

## IN THE MATTER OF

## IDEA RESEARCH AND DEVELOPMENT, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF  
THE FEDERAL TRADE COMMISSION ACT*Docket 9032. Complaint, May 6, 1975 — Decision, Jan. 11, 1977*

Consent order requiring a Mesquite, Tex., idea promotion firm, among other things, to cease misrepresenting the nature and value of its services; misrepresenting its ability to successfully promote ideas, inventions, or products; to its clients. Further, respondents are required to disclose, in contracts and promotional material, the lack of confidentiality afforded its clients' ideas, the ramifications of contracting with respondents prior to contacting an independent patent attorney, and the amount of monies earned by previous clients through respondents' endeavors. The order additionally requires a ten-day cooling-off period before the execution of contracts and prohibits respondents from accepting any fee other than a percentage of royalties resulting from its efforts.

*Appearances*

For the Commission: *Paul W. Turley, John J. Hemrick and Richard H. Gateley.*

For the respondents: *Melvyn Carson Bruder and Jack Kanz, Dallas, Tex.*

## 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 Idea Research and Development, Inc., a corporation, and Kellis Blakely Shanks and Jack Earnest Trout, individually and as officers of said corporation, and Walter Glenn Ford, individually and as an employee of said corporation, hereinafter sometimes 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:

## I. DEFINITIONS

PARAGRAPH 1. For purposes of this complaint the following definitions shall apply:

A. "Idea" shall mean any idea, invention or product;

B. "Client" shall mean any party that has entered into an agreement with respondents for the "promotion" of an "idea;"

C. "Financial gain" shall mean an amount of money greater than the amount of money paid by a "client" to respondents.

D. "Promotion" shall mean the evaluation, development, manufacturing, marketing or otherwise contributing to the success or growth of an "idea."

## II. RESPONDENTS

PAR. 2. Respondent Idea Research and Development, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas, with its principal office and place of business located at 3318 Interstate 30 East, Mesquite, Texas.

Respondent Kellis Blakely Shanks is an individual and an officer of corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. His address is 10347 Plummer, Dallas, Texas.

Respondent Jack Earnest Trout is an individual and an officer of corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. His address is 9033 Thornton Freeway East, Mesquite, Texas.

Respondent Walter Glenn Ford is an individual and an employee of corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. His address is 821 Vinecrest Lane, Richardson, Texas.

## III. NATURE OF TRADE AND COMMERCE

PAR. 3. Respondents are now and have been engaged in the advertising, offering for sale and sale of contracts for future services in connection with the evaluation, development, manufacturing and marketing of ideas. The consideration required by respondents is and has been generally between \$750.00 and \$1,200.00.

## IV. JURISDICTION

PAR. 4. In the course and conduct of their business as aforesaid, respondents now cause, and have caused, their advertising materials, contracts, and various business papers to be transmitted through the United States mail and other interstate instrumentalities from their place of business in the State of Texas to their places of business,

agents, representatives, employees, clients and prospective clients in various other States of the United States and the District of Columbia, and now maintain and operate and have maintained and operated, places of business and have made substantial sales of their agreements to clients in various States of the United States, and maintain and at all times mentioned herein have maintained, a substantial course of trade in or affecting commerce, as defined in the Federal Trade Commission Act.

PAR. 5. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents are, and have been, in substantial competition, in commerce, with corporations, firms and individuals offering contracts for future services in connection with the evaluation, development, manufacturing and marketing of ideas.

#### V. ACTS AND PRACTICES

PAR. 6. In the further course and conduct of their aforesaid business, respondents now cause and have caused the dissemination of advertisements in various publications of general circulation, the broadcast of radio and television advertisements, the distribution of advertising materials to members of the public, and are now making and have made sales presentations by means of oral and written statements. By and through such means, respondents have made and are making representations that:

A. Respondents possess the ability to recognize ideas which may result in financial gains;

B. Respondents possess engineering and marketing expertise necessary for the development and promotion of ideas.

C. Respondents possess adequate knowledge to provide legal protection for clients' ideas.

D. Respondents have the ability to obtain manufacturing contracts for their clients;

E. Respondents have the ability to obtain financial gains for their clients, including but not limited to potential income to be derived by their clients from sales, licensing or royalty agreements.

