

IN THE MATTER OF
TRAVEL KING, INC., ET AL.

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

Docket 8949. Amended Complaint, May 17, 1974-Order, Sept. 30, 1975*

Order requiring four west coast travel agencies located in Seattle, Wash., and San Francisco, Calif., among other things to cease making false claims about "psychic surgery" and promoting tours for such surgery, which has been misrepresented as an actual surgical operation by which diseased tissue or disease-causing material is removed from the body using only the bare hands. The order further requires respondents to send notices to past purchasers and to those who inquire about such tours in the future warning them of the serious danger involved.

Appearances

For the Commission: *Gregory L. Colvin, Randall H. Brook, Barry E. Barnes and Rachel P. Goodisman.*

For the respondent: *David C. Stewart, DeGarmo, Leedy, Oles & Morrison, Seattle, Wash., Michael W. Palmer, Baker & McKenzie, San Francisco, Calif., Richard Kelleher and Douglas A. Baum, Kelleher, Murphy & Nelson, Jerry Kindinger, Ryan, Bush, Swanson & Hendel and Albert Hanan, Seattle, Wash.*

AMENDED COMPLAINT

The Federal Trade Commission, having reason to believe that Travel King, Inc., d/b/a Travel King, Inc. & Ramble Tours, Phil-Am Travel Agency, Inc., Gem Travel Service, Inc., and Ramble Travel and Tours, Inc., corporations; Yuda Galazan and Nyla Ford, individually and as officers and directors of Ramble Travel and Tours, Inc.; Ronald Brown, individually and as an officer of Travel King, Inc.; Adeline C. Heredia and Emile H. Heredia, individually and as officers of Phil-Am Travel Agency, Inc.; and Laurence C. Marquez and Marian E. Butterfield, individually and as officers of Gem Travel Service, Inc., hereinafter referred to as respondents, have violated the provisions of the Federal Trade Commission Act, and that a proceeding in respect thereof would be in the public interest, hereby issues this complaint:

PARAGRAPH 1. Travel King, Inc., d/b/a Travel King, Inc. & Ramble Tours (hereinafter "Travel King"), is a Washington corporation, with its corporate office at 1200 - 153rd N.E., Bellevue, Wash., and a branch office at 1401 Seattle Tower Bldg., Seattle, Wash.

* Reported as amended by order of May 31, 1974 of the administrative law judge.

Phil-Am Travel Agency, Inc. (hereinafter "Phil-Am") is a California corporation, with its corporate office at 210 Post St., Suite 205, San Francisco, Calif. and another place of business at 407 Alaska Bldg., Seattle, Wash.

Gem Travel Service, Inc. (hereinafter "Gem") is a California corporation, with its office and principal place of business at 703 Market St., Room 405, San Francisco, Calif.

Ramble Travel and Tours, Inc. (hereinafter "Ramble"), is a Washington Corporation, with its corporate office at 1401 Seattle Tower Bldg., Seattle, Wash. Ramble was formed in December 1973 to succeed Travel King in the operation of the business located at that address.

Yuda Galazan is an individual and is presently managing and purchasing the business of the Travel King branch office located at 1401 Seattle Tower Bldg. He also is an officer, director, and the sole shareholder of Ramble Travel and Tours, Inc. He formulates, directs and controls the policies, acts and practices of Ramble and the aforementioned Travel King branch office, including those hereinafter set forth, and his business address is 1401 Seattle Tower Bldg., Seattle, Wash.

Nyla Ford is an individual and a former officer and principal shareholder of Travel King, and a present officer and director of Ramble. Together with Yuda Galazan, she formulates, directs and controls the policies, acts and practices of Ramble and the Travel King branch office including those hereinafter set forth, and her business address is 1401 Seattle Tower Bldg., Seattle, Wash.

Ronald Brown is an individual and an officer and principal shareholder of Travel King. He formulates, directs and controls the policies, acts and practices of Travel King, including those hereinafter set forth. His business address is 1200 - 153rd N.E., Bellevue, Wash.

Adeline C. Heredia and Emile H. Heredia are individuals and officers and the principal shareholders of Phil-Am. They formulate, direct and control the policies, acts and practices of Phil-Am, including those hereinafter set forth, and their business address is 210 Post Street, Suite 205, San Francisco, Calif.

Laurence C. Marquez and Marian E. Butterfield are individuals and officers and principal shareholders of Gem Travel Service, Inc. They formulate, direct and control the policies, acts and practices of Gem, including those hereinafter set forth, and their business address is 703 Market St., Room 405, San Francisco, Calif.

