

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Maureen K. Ohlhausen, Acting Chairman  
Terrell McSweeney

	)	
<b>In the Matter of</b>	)	
	)	<b>Docket No. C-4617</b>
<b>American Guild of Organists,</b>	)	
<b>a corporation.</b>	)	
	)	

**DECISION AND ORDER**

The Federal Trade Commission, having initiated an investigation of certain acts and practices of the American Guild of Organists (“Respondent” or “AGO”) and Respondent having been furnished thereafter with a copy of a draft complaint that the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, 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 a consent order, an admission by 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 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 Acts, and that a complaint should issue stating its charges in that respect, and having accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, and having duly considered the public comments received pursuant to Commission Rule 2.34, 16 C.F.R. § 2.34, now in further conformity with the procedure described in § 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order (“Order”):

1. Respondent American Guild of Organists is a non-profit corporation organized, existing, and doing business under, and by virtue of, the laws of the State of New York, with its office and principal place of business located at 475 Riverside Drive, Suite 1260, New York, NY 10115.

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.**

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

- A. “Respondent” or “AGO” means the American Guild of Organists, its directors, boards, officers, employees, Leaders, agents, representatives, councils, committees, foundations, divisions, Chapters, successors, and assigns.
- B. “Antitrust Compliance Officer” means a person appointed under Paragraph IV.A. of this Order.
- C. “Antitrust Counsel” means a lawyer admitted to practice law in one or more of the judicial districts of the courts of the United States.
- D. “Antitrust Laws” means the Federal Trade Commission Act, as amended, 15 U.S.C. § 41 *et. seq.*, the Sherman Act, 15 U.S.C. § 1 *et. seq.*, and the Clayton Act, 15 U.S.C. § 12 *et. seq.*
- E. “Certification” means the document attached to this Order as Appendix B.
- F. “Chapter” means any regional or district association of organists that is recognized by the AGO as a chapter.
- G. “Code of Ethics” means a statement setting forth the principles, values, standards, or rules of behavior that guide the conduct of an organization and its members.
- H. “FTC Settlement Statement” means the statement attached to this Order as Appendix A.
- I. “Leaders” means the AGO’s National Council, National and Regional Officers, Councillors, Conveners, and Chapter Deans.
- J. “Member” means a member of the AGO, including but not limited to, voting members, non-voting members, general members, independent members, certificated members, national subscribing members, national honorary members, Chapter members, and any other classes or sub-classes of members.
- K. “Notification Date” means the date on which Respondent makes the notification required by Paragraph III.A.3. of this Order.

- L. “Organization Documents” means any documents relating to the governance, management, or direction of the relevant organization, including, but not limited to, bylaws, operating procedures, Chapter Management Handbooks, Chapter Operating Procedures, Codes of Ethics, Codes of Professional Standards, grievance procedures, compensation guides or fee schedules, model contract provisions, policy statements, interpretations, commentaries, guidelines, and brochures.
- M. “Regulating” means (1) adopting, maintaining, recommending, or encouraging that Members follow any rule, regulation, interpretation, ethical ruling, policy, commentary, or guideline; (2) taking or threatening to take formal or informal disciplinary action; or (3) conducting formal or informal investigations or inquiries.

## II.

**IT IS FURTHER ORDERED** that Respondent, directly or indirectly, or through any corporate or other device, in or in connection with Respondent’s activities as a professional association in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44, do forthwith cease and desist from:

- A. Prohibiting, restricting, regulating, impeding, declaring unethical, interfering with, or advising against any form of price competition for the provision of services provided by Members;
- B. Regulating, restricting, restraining, impeding, declaring unethical or unprofessional or interfering with, by any means, the efforts of any Member to seek or accept a position or engagement to provide services of an organist or choral conductor;
- C. Regulating, restricting, restraining, impeding, declaring unethical or unprofessional or interfering with, by any means, the efforts of any Member to provide services of an organist or choral conductor, including, but not limited to, encouraging, urging, or requiring that Members obtain the approval of an incumbent organist or choral conductor before accepting an engagement to provide services of an organist or choral conductor for a wedding, funeral, or any other engagement requested by a third party;
- D. Creating, issuing, formulating, compiling, distributing, publishing, recommending, suggesting, encouraging adherence to, endorsing, or authorizing any list, guide, or schedule of compensation or fees, standard approach, or model contract, for Members to use when determining or securing compensation for their services, including but not limited to compensation or fee reports, guidelines, or suggested or recommended fees; and
- E. Accepting as a Chapter, or maintaining a relationship with any Chapter, that the AGO knows engages in conduct prohibited by Paragraphs II.A., II.B., II.C., or II.D.

### III.

#### **IT IS FURTHER ORDERED** that:

- A. No later than sixty (60) days from the date this Order is issued, Respondent shall:
1. Post and maintain for five years on the Guild Document's page of the AGO's website, together with a link from Respondent's home or menu page that is entitled "Antitrust Compliance," the following items:
    - (a) An announcement that states "The AGO agreed to change its Code of Ethics, and will not adopt or encourage its Members to follow or enforce any Code of Ethics provision relating to limitations on competition by organists or choral conductors to provide services, including price competition, that does not comply with the FTC Decision and Order."
    - (b) The FTC Settlement Statement; and
    - (c) A link to the Federal Trade Commission's website that contains the press release issued by the Commission in this matter; and
  2. Distribute electronically or by other means a copy of the FTC Settlement Statement to its Leaders, Chapters, Members, and employees; and
  3. Notify each Chapter that, as a condition of continued recognition by the AGO, such Chapter must execute and return a Certification to Respondent no later than one hundred eighty (180) days from the date Respondent notifies such Chapter.
- B. No later than sixty (60) days from the date this Order is issued Respondent shall:
1. Remove from the AGO's Organization Documents and the AGO's website any statement or document that is inconsistent with Paragraph II of this Order, and
  2. Publish on the AGO's website any revisions of the AGO's Organization Documents, the press release issued by the Commission in this matter, and the FTC Settlement Statement.
- C. Respondent shall publish, in the font that is customarily used for feature articles:
1. Any revisions of the AGO's Organization Documents, the press release issued by the Commission in this matter, and the FTC Settlement Statement in the next available edition of the "The American Organist" magazine; and