PAR. 7. By and through the statements and representations alleged in Paragraph 6 herein, respondents have represented and are now representing, directly or by implication, that clients will have their ideas reviewed and evaluated by qualified and appropriately licensed persons; that clients receive legal protection for their ideas; that clients' ideas will be manufactured and marketed; and as a result of contracting with respondents, clients will receive a financial gain.

PAR. 8. In truth and in fact, few, if any, of respondents' clients have their ideas reviewed and evaluated by qualified and appropriately

licensed persons; receive legal protection for their ideas; have their ideas manufactured or marketed; or receive a financial gain as a result of contracting with respondents. Therefore, the acts and practices alleged in Paragraph 7 herein are deceptive, false, misleading and unfair.

PAR. 9. In the further course and conduct of their aforesaid business, respondents have failed to protect clients' investments and have failed to disclose facts concerning the probability that such clients will receive a financial gain as a result of contracting with respondents.

Since few, if any, of respondents' clients receive or have received financial gains as a result of contracting with respondents, respondents know or should have known that their clients' investments are unprotected and that their clients will not obtain financial gains.

Therefore, respondents, by inducing their clients to pay substantial sums of money without adequate protection for such clients' investments and without a disclosure of facts concerning the probability of a client receiving a financial gain which if known to certain prospective clients, would likely affect their decision of whether to execute contracts with respondents, are engaging in unfair acts or practices constituting a continuing violation of Section 5 of the Federal Trade Commission Act (15. U.S.C. 45).

PAR. 10. In the further course and conduct of their aforesaid business, respondents have represented, directly or indirectly, that their clients' ideas have adequate legal protection. Respondents have failed to disclose to their clients the degree of legal protection being afforded the clients' ideas and the risk involved in contracting with respondents concerning potential patent rights. Such disclosures include, but are not limited to:

A. Respondents fail to disclose that they afford no legal protection recognized by the United States Patent Office.

B. Respondents fail to disclose that the ordinary course of conduct of their business may be construed by the United States Patent Office to constitute publication of the clients' idea.

C. Respondents fail to disclose that publication of an unprotected idea for a period of one year or more may constitute a waiver of any patentable rights the client may have.

D. Respondents fail to disclose that their clients must maintain the confidentiality of their ideas.

Respondents' failure to disclose such consequences in language calculated to be readily understood by their clients is a failure to disclose material facts which if known to prospective clients would likely affect their decision of whether to execute contracts with

respondents. Respondents' aforesaid failure to disclose material facts is an unfair act or practice in violation of Section 5 of the Federal Trade Commission Act.

PAR. 11. Respondents as aforesaid have been and are now failing to disclose material facts while using other false, misleading, deceptive or unfair acts or practices, to induce persons to pay over to respondents substantial sums of money for contracts whose value to the said persons for services by respondents was and is virtually worthless. Respondents have received the said sums and have failed to offer to refund and refuse to refund such money to such persons.

The use by respondents of the aforesaid practices and their continued retention of the said sums, as aforesaid, is an unfair act or practice and a continuing violation of Section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

PAR. 12. The use by respondents of the aforementioned unfair, false, misleading and deceptive acts, practices, statements or representations has had and now has, a capacity and tendency to mislead and deceive a substantial portion of the purchasing public into erroneous and mistaken beliefs and into the execution of contracts with respondents by reason of said erroneous and mistaken beliefs.

PAR. 13. The aforementioned acts and practices, as herein alleged, have caused and are now causing substantial pecuniary losses to persons contracting with respondents and are all to the prejudice and injury of the public and respondents' competitors and have 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 issued its complaint on May 6, 1975, charging respondents named in the caption hereof with violation of the Federal Trade Commission Act, and respondents having been served with a copy of that complaint; and

The Commission having withdrawn the matter from adjudication pursuant to Section 3.25 of the Commission's Rules of Practice for the purpose of negotiating a settlement by entry of a consent order; and

Respondents and counsel for the complaint having thereafter executed an agreement containing a consent order, an admission by respondents of all jurisdictional facts set forth in the complaint, and waivers and an understanding that the agreement does not affect the Commission's right to seek consumer redress and provisions as required by the Commission's Rules; and