PAR. 2. Respondents Travel King, Phil-Am, and Gem each operate a general travel agency business, including the sale or arrangement of transportation, accommodations, and other services for travelers.

Allegations below of respondents' present acts or practices include past acts or practices.

PAR. 3. In the course of their businesses, respondents make arrangements for residents of Washington and other states to travel to the Philippines on the tours described below. Promotional materials, letters, contracts, business correspondence, monies and other documents are transmitted between respondents' offices and agents who refer customers to them, customers, common carriers, and other business organizations located in various States of the United States and in other nations of the world. Accordingly, respondents are engaged in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondents Travel King, Phil-Am, and Gem advertise, offer for sale and sell to the general public package tours to the Philippines so that customers may undergo "psychic surgery," purported to be a treatment by which the body is entered without surgical instruments, using only the bare hands. The treatment is also known as "psychic healing," "faith healing," and "spiritual" or "spirit healing" and is performed by persons not licensed in the Philippines or elsewhere to practice medicine.

PAR. 5. Respondents engage in written, oral and visual representations which have the tendency and capacity, directly or by implication, to lead members of the general public to believe that the "psychic surgery" performed in the Philippines is an actual surgical operation, that the body is thereby opened, and that diseased tissue or disease-causing material is thereby removed from the human body. Respondents do so by using, or causing to be used, some means of promotion, including but not limited to one or more of the following:

A. Public dissemination of brochures prepared, printed and paid for with the assistance of certain major international airline companies, specifically Northwest Airlines, Inc. and Pan American World Airways, Inc.

B. Public dissemination of other materials.

C. Newspaper advertisements.

D. Showing of films at public meetings.

PAR. 6. In truth and in fact:

A. The so-called "psychic surgery" performed in the Philippines is not an actual surgical operation, the body is not thereby opened, and neither diseased tissue nor disease-causing material is thereby removed from the human body.

B. Respondents lack a reasonable basis for representations leading members of the general public to believe that the "psychic surgery" performed in the Philippines is an actual surgical operation, that the

body is thereby opened, and that diseased tissue or disease-causing material is thereby removed from the human body.

Therefore, the acts and practices referred to in Paragraphs Four and Five are deceptive and unfair.

PAR. 7. Persons suffering from many types of ailments, including cancer, heart disease, multiple sclerosis, blindness, deafness, paralysis, diabetes and arthritis may be led to believe by respondents' promotions that "psychic surgery" is an actual surgical operation, that the body is thereby opened, and that diseased tissue or disease-causing material is thereby removed from the human body. Thus, respondents' promotions of Philippine psychic surgery prey upon and exploit the frustrations and hopes of people who are seriously ill, and their families. Respondents are travel agents, not licensed physicians, and therefore are not qualified to diagnose, advise or select patients for any operation. Further, respondents disclaim responsibility for any medical consequences to their customers during their travel to the Philippine Islands or afterwards. People who are seriously ill, and their families, are vulnerable to the influence of respondents' promotions which hold out a tantalizing hope which the medical profession, by contrast, cannot offer. Therefore, the acts and practices referred to in Paragraphs Four and Five are unfair.

PAR. 8. The result of the respondents' aforesaid misleading, deceptive and unfair acts and practices is that people who are seriously ill may be and are induced to forego conventional medical treatment, thereby worsening their condition and, in some cases, hastening death. Further, the aforesaid acts and practices cause people who are seriously ill and their families to spend large amounts of money and be subjected to the inconvenience of traveling for a nonexistent "operation."

PAR. 9. The respondents' acts and practices are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

INITIAL DECISION BY DANIEL H. HANSCOM, ADMINISTRATIVE
LAW JUDGE

FEBRUARY 28, 1975

ALLEGATIONS OF COMPLAINT

An amended complaint issued May 17, 1974,¹ charging respondents with promoting, offering for sale and selling package tours to the

¹ The original complaint was issued Jan. 8, 1974, naming as respondents only the corporate travel agencies, Travel

(Continued)

