

IN THE MATTER OF
TICOR TITLE INSURANCE COMPANY, ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF
THE FEDERAL TRADE COMMISSION ACT

Docket 9190. Complaint, Jan. 7, 1985—Decision, July 30, 1987

This consent order prohibits, among other things, Santa Ana, Calif.-based respondent, First American Title Insurance Co., from setting any rates for title search and examination and settlement services through any rating bureau in six states. Additionally, First American Title Insurance Co. agreed to withdraw from the law suit filed by the title insurance companies named in the 1985 complaint and requires the respondent to notify the Commission at least thirty days prior to any changes in the corporate respondent.

Appearances

For the Commission: *Michael Antalics.*

For the respondents: *Paul J. Laveroni, Frank D. Tatum, & Karen J. Kubin, Cooley, Godward, Castro, Huddleson & Tatum, San Francisco, Calif.*

COMPLAINT*

Pursuant to the provisions of the Federal Trade Commission Act, as amended (15 U.S.C. 41 *et seq.*), and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the respondents named in the caption hereof have violated the provisions of Section 5 of the Federal Trade Commission Act and that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint, stating its charges as follows:

DEFINITIONS

PARAGRAPH 1. The following definitions shall apply in this complaint:

a. "*Title search and examination services*" means all activities which are designed to identify and describe the ownership of a particular parcel of real property as well as any other actual or potential rights to, encumbrances on, or interests in the property.

b. "*Settlement services*" means those services related to the closing

* The Decision and Order following this Complaint applies to respondent First American Title Insurance Company only. The Complaint against the other named respondents remain in litigation.

of a real estate transaction, including but not limited to those services performed in connection with or in supervision of the execution, delivery or recording of transfer and lien documents, or the disbursement of funds.

RESPONDENTS

PAR. 2. Respondent Ticor Title Insurance Company is a corporation organized under the laws of the State of California, with its principal place of business at 6300 Wilshire Boulevard, Los Angeles, California.

PAR. 3. Respondent Chicago Title Insurance Company is a corporation organized under the laws of the State of Missouri, with its principal place of business at 111 W. Washington Street, Chicago, Illinois.

PAR. 4. Respondent Safeco Title Insurance Company is a corporation organized under the laws of the State of California, with its principal place of business at 13640 Roscoe Boulevard, Los Angeles, California.

PAR. 5. Respondent First American Title Insurance Company is a corporation organized under the laws of the State of California, with its principal place of business at 114 East 5th Street, Santa Ana, California.

PAR. 6. Respondent Lawyers Title Insurance Corporation is a corporation organized under the laws of the Commonwealth of Virginia, with its principal place of business at 6630 West Broad Street, Richmond, Virginia.

PAR. 7. Respondent Stewart Title Guaranty Company is a corporation organized under the laws of the State of Texas, with its principal offices at Stewart Building, Galveston, Texas.

JURISDICTION

PAR. 8. Respondents maintain, and have maintained, a substantial course of business, including the acts and practices as hereinafter set forth, which are in or affect commerce within the meaning of the Federal Trade Commission Act.

PAR. 9. Title search and examination services do not constitute the "business of insurance" within the meaning of the McCarran-Ferguson Act, 15 U.S.C. 1012(b).

PAR. 10. Settlement services do not constitute the "business of insurance" within the meaning of the McCarran-Ferguson Act, 15 U.S.C. 1012(b).

ANTICOMPETITIVE ACTS AND PRACTICES

PAR. 11. Respondents have agreed on the prices to be charged for title search and examination services or settlement services through rating bureaus in various states. Examples of states in which one or

more of the respondents have fixed prices with other respondents or other competitors for all or part of their search and examination services or settlement services are Arizona, Connecticut, Idaho, Louisiana, Montana, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, Wisconsin and Wyoming.

ANTICOMPETITIVE EFFECTS

PAR. 12. As a result of the aforesaid acts and practices, competition in the sale of title search and examination services or settlement services has been restrained in various states.

PAR. 13. The aforesaid acts and practices therefore constitute unfair methods of competition in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore issued its complaint charging the respondent First American Title Insurance Company with violation of Section 5 of the Federal Trade Commission Act, as amended, and respondent having been served with a copy of the complaint, together with a notice of contemplated relief; and

The respondent, its attorneys, 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, 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 alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Secretary of the Commission having thereafter withdrawn this matter from adjudication as to respondent First American Title Insurance Company in accordance with Section 3.25(c) of its Rules; and

The Commission having considered the matter and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 3.25(f) of its Rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent First American Title Insurance Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 114 East 5th Street, Santa Ana, California.
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

I.

For purposes of this order, the following definition shall apply:
"Affected States" means the states of Arizona, Connecticut, Idaho, Montana, Ohio and Wisconsin.

II.

It is ordered, That respondent, its successors and assigns, and its officers, representatives, and employees, directly or indirectly, through any corporation, subsidiary, division or other device shall not discuss, propose, set, or file any rates for title search and examination services or settlement services through any rating bureau in any of the Affected States, unless respondent can establish that such state has clearly articulated and affirmatively expressed a policy permitting collective rate filing through rating bureaus, and actively supervises this conduct.

III.

It is further ordered, That respondent shall within thirty days after service of this order deliver a copy of this order to all its present officers, directors, and personnel having any responsibility in determining rates as well as to the commissioner of insurance in each of the Affected States.

IV.

It is further ordered, That respondent notify the Commission at least thirty days prior to any 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 this order.

V.

It is further ordered, That respondent shall, within ninety days after the order becomes final, file with the Commission a report, in

writing, setting forth in detail the manner and form in which it has complied with this order.

IN THE MATTER OF

BUCKINGHAM PRODUCTIONS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF SECS. 5 &
12 OF THE FEDERAL TRADE COMMISSION ACT

Docket 9194. Amended Complaint, July 30, 1987—Decision, July 30, 1987

This consent order requires, among other things, the Furlong, Pa. marketers of mail-order weight reduction or weight control products, programs or services to cease falsely representing the effectiveness of its programs, products or services without competent and reliable evidence supporting such claims.

Appearances

For the Commission: *Michael Dershowitz.*

For the respondents: *John J. Hare, Jr., Buckingham Commons, Furlong, PA.*

AMENDED COMPLAINT*

The Federal Trade Commission, having reason to believe that Buckingham Productions, Inc., trading and doing business as Rotation Diet Center; Furlong-Elliot Corp.; Freedom Center, Inc.; Plaza Business Services, Inc.; N.F. Rotation, Inc.; Rotation-Freedom Diet, Inc., Health and Diet Corp., Inc., corporations; Howard Elliot, individually and as an officer of said corporations, ("respondents"); and Dr. Barry Bricklin, individually, ("expert respondent") have violated provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1.

(a) Buckingham Productions, Inc., trading and doing business as Rotation Diet Center, 73 Valley Drive, Furlong, Pennsylvania; Furlong-Elliot Corp., 73 Valley Drive, Furlong, Pennsylvania; Freedom Center, Inc., 73 Valley Drive, Furlong, Pennsylvania; Plaza Business Services, Inc., 73 Valley Drive, Furlong, Pennsylvania; N.F. Rotation, Inc., 73 Valley Drive, Furlong, Pennsylvania; and Rotation-Freedom Diet, Inc., 73 Valley Drive, Furlong, Pennsylvania; and Health and Diet Corp., Inc., 73 Valley Drive, Furlong, Pennsylvania are Pennsylvania corporations.

* Complaint issued June 24, 1985. Published at 106 F.T.C. 115 (1985).