

IN THE MATTER OF
**ASSOCIATED MOTOR OILS, INC., ALSO DOING BUSINESS
UNDER THE NAME OF ASSOCIATED PRODUCTS COM-
PANY**

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 4621. Complaint, Oct. 31, 1941—Decision, Mar. 23, 1942

Where the distinctive emblem of an Association—dating from 1923 and composed of practically all of the refiners of motor oils produced in the Pennsylvania oil fields and of a number of jobbers and distributors of such oils—featuring the words "Guaranteed 100% Pure Pennsylvania Oil" along with insignia or advertising matter signifying that distributor concerned was a member of the Association, together with the name "Pennsylvania" and derivations thereof, had acquired a definite secondary meaning to the purchasing public when used in connection with motor oils, indicating unadulterated oil produced from the Pennsylvania oil fields; and thereafter, a corporation engaged in blending and canning motor oils and greases, both under its own trade brands and under brands which it packaged for marketers and jobbers, and in competitive interstate sale and distribution of said products—

- (a) Represented that it controlled and operated a refinery, and that purchasers of its products were dealing directly with the manufacturer thereof through use on its labels and in its catalogs and other advertising material of its former corporate name in which were included words "Associated Refineries;"
- (b) Placed on some of its products an emblem bearing the legend "All motor oils bearing this seal Guaranteed 100% pure Pennsylvania Motor Oils. Spec. No. —," which, in size and shape, simulated that of aforesaid Pennsylvania Grade Crude Oil Association, and shared with it as the most conspicuous words the statement "Guaranteed 100% pure Pennsylvania oil," substituting for the words "Permit No. —" on the Association emblem, the meaningless words "Spec. No. —;" and set forth on containers the representation that the contents were "100% pure Pennsylvania Motor Oil," or "Certified 100% pure Pennsylvania Motor Oil;" and
- (c) Made use of abbreviations of words coined from the word "Pennsylvania" in naming some of its motor oils and greases to suggest that they were made entirely from oil derived from the Pennsylvania fields;

Notwithstanding the fact it did not own, operate, or control an oil refinery, or refine and prepare virgin crude oil for use as a motor oil, or have equipment for such purpose, but was engaged solely in blending and canning the products concerned; its said motor oils and greases contained, to a substantial extent, oils and additives from other than the Pennsylvania oil fields, while some contained no Pennsylvania oil whatever; and it was not a member of said Pennsylvania Grade Crude Oil Association, nor entitled to the use of the emblem thereof;

- (d) Placed on its cans and other containers the letters and numbers used by the Society of Automotive Engineers to indicate relative viscosity of motor oils, which, through long usage, had come to have a definite meaning in such connection;

Notwithstanding the fact the oil contained in aforesaid containers did not have the relative viscosity so indicated;

- (e) Represented in its catalogs and other advertising material, and on its cans and other containers, among other claims, that its "Zeroil Motor Oil" would flow more freely and lubricate more perfectly at lower temperatures than many other oils; that its "Three Star Penn Motor Oil" would not thin out and break down under service, but would hold its body under high temperatures and would not sludge; and that its "Penn-Durance Motor Oil" would not break down or thin out and was super-refined;

The facts being all oils constantly change their viscosity with changes of temperature, and will break down, thin out and sludge, and said representations were false;

- (f) Represented that use of its "Pensile-Vis," by virtue of scientific refining process employed, assured superior lubrication which would reduce friction, heat and drag with result of saving of power usually lost, and also brought about lower gas and oil consumption; that uniformity of its "Safety Seal" was such that each package was labeled with its "Certified 2000 mile money-back guarantee;" that regular use of its "Ultra-Penn" could be expected to give savings up to 50 percent in motor oil and 10 percent or more on gas, and also prevent one-third the usual wear on motor parts; and that constant use of its "Graf-O-Lyne" would double motor life and reduce the danger of scored cylinder walls and burnt bearings, insuring against former during the starting period;

The facts being that use of its "Ultra-Penn" motor oil, as compared with other standard motor oils, would not result in substantial saving; and none of said products would substantially increase motor life, or reduce the danger of scored cylinders more than other lubricants;

- (g) Set forth on cans and containers of many of the products concerned herein another emblem bearing the legend "Automotive Test Laboratories of America—Tested and Approved," thereby leading purchasing public to believe that its oils and greases had been approved by laboratories used extensively in the oil industry for testing motor oils as to their value, quality and efficacy in use;

