Home Services, Standard Associates, and Metropolitan Industries, with his principal office and place of business located at 4105 Duke Street, Alexandria, Virginia.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the advertising, offering for sale, sale and distribution of various books, including an encyclopedia named "New Standard Encyclopedia," to the public.

PAR. 3. In the course and conduct of his business, respondent now causes, and for some time last past has caused, the said books, including the New Standard Encyclopedia, when sold, to be shipped from the State of Illinois to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of his business, respondent

has been, and now is, in substantial competition in commerce with corporations, individuals and firms in the sale of books of the same general nature as those sold by respondent.

PAR. 5. In the course and conduct of his business as aforesaid, respondent sells said books, including the New Standard Encyclopedia, at retail to the general public. Sales are made by respondent's agents, representatives or employees who contact prospective purchasers in their homes or at their places of business.

Respondent has formulated, developed and carried out a plan for selling the said books, including the New Standard Encyclopedia, which is commonly known and referred to as a "sales pitch," or "Presentation" program. Respondent supplies his agents, representatives or employees with said printed "sales pitch" and material for use in connection therewith and instructs them to use and follow same. Said agents, representatives or employees employ said printed sales presentation and material in orally soliciting the purchase of respondent's books, including the New Standard Encyclopedia.

Respondent, in said printed sales presentation and in advertising and promotional literature and other printed materials, and respondent's agents, representatives or employees, in the course of their sales talks, make many statements and representations concerning their status and employment, and the offer, price, characteristics and quality of respondent's said books, including the New Standard Encyclopedia. Some of these statements and representations are made orally by said agents, representatives or employees to prospective purchasers, and some are contained in advertising and promotional literature displayed by said representatives to said prospective purchasers.

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

A. That said agent or representative is connected with respondent's advertising or publicity department, and is not selling anything; that respondent's enterprise is a marketing research organization; and that said representative is conducting a survey.

B. That respondent is offering to give a set of the New Standard Encyclopedia free or at a reduced price to specially selected persons in return for:

1. A letter of endorsement regarding the said set of encyclopedia.
2. Display of the product in prospect's home.

3. An agreement that the encyclopedia will be kept up to date by prospective customer.

C. That the offer of respondent's encyclopedia is a "special introductory offer"; that said offer is not being made to the public generally; and that it is only being offered to a specially selected group of people in the particular community.

D. That certain books included in respondent's "combination offer" are given free of cost with the purchase of a subscription to respondent's "Information Service" for ten years, at \$24.95 per year and that purchasers of respondent's "combination offer" pay only for a part of such books.

E. That respondent's quarterly supplement regularly sells for \$10 and is being specially offered "free" or at a reduced price to prospective customers for only \$2.95 a year which covers handling and postage charges.

F. That the favorable price, terms and conditions of the "special introductory" are limited to the time of the call on the prospective customer.

PAR. 6. In truth and in fact:

A. Said agents, representatives or employees, are not connected with respondent's advertising or publicity department. They are simply salesmen selling respondent's books and other articles of merchandise. Respondent's business enterprise is not that of a marketing research organization and respondent's representatives are not conducting a marketing survey.

B. Respondent's agents, or representatives do not give a set of the New Standard Encyclopedias free or at a reduced price to specially selected persons in return for the considerations heretofore listed in Paragraph 5(b) or for any other reasons or considerations. Said encyclopedias are offered and sold only at respondent's usual and customary prices.

C. Respondent's offer of said encyclopedia is not a "special introductory" offer. It is being offered to the general public at the time of the presentation and is not being offered only to a specially selected group of people in the particular community.

D. Certain of the books included with the encyclopedia in respondent's "combination offer" are not free of cost with the purchase of respondent's "Information Service," as the cost of all such books and said "Information Service" is included in the contract price of the combination offer. Purchasers pay the full price for all of the books in the "combination offer."

E. Respondent's quarterly supplement does not regularly sell

for \$10 and is not being offered "free" or at a reduced price to prospective customers for only \$2.95 to pay for handling and postage charges. Said supplement regularly sells for \$2.95 per annum.