2. The FTC Settlement Statement in the edition of the “The American Organist” magazine, or any successor publication, on or as close as possible to the first and second anniversary dates of first publication of the FTC Settlement Statement.
- D. For a period of five (5) years after this Order is issued, distribute electronically or by other means, a copy of the FTC Settlement Statement to each:
1. New Chapter no later than thirty (30) days after the date the organization becomes a Chapter;
  2. New Member no later than sixty (60) days after the date of commencement of the membership; and
  3. Member who receives a membership renewal notice at the time the Member receives such notice.
- E. Respondent shall:
1. Immediately terminate the recognition of any Chapter that fails to provide an executed Certification no later than one hundred eighty (180) days from the Notification Date and shall not permit the terminated Chapter to claim itself as a Chapter of the American Guild of Organists until such time as the Chapter provides an executed Certification; and
  2. Terminate for a period of one (1) year, no later than one hundred twenty (120) days after Respondent learns or obtains information that would lead a reasonable person to conclude that the Chapter has, following the date this Order is issued, engaged in any practice prohibited by Paragraphs II.A., II.B., II.C., or II.D of this Order; unless, prior to the expiration of the one hundred twenty (120) day period, said Chapter informs Respondent in a verified written statement that the Chapter has eliminated and will not reengage in such practice, and Respondent has no reasonable grounds to believe otherwise.
- F. Respondent shall include a copy of the FTC Settlement Statement, electronically or by other means, with the next dues statement sent to each Member after the date this Order is issued.
- G. Respondent shall maintain and make available to Commission staff for inspection and copying, upon reasonable notice, records adequate to describe in detail any:
1. Action against any Member or Chapter taken in connection with the activities covered by Paragraph II of this Order, including but not limited to enforcement, advisory opinions, advice or interpretations rendered; and

2. Complaint(s) received from any person relating to Respondent's failure to comply with this Order.

#### IV.

**IT IS FURTHER ORDERED** that Respondent shall design, maintain, and operate an antitrust compliance program to assure compliance with this Order and the Antitrust Laws:

- A. No later than thirty (30) days from the date this Order is issued, Respondent shall appoint and retain an Antitrust Compliance Officer for the duration of this Order to supervise Respondent's antitrust compliance program.
- B. For a period of three (3) years from the date this Order is issued, the Antitrust Compliance Officer shall be the Executive Director of Respondent after which a new Antitrust Compliance Officer may be appointed who shall be Antitrust Counsel, or a Leader of Respondent.
- C. For a period of five (5) years from the date this Order is issued, Respondent shall provide annual training to its Leaders and employees concerning Respondent's obligations under this Order and an overview of the Antitrust Laws as they apply to Respondent's activities, behavior, and conduct.
- D. Respondent shall implement policies and procedures to:
  1. Enable persons to ask questions about, and report violations of, this Order and the Antitrust Laws, confidentially and without fear of retaliation of any kind; and
  2. Discipline Leaders, Members, and employees for failure to comply fully with this Order.
- E. For a period of five (5) years from the date this Order is issued, Respondent shall:
  1. Conduct an in-person presentation at each National or Regional meeting of the AGO that summarizes Respondent's obligations under this Order and provides context-appropriate guidance on compliance with the Antitrust Laws; and
  2. Provide an antitrust compliance guide to Chapters to use at each meeting of such Chapters that summarizes Respondent's obligations under this Order and provides context-appropriate guidance on compliance with the Antitrust Laws.

**V.**

**IT IS FURTHER ORDERED** that Respondent shall file a verified written report with the Commission setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with this Order:

- A. No later than (i) ninety (90) days after the date this Order is issued, (ii) one hundred eighty (180) days after the date this Order is issued; and
- B. No later than one (1) year after the date this Order is issued and annually thereafter for four (4) years on the anniversary of the date on which this Order is issued, and at such other times as the Commission staff may request.

**VI.**

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

- A. Dissolution of Respondent;
- B. Acquisition, merger, or consolidation of Respondent; or
- C. Any other change in Respondent, including, but not limited to, assignment and the creation or dissolution of subsidiaries, if such change might affect compliance obligations arising out of this Order.

**VII.**

**IT IS FURTHER ORDERED** that, for the purpose of determining or securing compliance with this Order, and subject to any legally recognized privilege, and upon written request and upon five (5) days' notice to Respondent, Respondent shall, without restraint or interference, permit any duly authorized representative of the Commission:

- A. Access, during business office hours of the Respondent and in the presence of counsel, to all facilities, and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda and all other records and documents in the possession, or under the control, of the Respondent related to compliance with this Order, which copying services shall be provided by the Respondent at its expense; and
- B. To interview officers, directors, Members, Leaders, or employees of the Respondent, who may have counsel present, regarding such matters.

**VIII.**

**IT IS FURTHER ORDERED** that this Order shall terminate on May 26, 2037.

By the Commission.

Donald S. Clark  
Secretary

SEAL:  
ISSUED: May 26, 2017