The Commission having thereafter considered the aforesaid agree-

ment and having determined that it provides an adequate basis for appropriate disposition of this proceeding, and having accepted said agreement, and the agreement containing consent order having placed on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter pursuant to Section 3.25(d) of its Rules, now, in further conformity with the procedure prescribed in its Rules, the following findings, are made, and the following order is entered:

Respondents have waived, without admitting, any rights to contest in the administrative proceeding the findings of fact and conclusions of law made herein. It is expressly provided that said findings shall not be conclusive in any action which may be brought under Section 19(a)(2) of the Federal Trade Commission Act, as amended (15 U.S.C. 57b(a)(2)).

#### FINDINGS OF FACT

1. Respondent Idea Research and Development, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas, with its principal office and place of business located at 3318 Interstate 30 East, Mesquite, Texas.
2. Respondent Kellis Blakely Shanks is an individual and an officer of corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. His address is P. O. Box 28502, Dallas, Texas.
3. Respondent Jack Earnest Trout is an individual and an officer of corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. His address is 1427 Lancelot, Borger, Texas.
4. Respondent Walter Glenn Ford is an individual and is a former employee of corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. His address is 2202 Delwin Circle, Killeen, Texas.
5. Respondents are now and have been engaged in the advertising, offering for sale and sale of contracts for future services in connection with the evaluation, development, manufacturing and marketing of ideas. The consideration required by respondents is and has been generally between \$750 and \$1,200.
6. In the course and conduct of their business as aforesaid, respondents now cause, and have caused, their advertising materials, contracts, and various business papers to be transmitted through the

United States mail and other interstate instrumentalities from their place of business in the State of Texas to their places of business, agents, representatives, employees, clients and prospective clients in various other States of the United States and the District of Columbia, and now maintain and operate and have maintained and operated, places of business and have made substantial sales of their agreements to clients in various States of the United States, and maintain and at all times mentioned herein have maintained, a substantial course of trade in or affecting commerce, as defined in the Federal Trade Commission Act.

7. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents are, and have been, in substantial competition, in commerce, with corporations, firms and individuals offering contracts for future services in connection with the evaluation, development, manufacturing and marketing of ideas.

8. In the further course and conduct of their aforesaid business, respondents now cause and have caused the dissemination of advertisements in various publications of general circulation, the broadcast of radio and television advertisements, the distribution of advertising materials to members of the public, and are now making and have made sales presentations by means of oral and written statements. By and through such means, respondents have made and are making representations that:

A. Respondents possess the ability to recognize ideas which may result in financial gains;

B. Respondents possess engineering and marketing expertise necessary for the development and promotion of ideas;

C. Respondents possess adequate knowledge to provide legal protection for clients' ideas;

D. Respondents have the ability to obtain manufacturing contracts for their clients;

E. Respondents have the ability to obtain financial gains for their clients, including but not limited to potential income to be derived by their clients from sales, licensing or royalty agreements.

9. By and through the statements and representations alleged in Paragraph 8 herein, respondents have represented and are now representing, directly or by implication, that clients will have their ideas reviewed and evaluated by qualified and appropriately licensed persons; that clients receive legal protection for their ideas; that clients' ideas will be manufactured and marketed; and as a result of contracting with respondents, clients will receive a financial gain.

10. In truth and in fact, few, if any, of respondents' clients have their ideas reviewed and evaluated by qualified and appropriately

licensed persons; receive legal protection for their ideas; have their ideas manufactured or marketed; or receive a financial gain as a result of contracting with respondents.

11. In the further course and conduct of their aforesaid business, respondents have failed to protect clients' investments and have failed to disclose facts concerning the probability that such clients will receive a financial gain as a result of contracting with respondents.

12. Since few, if any, of respondents' clients receive or have received financial gains as a result of contracting with respondents, respondents know or should have known that their clients' investments are unprotected and that their clients will not obtain financial gains.

13. In the further course and conduct of their aforesaid business, respondents have represented, directly or indirectly, that their clients' ideas have adequate legal protection. Respondents have failed to disclose to their clients the degree of legal protection being afforded the clients' ideas and the risk involved in contracting with respondents concerning potential patent rights. Such disclosures include, but are not limited to:

A. Respondents fail to disclose that they provided no greater protection than that provided by compliance with the document disclosure program of the United States Patent Office.