F. The price, terms and conditions of the so-called "special introductory" offer are not limited to the time when the call is made on the prospective customer.

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

PAR. 7. In the further course and conduct of respondent's business, and for the purpose of attracting and acquiring sales employees, respondent has caused, and is causing, classified newspaper ads to be published in newspapers distributed through the United States mail and by other means.

Typical and illustrative, but not all inclusive, of such advertisements and representations are the following:

Help Wanted: Assistant Interviewers at guaranteed monthly salary of \$400.00.

PAR. 8. Through the use of the aforesaid statements and representations, and others of similar import and meaning but not specifically set forth herein, the respondent represents, and has represented, directly or by implication, that the offer of employment is for assistant interviewers at a guaranteed monthly salary.

PAR. 9. In truth and in fact, respondent's offer of employment was and is not for assistant interviewers at a guaranteed monthly salary, but for door-to-door book salesmen working on a commission.

Therefore, the statements and representations set forth in Paragraphs Seven and Eight hereof were and are false, misleading and deceptive.

PAR. 10. The use by respondent 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 the purchase of respondent's products because of such erroneous and mistaken belief.

The use by respondent of the aforesaid statements and representations in connection with the recruitment of personnel to sell encyclopedias and related books, has had, and now has, the capacity and tendency to mislead prospective employees into the erroneous and mistaken belief that such representations were, and are

Order

69 F.T.C.

true and to induce them to respond to such advertisements and to enter into respondent's employ in reliance thereon.

PAR. 11. 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 acts and practices in commerce in violation of Section 5 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 James W. Lint, is an individual, trading and doing business under the names of Educational Home Services, Standard Associates, and Metropolitan Industries, with his office and principal place of business located at 4105 Duke Street, in the city of Alexandria, State of Virginia.

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 respondent James W. Lint, an individual, trading and doing business as Educational Home Services, Standard Associates, and Metropolitan Industries, or under any other name or names, and respondent's representatives, agents and em-

ployees, 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 respondent's agents, representatives or employees are connected with respondent's advertising or publicity department; or that they are not selling anything; or that they have any status other than that which they have in fact.

2. Representing that respondent's enterprise is a marketing research organization; or that respondent's representatives are engaged in making a survey; or that the purpose of the call or interview by the salesman relates to other than the sale of books.

3. That purchasers may obtain a set of the New Standard Encyclopedia free, or at a reduction in the price thereof merely by writing a letter of recommendation therefor, or an opinion thereon, displaying the product or keeping it up to date, or that any of the books sold by respondent may be obtained by any means other than by payment of respondent's then current selling price.

4. That any offer of respondent's books or publications is a "special introductory" offer.

5. That the opportunity to purchase respondent's products is not available to the public generally; or that purchasers of any of respondent's books are specially selected.

6. That certain books are given "free" with the purchase of respondent's "Information Service"; or that purchasers of respondent's "combination offer" only pay for a part of such books.

7. That purchasers of a combination of respondent's books pay only for a part thereof.

8. That respondent's quarterly supplement or any other similar publication regularly sells for \$10 per year or any other amount which is not respondent's regular selling price therefor; or that said quarterly supplement or any other similar publication is offered free or at a reduced price upon the payment of \$2.95 or any other amount for handling and postage charges.

9. That any price at which respondent's books or other publications are offered for sale is a special or reduced price

Complaint

69 F.T.C.

or that any offer of respondent's books is a special offer, unless such price or offer is based upon, and is less than the price at which such books or other publications or services are regularly and usually sold by respondent in the recent regular course of business.

10. That respondent's offer of books or other publications is limited as to time: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondent to establish that such limitation is actually imposed and in good faith adhered to by respondent.

11. That jobs are available and applicants are sought for assistant interviewers or any other kind of employment or that employment is available at a guaranteed or stipulated income or salary: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondent to establish that jobs of the kind designated are available, that applicants to fill such jobs are sought and that the amount of income or salary so designated is paid to the persons employed to fill the advertised jobs.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.
