

Complaint

70 F.T.C.

IN THE MATTER OF

JOSEPH J. BIDNICK DOING BUSINESS AS
STANDARD EDUCATIONAL LIBRARYCONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket C-1103. Complaint, Aug. 31, 1966—Decision, Aug. 31, 1966*

Consent order requiring a Kansas City, Mo., seller of encyclopedias to cease misrepresenting the status of his business and the cost of the books he sells and to cease making deceptive "free" claims, and using "Library" or similar words as part of his trade name.

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 Joseph J. Bidnick, an individual, trading and doing business as Standard Educational Library, 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 Joseph J. Bidnick is an individual trading and doing business as Standard Educational Library. His principal office and place of business is located at 4010 Washington Street, Kansas City, Missouri.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the advertising, offering for sale, sale and distribution of encyclopedias, other books and publications and other articles of merchandise to the public.

PAR. 3. In the course and conduct of his business, respondent now causes, and for some time last past has caused, his said products, when sold, to be shipped from his place of business in the State of Missouri, or from the point of publication thereof, to purchasers thereof located in various other States of the United States other than the State in which said shipments originate and 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 aforesaid business, and for the purpose of inducing the purchase of his encyclopedia and other articles of merchandise, the respondent makes numerous statements and representations through oral statements and display of promotional material to prospective purchasers by salesmen with respect to the cost of the encyclopedias and the supplements thereto, to free goods and to the status of his organization.

PAR. 5. In connection with the sale and distribution of said encyclopedia and supplements thereto, and as an inducement for the purchase thereof by members of the public, the respondent, for some time last past, has been using a plan or scheme for selling the same substantially as follows: Respondent or his agents telephone individuals and represent that they are doing special work for the publicity staff of the New Standard Encyclopedia; that the company has just released a new edition that is to be placed with a list of families in return for advertising help; that the encyclopedia will be made available to the individual without the usual expense normally associated with buying an encyclopedia; and that in return for the help the individual will receive compensation in the form of merchandise. Respondent or his salesmen then call on prospective purchasers in an effort to sell said books and merchandise.

Typical and illustrative, but not all inclusive of the statements and representations made by respondent or his salesmen, are the following:

1. That the offer of respondents encyclopedia is only to selected families or individuals; and that said offer is not being made to the general public.

2. That the encyclopedia is given free or at a reduced price in return for the use of the individual's name, endorsement or opinion or as a part of respondent's advertising program; or in return "for some advertising help."

3. That the encyclopedia is given free if the yearly supplements are purchased for a period of ten years; and that the cost of the yearly supplements is \$16.95 a year which respondent requires to be paid in full in two years.

4. That the sum of \$2.95 or \$3.95 that appears on respondent's sales contract and other material represents the price of supplements' binder and is not for the supplements.

5. That certain additional merchandise such as a bible, diction-

ary, etc., will be given free or without cost to the purchaser with the purchase of the yearly supplements.

6. That through the use of the word "library" separately and as a part of the respondent's trade name, respondent's organization is an institution for the custody, circulation or administration of books and manuscripts.

PAR. 6. In truth and in fact:

1. The encyclopedia offered is not limited only to selected families or individuals and it is being offered to the general public at the time of presentation.

2. The encyclopedia is not given free or without cost or at a reduced price in return for the use of the individual's name, endorsement or opinion for respondent's advertising program, or for any other reason. Customers agreeing to approve or endorse respondents' products are charged respondents' customary and regular price.

3. The encyclopedia is not given free or without cost when the supplements are purchased at \$16.95 per year for 10 years or any other amount since such amount is the regular price charged for the combination of the encyclopedia and the supplements and the price of the encyclopedia is included in the price charged for said combination.

4. The sum of \$2.95 or some approximate amount is the cost of yearly supplements and the cost of the binder is included in said sum.

5. The additional merchandise such as a bible, dictionary, etc., is not given free or without cost to the purchaser when the yearly supplements are purchased since said merchandise is included in the price charged for supplements or the combination of the encyclopedia and supplements.

6. Respondent's organization is not an institution for the custody, circulation or administration of books and manuscripts but is a business organization formed for the purpose of selling encyclopedias.

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

PAR. 7. In the course and conduct of his business, at all times mentioned herein, respondent has been in substantial competition in commerce, with corporations, firms and individuals in the sale of encyclopedias and other publications.

PAR. 8. The use by 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 respondent's encyclopedias and other publications by reason of said erroneous and mistaken belief.

PAR. 9. The aforesaid acts and practices of the 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 Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent 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 respondent with violation of the Federal Trade Commission Act; and

The respondent and counsel for the Commission having thereafter executed a agreement containing a consent order, an admission by the respondent 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 respondent 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 respondent has 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 Joseph J. Bidnick is an individual who was trading and doing business as Standard Educational Library. His principal office and place of business was located at 4010 Washington Street, Kansas City, Missouri.
2. The Federal Trade Commission has jurisdiction of the sub-

ject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent Joseph J. Bidnick, an individual, trading and doing business as Standard Educational Library, or under any other trade name or names, and his agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale, or distribution of encyclopedias, or any other publications, or merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or indirectly:

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

2. That said products are given free or without cost in return for the use of the individual's name, endorsement or opinion in or as a part of respondent's advertising program.

3. That said products are sold at a reduction from respondent's regular price to purchasers in return for the use of the individual's name, endorsement or opinion or as a part of respondent's advertising program; or representing, directly or by implication, that any price for a product or products is a reduced price unless such price constitutes a significant reduction from a price at which such product or products has been sold in substantial quantities by respondent in the recent regular course of business.

4. That the encyclopedia is given free or without cost if the yearly supplements thereto are purchased for 10 years or for any other period of time.

5. That the sum of \$2.95 or any other amount is the price of the annual supplement binder and not for the supplement itself.

6. That additional merchandise will be given free or without cost if the yearly supplements are purchased; that any article of merchandise is being given free or as a gift, or without cost or charge, in connection with

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the purchase of other merchandise when the price charged includes a price for the so-called free article of merchandise or when the articles of merchandise are usually and regularly sold together for the price charged.

B. Using the word "Library" or any other word of similar import or meaning as part of respondent's trade name or corporate name, or misrepresenting in any other manner the nature or status of respondent's business.

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.