B. Respondents fail to disclose that the ordinary course of conduct of their business may be construed by the United States Patent Office to constitute publication of the clients' idea.

C. Respondents fail to disclose that publication of an unprotected idea for a period of one year or more may constitute a waiver of any patentable rights the client may have.

D. Respondents fail to disclose that their clients must maintain the confidentiality of their ideas.

14. Respondents' failure to disclose such consequences in language calculated to be readily understood by their clients is a failure to disclose material facts which if known to prospective clients would likely affect their decision of whether to execute contracts with respondents.

15. Respondents as aforesaid have been and are now failing to disclose material facts while using other false, misleading, deceptive or unfair acts or practices, to induce persons to pay over to respondents substantial sums of money for contracts whose value to the said persons for services by respondents was and is virtually worthless. Respondents have received the said sums and have failed to offer to refund and refuse to refund such money to such persons.

16. The use by respondents of the aforementioned unfair, false, misleading and deceptive acts, practices, statements or representations has had and now has, capacity and tendency to mislead and deceive a substantial portion of the purchasing public into erroneous and mistaken beliefs and into the execution of contracts with respondents by reason of said erroneous and mistaken beliefs.

#### CONCLUSIONS OF LAW

1. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of respondents, and the proceeding is in the public interest.

2. The aforementioned acts and practices have caused and are now causing substantial pecuniary losses to persons contracting with respondents and are all to the prejudice and injury, of the public and respondents' competitors and have constituted, and now constitute, unfair methods of competition in or affecting commerce and unfair and deceptive acts and practices in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act.

#### ORDER

#### I

#### *Definitions*

For purposes of this order the following definitions shall apply:

- A. "Idea" shall mean any idea, invention or product;
- B. "Client" shall mean any party that has entered into an agreement with respondents for the "promotion" of an "idea;"
- C. "Financial gain" shall mean an amount of money derived by a "client," from a respondent's "promotion" of the client's "idea."
- D. "Promotion" shall mean the evaluation, development, manufacturing, marketing or otherwise contributing to the success or growth of an "idea."
- E. "Future services," shall include any arrangement whereby one party pays or contracts to pay a sum of money in the belief that he may receive, as a result of such arrangement, the delivery or performance, at least partly in the future, of any service, benefit, promotion, sum of money, or similar thing of value; the term shall include, but shall not be limited to, any arrangement whereby one party pays or contracts to pay a sum of money in the belief that he may receive a financial gain as a result of such arrangement.

## II

*It is ordered.* That respondents, Idea Research and Development, Inc., a corporation, and its officers, and Kellis Blakely Shanks and Jack Earnest Trout, individually and as officers of said corporation and Walter Glenn Ford, individually and as a former employee of said corporation, their successors and assigns, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale or sale of contracts for future services in the promotion of ideas, or any other future services, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or indirectly, by any means, that:

A. Respondents possess ability in the field of engineering unless they retain a licensed engineer who shall provide a written evaluation of each client's idea. Respondents shall provide a copy of said evaluation which the client may retain.

B. A client may or can obtain legal protection for his idea unless respondents retain an attorney or agent licensed by the United States Patent Office who renders a written opinion on such client's idea. Respondents shall provide a copy of said opinion which the client may retain.

C. Any party may or will receive a financial gain as a result of contracting with respondents except as allowed by Subparagraphs A and B of Paragraph 4 of this order.

2. Representing, directly or indirectly, by any means, that respondents possess the ability to promote ideas that will or may result in financial gains for their clients.

3. Failing to prominently display the following notice in two or more locations in those portions of respondents' business premises most frequented by prospective clients and in each location where clients sign contracts or other binding instruments. Such notice shall be considered prominently displayed only if so positioned as to be easily observed and read by respondents' clients and prospective clients:

## NOTICE

BY PROCEEDING WITHOUT THE ADVICE OF AN INDEPENDENT PATENT ATTORNEY, YOU MAY LOSE ANY RIGHTS YOU MIGHT HAVE IN YOUR IDEA, INVENTION OR PRODUCT OR EXPOSE YOURSELF TO A COSTLY PATENT INFRINGEMENT LAWSUIT. THEREFORE, PRIOR TO SIGNING ANY AGREEMENT WITH US YOU SHOULD AND ARE ENCOURAGED TO CONSULT AN INDEPENDENT PATENT ATTORNEY.