Philippines so that customers could undergo "psychic surgery," purporting to be a treatment by which the body is entered without surgical instruments "using only the bare hands." According to the complaint, respondents engaged in written, oral and visual representations which had the tendency and capacity to lead members of the public to believe that "psychic surgery" performed in the Philippines is an actual surgical operation, that the body is opened, and that disease-causing material is thereby removed. The complaint further alleged that respondents had no reasonable basis for the representations made, and that persons suffering from many types of ailments including cancer, heart disease, multiple sclerosis, blindness, deafness, paralysis, diabetes and arthritis may be led to believe that "psychic surgery" is an actual surgical operation, that the body is opened and diseased tissue removed. According to the complaint, the frustrations and hopes of the seriously ill and their families were exploited, and the representations had the tendency and capacity to induce the seriously ill to forego conventional medical treatment worsening their condition and in some cases hastening death, or to cause them to spend large amounts of money and to undergo the inconvenience of traveling for a nonexistent "operation." The acts and practices of respondents were challenged as unfair, misleading and deceptive, and violative of Section 5 of the Federal Trade Commission Act.²

ANSWERS

The answers denied any violation of the Federal Trade Commission Act, denied the material allegations of the complaint, denied that respondents made any representations, directly or by implication, that "psychic surgery" was an actual surgical operation by which diseased tissue or disease-causing material was removed from the human body, and denied that respondents lacked a reasonable basis for any representations that were made. Most respondents raised affirmative defenses that the tours arranged to visit "psychic healers," "faith healers" or "spiritual healers" in the Philippines, insofar as the

King, Inc., Phil-Am Travel Agency, Inc., and Gem Travel Service, Inc. At a prehearing conference held Mar. 6, 1974, in Seattle, Wash., complaint counsel advised of their intention to amend the complaint to add a number of individual respondents, one additional corporate respondent, Ramble Travel and Tours, Inc., and to make certain substantive changes in the allegations. The motion to amend was certified to the Commission together with respondents' opposition on Apr. 5, 1974. The Commission granted the motion to amend and on May 17, 1974, issued an amended complaint which was served on all individual and corporate respondents between May 23 and June 3, 1974. Answers to the amended complaint were filed between June 18 and 26. A timetable for pretrial proceedings was issued by the undersigned on June 24, 1974, setting dates for the completion of discovery, exchange of lists of witnesses and documents, and setting Sept. 9, 1974, for commencement of hearings on the merits.

² In addition to a cease and desist order, and certain other relief, restitution for persons purchasing package tours from respondents was sought by complaint counsel. Restitution was not included in the "Notice Order" issued either with the original or the amended complaint. Complaint counsel advised of their intention to seek restitution at the pretrial conference of Mar. 6, 1974, and subsequently filed a "Notice of Intent to Seek Restitution from Corporate and Individual Respondents" on Mar. 22, 1974.

customer and the healers were concerned, were basically religious experiences or activities "imbedded in the religious doctrine of the Christian religion," and that the complaint amounted to an attempted regulation of religious action involving the "testing of the truth or falsity of the religious beliefs" of customers and "faith healers," "spiritual healers," or "psychic healers" in violation of the First Amendment. Travel King, Inc., further alleged that it had nothing to do with what took place between the "customers and the healers." Individual respondent Ronald Brown denied that he was ever actively involved in the operation of Travel King, Inc., and denied any responsibility for the "formulation, direction, arrangement, or administration" of package tours by that corporate respondent.

PROCEEDINGS

Hearings were held between Sept. 9, 1974, and Sept. 24, 1974. Forty-eight witnesses testified, 33 being called by complaint counsel and 15 by respondents. The exhibits received numbered 134, 131 being introduced by complaint counsel and the balance by respondents. The exhibits include promotional literature, advertisements, films, TV scripts, respondents' correspondence with tour members and prospective members, internal memoranda, newspaper articles and clippings which were reproduced and distributed by one or another of respondents, medical reports, and similar materials. The transcript numbers 2,388 pages.

The briefing schedule issued requiring proposed findings to be filed by Nov. 15, 1974, and replies by Nov. 27, 1974. On Nov. 6, 1974, complaint counsel requested an extension of time for findings to Dec. 13, 1974, and to Jan. 10, 1975, for replies. This was granted by the undersigned as to all parties provided an extension of time for filing the initial decision to Feb. 28, 1975, was granted by the Commission. Such an extension was granted on Dec. 17, 1974.

BASIS OF DECISION

This matter is now before the undersigned for initial decision based on the allegations of the complaint, answers, evidence, and the proposed findings of fact, conclusions and briefs filed by respondents and complaint counsel. All proposed findings of fact, conclusions and arguments not specifically found or accepted herein are rejected. The undersigned, having considered the entire record, and all the contentions of both sides, makes the following findings and conclusions, and issues the order set out at the end hereof:

