

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **William E. Kovacic, Chairman**
 Pamela Jones Harbour
 Jon Leibowitz
 J. Thomas Rosch

In the Matter of

**DICK’S SPORTING GOODS, INC.,
a corporation.**

Docket No. C-4240

DECISION AND ORDER
[Public Record Version]

The Federal Trade Commission (“Commission”) having initiated an investigation of certain acts and practices of Golf Galaxy, Inc., which is now a wholly owned subsidiary of Dick’s Sporting Goods, Inc. (hereinafter “Respondent”), and Respondent having been furnished thereafter with a copy of a draft of Complaint that the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued, would charge Respondent with violations of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45; and

Respondent, its attorneys, and counsel for the Commission having thereafter executed an Agreement Containing Consent Order (“Consent Agreement”), containing an admission by Respondent of all the jurisdictional facts set forth in the aforesaid draft of Complaint, a statement that the signing of said Consent 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, or that the facts as alleged in such Complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission’s Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that Respondent has violated the said Act, and that a Complaint should issue stating its charges in that respect, and having accepted the executed Consent Agreement and placed such Consent Agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, now in further conformity with the procedure described in Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission hereby issues its Complaint, makes the following jurisdictional findings and issues the following Decision and Order (“Order”):

1. Respondent Dick's Sporting Goods, Inc., is a corporation organized, and existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 300 Industry Drive, RIDC Park West, Pittsburgh, PA 15275.
2. Golf Galaxy, Inc., a wholly owned subsidiary of Respondent, is a corporation organized, and existing and doing business under and by virtue of the laws of the State of Minnesota, with its office and principal place of business located at 7275 Flying Cloud Dr., Eden Prairie, MN 55344.
3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of Respondent, and the proceeding is in the public interest.

ORDER

I.

IT IS ORDERED that, as used in this Order, the following definitions shall apply:

- A. "Respondent" means Dick's Sporting Goods, Inc., its directors, officers, employees, agents, representatives, successors, and assigns; and subsidiaries, divisions, groups, and affiliates controlled by Dick's Sporting Goods, Inc. (including Golf Galaxy, Inc.); and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- B. "Commission" means the Federal Trade Commission.
- C. "2004 Amended Consulting Agreement" means the October 8, 2004, "Amended and Restated Consulting Agreement" between Golf Galaxy, Inc. and Golf Town Canada Inc. (Attachment A hereto).
- D. "Golf Canada" means Golf Town Canada Inc., a corporation organized, and existing and doing business under and by virtue of the laws of Canada, with its office and principal place of business located at First Markham Place, 3265 Hwy 7 East, Unit 2, Markham, ON L3R 3P9, Canada.
- E. "Sale of Golf Merchandise" means the sale of any product or service related to golf, including, but not limited to, golf clubs, equipment, accessories, clothing, lessons, swing analyses, and club fitting.
- F. "United States" means the fifty states, the District of Columbia, the Commonwealth of Puerto Rico, and all territories, dependencies, and possessions of the United States of America.

II.

IT IS FURTHER ORDERED that:

- A. Respondent cease and desist from, directly, indirectly, or through any corporate or other device, in or affecting commerce, as “commerce” is defined in the Federal Trade Commission Act, inviting, entering into or attempting to enter into, organizing or attempting to organize, implementing or attempting to implement, continuing or attempting to continue, soliciting, or otherwise facilitating any combination, agreement, or understanding, either express or implied, with any party engaged in the Sale of Golf Merchandise, to allocate or divide markets, customers, contracts, lines of commerce, or geographic territories in connection with the Sale of Golf Merchandise.

PROVIDED, HOWEVER, that it shall not of itself constitute a violation of Paragraph II.A. of this Order for Respondent to continue to implement and enforce the 2004 Amended Consulting Agreement, except to the extent prohibited by Paragraph II.B. of this Order.

PROVIDED, FURTHER, HOWEVER, that Respondent may enter into, attempt to enter into, or comply with a written agreement to allocate or divide markets, customers, contracts, lines of commerce, or geographic territories in connection with the Sale of Golf Merchandise that (1) is reasonably related to a lawful consulting arrangement, lawful joint venture agreement, or lawful merger, acquisition or sale agreement; and (2) is reasonably necessary to achieve such agreement’s procompetitive benefits.

- B. Respondent cease and desist from, directly or indirectly, or through any corporate or other device, implementing or enforcing:
1. Paragraph 2.3 of the 2004 Amended Consulting Agreement with respect to conduct that takes place on or after October 8, 2009; and
 2. Paragraph 4.1 of the 2004 Amended Consulting Agreement with respect to conduct that takes place on or after thirty (30) days from the date on which this Order becomes final and thereafter.

III.

IT IS FURTHER ORDERED that within thirty (30) days of this Order becoming final:

- A. Respondent shall execute a document that unilaterally waives:
1. Respondent’s rights to enforce Paragraph 2.3 of the 2004 Amended Consulting Agreement with respect to conduct that takes place on or after October 8, 2009; and

2. Respondent's right to enforce Paragraph 4.1 of the 2004 Amended Consulting Agreement with respect to conduct that takes place on or after thirty (30) days from the date on which this Order becomes final and thereafter.
- B. Respondent shall submit to Golf Canada, with a return receipt, the executed original document required in Paragraph III.A.

IV.

IT IS FURTHER ORDERED that:

- A. Within sixty (60) days after the date the Order becomes final, Respondent shall submit to the Commission a verified written report setting forth in detail the manner and form in which the Respondent has complied, is complying, and will comply with this Order including, but not limited to, a copy of the document required in Paragraph III.A. and proof of Golf Canada's receipt of such document.
- B. One (1) year after the date the Order becomes final, annually for the next two (2) years on the anniversary of the date the Order becomes final, and at other times as the Commission may require, Respondent shall file a verified written report with the Commission setting forth in detail the manner and form in which it has complied and is complying with the Order.

V.

IT IS FURTHER ORDERED that Respondent shall notify the Commission at least thirty (30) days prior to:

- A. Any proposed dissolution of Respondent,
- B. Any proposed acquisition, merger or consolidation of Respondent, or
- C. Any other change in Respondent that may affect compliance obligations arising out of this Order, including but not limited to assignment, the creation or dissolution of subsidiaries, or any other change in Respondent.

VI.

IT IS FURTHER ORDERED that, for the purpose of determining or securing compliance with this order, upon written request, Respondent shall permit any duly authorized representative of the Commission:

- A. Access, during office hours and in the presence of counsel, to all facilities and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Respondent relating to any matters contained in this Order; and
- B. Upon five (5) days' notice to Respondent and without restraint or interference from Respondent, to interview officers, directors, or employees of Respondent, who may have counsel present, regarding such matters.

VII.

IT IS FURTHER ORDERED that this Order shall terminate on November 18, 2028.

By the Commission.

Donald S. Clark
Secretary

SEAL

ISSUED: November 18, 2008

**NON-PUBLIC APPENDIX A
2004 AMENDED AND RESTATED CONSULTING AGREEMENT**

[Redacted From The Public Record Version But Incorporated By Reference]