4. Failing to make the following disclosures on the contract or other binding instrument to be executed by prospective clients. Said disclosures shall be in more conspicuous print than all other language in said instrument, but in no case shall they be smaller than 12 point upper case type. Said disclosures and instrument shall be delivered to prospective clients at least 10 days prior to the time prospective clients execute said instrument. The disclosures shall be in the following form set off from the text of the instrument by a black border and immediately above the line for the prospective clients' signatures:

NOTICE

(A) SINCE WE BEGAN DOING BUSINESS, WE HAVE CONTRACTED TO PROMOTE IDEAS, INVENTIONS, OR PRODUCTS FOR (Number) CLIENTS. SINCE JULY 1, 1975, WE HAVE CONTRACTED WITH (Number) CLIENTS. AS A RESULT OF OUR SERVICES:

1. (Number) OF OUR CLIENTS EARNED NOTHING.
2. (Number) OF OUR CLIENTS EARNED \$100-\$499.
3. (Number) OF OUR CLIENTS EARNED \$500-\$1000.
4. (Number) OF OUR CLIENTS EARNED OVER \$1000.

(B) WITHOUT PATENT PROTECTION RECOGNIZED BY THE UNITED STATES PATENT OFFICE, YOU MAY LOSE THE OPPORTUNITY TO OBTAIN FINANCIAL BENEFIT FROM YOUR IDEA. WE DO NOT PROVIDE ANY LEGAL PROTECTION RECOGNIZED BY THE UNITED STATES PATENT OFFICE.

(C) BECAUSE THERE WILL BE NO PATENT PROTECTION FOR YOUR IDEA, SERIOUS CONSEQUENCES COULD RESULT FROM YOUR CONTRACTING WITH US, INCLUDING:

- (1) When we disclose information concerning your idea to persons/manufacturers/marketers outside our company, such disclosure may be interpreted by the United States Patent Office as a "publication" of your idea.
- (2) "Publication" for a period of one year or more of an idea which has no legal protection recognized by the United States Patent Office will result in the loss of any patentable rights you may have.

(D) YOU SHOULD TREAT YOUR IDEA AS A CONFIDENTIAL SUBJECT IN ORDER TO AVOID LOSING ANY PATENT RIGHTS YOU MAY HAVE.

(E) BY PROCEEDING WITHOUT THE ADVICE OF AN INDEPENDENT PATENT ATTORNEY YOU MAY LOSE ANY RIGHTS YOU MIGHT HAVE IN YOUR IDEA, INVENTION OR PRODUCT OR EXPOSE YOURSELF TO A COSTLY PATENT INFRINGEMENT LAWSUIT. YOU SHOULD AND ARE ENCOURAGED TO CONSULT AN INDEPENDENT PATENT ATTORNEY BEFORE YOU SIGN THIS AGREEMENT.

(F) TODAY IS (Date) WE CANNOT ASK YOU TO SIGN AN AGREEMENT UNTIL 10 BUSINESS DAYS HAVE ELAPSED WHICH WILL BE ON (Month/Day/Year).

I, (Name of Customer), hereby acknowledge receipt of a copy of this agreement on the date specified below.

FEDERAL TRADE COMMISSION DECISIONS

Decision and Order

89 F.T.C.

Customer's Signature

Date

5. Executing contracts or other agreements with a client prior to expiration of the 10-day period disclosed in accordance with Paragraph 4 herein.

6. Failing to retain executed copies of all disclosures required by Paragraph 4 of this order for a period of three (3) years after such disclosure is made regardless of whether prospective clients ultimately execute contracts. Respondents shall make accurate statistical disclosures required by this paragraph and maintain records for a period of five (5) years sufficient to verify the accuracy of each disclosure. Accurate disclosures, given without comment, as required by Paragraph 4 of this order, shall not be deemed a violation of Paragraph 1 of this order.

7. Failing, in all pamphlets, brochures and other promotional materials to make the following disclosures in the manner and form provided for herein.

A. In all printed advertisements, the notice shall be conspicuously placed in print at least as large as the largest print in the advertising material other than respondent's name and shall state:

(Number) % of our clients have earned at least \$100 as a result of our efforts to promote their ideas.

B. In all advertisements broadcast by radio, or television, the above-required notice shall be read at the end of the advertisement at a rate of speed at least as slow as the slowest part of the advertisement.

C. At the time respondents submit advertising to any newspaper or other written medium, they shall provide a copy of the following notice to each such medium:

NOTICE

(Name of Respondent) has entered into a Consent Agreement with the Federal Trade Commission. A copy of the Commission's News Release is available from (Name of Respondent) upon request.

D. At the time respondents submit advertising to any radio or television station, they shall provide a copy of the following notice to each such station:

NOTICE

(Name of Respondent) has entered into a Consent Agreement with the Federal

Trade Commission. A copy of the news release is available on request. Your attention is directed to an agreement between the Federal Trade Commission and the Federal Communications Commission dated April 27, 1972.

8. Failing to maintain for a period of three (3) years after any of their advertisements are disseminated:

(A) records disclosing the date or dates each such advertisement was published;

(B) records disclosing the name and address of the newspapers, other publications or broadcast media disseminating said advertisement; and

(C) copies or scripts of all of their advertisements published or disseminated by any media.

9. Failing to utilize one written contract or other binding instrument which shall constitute the entire agreement between the parties. In addition to the disclosures required under Paragraph 4 herein each such instrument shall contain the following provision:

(*Name of Respondent*) agrees to present to the client all materials due to the client pertaining to the promotion of said client's idea within 90 days of the date this agreement is executed, and it is hereby further agreed that time is of the essence. If such materials are not presented to the client within the 90 day period it is hereby mutually agreed between (*Name of Respondent*) and the client whose signature appears below that this agreement is rescinded in its entirety.

10. *It is further ordered*, That respondents cease and desist from:

A. Including in any contract or other document any waiver, limitation or condition on the right of a client to rescind an agreement under any provision of this order.

B. Misrepresenting the right of a client to rescind an agreement under any provision of this order or any applicable statute or regulation.

C. Making any representations or taking any action which is inconsistent with or detracts from the effectiveness of this order.

11. *It is further ordered*, That respondents shall make all disclosures required by this order accurately, making such disclosures or copies thereof available to the Federal Trade Commission on request, and comply with all contract provisions required by this order.

12. *It is further ordered*, That neither the corporate respondent nor the individual respondents engage in any course of conduct which contravenes the rights of clients or prospective clients provided by this order.

13. *It is further ordered*, That respondents, upon receipt of a complaint from a client alleging facts that indicate this order may have been violated, rescind the contract where respondents determine, after a good faith investigation, that one or more of the

paragraphs of this order may have been violated in connection with such client's transaction with respondents.

14. *It is further ordered:*

A. That respondents deliver, by hand or by certified mail, a copy of this order to each of their present or future salesmen, independent brokers, employees or any other person who sells or promotes the sale of respondents' contracts;

B. That respondents provide each person so described in sub-paragraph A above with a form returnable to respondents, clearly stating an intention to conform sales practices to the requirements of this order and retain such form for a period of three (3) years after it is executed by said persons;

C. That respondents inform each person described in sub-paragraph A above that respondents shall not use any such person, or the services of any such person, until such person agrees to and files notice with respondents to be bound by the provisions contained in this order;

D. That in the event such person will not agree to file such notice with respondents and be bound by the provisions of this order, respondents shall not use such person, or the services of such person;

E. That respondents institute a program of continuing surveillance adequate to reveal whether the sales practices of each of said persons described in sub-paragraph A conform to the requirements of this order; and

F. That respondents discontinue dealing with any person described in sub-paragraph A of this order who engages in the acts or practices prohibited by this order.

15. *It is further ordered,* That any respondent may accept compensation from a client for the promotion of the client's idea only as a percentage of royalties or other financial gain derived through a respondent's efforts. A respondent may not accept any other fee or monetary consideration from a client.

16. *It is further ordered,* That no respondent sell, lease, exchange or otherwise alienate a client's idea or disclose a client's name, address, telephone number or other personal data to any party which will or may request such client to pay a fee or other monetary consideration for the promotion of that client's idea.

17. *It is further ordered,* That in the event the Federal Trade Commission promulgates a Trade Regulation Rule applicable to respondents' business that this order shall be deemed modified to the extent it contravenes said Rule.

18. *It is further ordered,* That in the event that corporate respondent merges with another corporation or transfers all or a

substantial part of its business, respondents shall require said successor or transferee to file within thirty (30) days with the Commission a written agreement to be bound by the terms of this order; provided that if respondents wish to present to the Commission any reason why said order should not apply in its present form to said successor or transferee, they shall submit to the Commission a written statement setting forth said reasons prior to the succession or transfer.

19. *It is further ordered,* That the individual respondents named herein promptly notify the Commission of the discontinuance of their employment with Idea Research & Development, Inc., and of their affiliation with a new business or employment. In addition, the individual respondents named herein shall promptly notify the Commission of their affiliation with a new business or employment whose principal activities include the advertising, offering for sale or sale of contracts for future services and their affiliation with a new business or employment in which their own duties and responsibilities involve the advertising, offering for sale or sale of contracts for future services in the promotion of ideas, or any other future services. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which they are engaged as well as a description of their duties and responsibilities.

20. *It is further ordered,* That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

21. *It is further ordered,* That each respondent shall, within sixty (60) days after service of this order upon it, file with the Commission a report in writing setting forth in detail the manner and form of its compliance with the order to cease and desist.

Initial Decision

89 F.T.C.

IN THE MATTER OF  
KRAFTCO CORPORATION, ET AL.

ORDER, OPINION, ETC., IN REGARD TO ALLEGED VIOLATION OF  
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT AND SEC. 8 OF  
THE CLAYTON ACT

*Docket 9035. Complaint\*, June 17, 1975 — Order, Jan. 11, 1977*

Order requiring SCM Corporation, a New York City producer of margarine, edible oils and barbecue sauce, among other things, to cease seating on its board of directors, individuals who simultaneously serve as directors of Kraftco Corporation, or any other companies with whom respondent is in competition.

*Appearances*

For the Commission: *Ronald A. Bloch, Clinton R. Batterton and Joseph Tasker, Jr.*

For the respondents: *William E. Willis and Marcia B. Paul, Sullivan & Cromwell, New York City.*

INITIAL DECISION BY MORTON NEEDELMAN,  
ADMINISTRATIVE LAW JUDGE

JUNE 17, 1976

I

[1] STATEMENT OF THE CASE

The Commission's complaint in this proceeding issued on June 17, 1975. It charges Kraftco Corporation<sup>1</sup> (hereinafter "Kraftco"), SCM Corporation (hereinafter "SCM"), and an individual, Richard C. Bond (hereinafter "Bond") with violating Section 8 of the Clayton Act (15 U.S.C. 19),<sup>2</sup> and Section 5 of the Federal Trade Commission Act (15 U.S.C. 45)<sup>3</sup> by reason of an unlawful interlocking directorate. According to the complaint, Bond served simultaneously on the Boards of Directors of Kraftco and SCM which compete in the sale of margarine, edible oils, and barbecue sauce. The complaint further

\* Complaint in Docket 9035 and consent order as to individual respondent, Richard C. Bond, appear at 87 F.T.C. 809; consent order as to corporate respondent, Kraftco Corporation, appears at 88 F.T.C. 362.

<sup>1</sup> Incorrectly captioned "Kraftco, Inc." in the complaint. See Answer of Kraftco Corporation, ¶ 2.

<sup>2</sup> Section 8 provides as follows with respect to interlocking directorates:

\* \* \* [N]o person at the same time shall be a director in any two or more corporations, any one of which has capital, surplus, and undivided profits aggregating more than \$1,000,000, engaged in whole or in part in commerce, \* \* \* if such corporations are or shall have been theretofore, by virtue of their business and location of operation, competitors, so that the elimination, of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws.

<sup>3</sup> Section 5 of the Federal Trade Commission Act prohibits unfair methods of competition and unfair and deceptive acts or practices.