Notwithstanding the fact said Automotive Test Laboratories was not a bona fide laboratory for the testing of automotive oils nor disinterested, and, further, ceased to function in 1938;

- (h) Falsely represented and implied, through aforesaid acts and practices that the motor oils and greases offered for sale and sold by it were superior to the ordinary standard types of oils and greases offered for sale by competitors;

Notwithstanding fact most of the standard competitive products of comparable type were equal in grade, quality, and performance to, and in many instances excelled, its said products:

Tendency, capacity and effect of which various acts, practices and methods were to mislead and deceive a substantial portion of the purchasing public into believing that aforesaid representations were true, with result that many members of such public purchased its products, thereby unfairly diverting trade to it from its competitors, including many who do not in any manner misrepresent their business status or products; to the injury of said competitors and that of the public:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public, and its competitors, and con-

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stituted unfair methods of competition in commerce and unfair and deceptive acts and practices therein.

Before *Mr. John P. Bramhall*, trial examiner.

Mr. J. R. Phillips, Jr. for the Commission.

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 Associated Motor Oils, Inc., a corporation, also doing business under the name of Associated Products Co., hereinafter referred to as respondent, has violated the provision of the 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:

PARAGRAPH 1. Respondent, Associated Motor Oils, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 2313 South LaSalle Street, in the city of Chicago, State of Illinois. For several years last past the respondent has been engaged in the business of blending and canning motor oils and greases, both directly under its own trade brands and under brands which it packages for marketers and jobbers, and in the sale and distribution of said products in commerce between and among the various States of the United States. Respondent causes said products, when sold, to be transported from its place of business in the State of Illinois to purchasers thereof located in other States of the United States and in the District of Columbia.

Respondent, previously engaged in said business under the corporate name Associated Refineries, Inc. On March 25, 1940, the corporate name of respondent was changed from Associated Refineries, Inc., to Associated Motor Oils, Inc.

In the course and conduct of its business, respondent has been and is in substantial competition with other corporations and with partnerships, firms and individuals likewise engaged in the sale and distribution of motor oils and greases in commerce between and among the several States of the United States and in the District of Columbia. Among said competitors of the respondent are many who do not in any manner misrepresent their business status or the grade, quality or performance of their said products.

PAR. 2. The Pennsylvania Grade Crude Oil Association is a non-profit association organized in 1923. and has been in continuous oper-

ation since that time. Its membership is composed of practically all of the refiners of motor oils produced in the Pennsylvania oil fields and a number of jobbers and distributors of such oils. The purpose of said Association is to establish higher standards of quality for oils produced in Pennsylvania, to advertise such oils, to protect the Pennsylvania oil industry against adulteration of its products and to prevent the sale of oils produced elsewhere as Pennsylvania products. The Association provides an emblem and advertising matter to be used, which signify that such distributor is a member of the Association. The emblem certifies that the oil sold under it is a pure, unadulterated oil produced from the Pennsylvania oil fields, and a bond is given by each member as a guarantee of these facts. The emblem is quite distinct in arrangement, shape, coloring and wording; the featured wording being "Guaranteed 100% Pure Pennsylvania Oil." As a result of the activity of the Association, the emblem and insignia referred to, as well as the name Pennsylvania and derivations thereof, have acquired a definite secondary meaning to the purchasing public when used in connection with motor oils; they indicate and suggest pure, unadulterated oil produced from the Pennsylvania oil fields, for which there exists a substantial public demand.

PAR. 3. Through the use on its labels and in its catalogs and other advertising material of the name Associated Refineries, Inc., either alone or in conjunction with respondent's present corporate name, Associated Motor Oils, Inc., respondent represents to members of the purchasing public, and the purchasing public is thereby led to believe, that respondent controls and operates a refinery wherein its said products are made or refined and that purchasers of its products are dealing directly with the manufacturer of said products.

A substantial part of the purchasing public prefer to purchase motor oil directly from the refiner of the oil, believing that in so doing they secure better products, prices, and other advantages not ordinarily procurable through dealers or other middlemen.

PAR. 4. On some of its products sold and distributed in commerce as aforesaid respondent has also caused to be placed an emblem bearing the following legend: "All Motor Oils Bearing this Seal Guaranteed 100% Pure Pennsylvania Motor Oils. Spec. No. —," superimposed upon an outline map of the State of Pennsylvania. The containers or cans also contain the representation that the contents are "100% Pure Pennsylvania Motor Oil" or "Certified 100% Pure Pennsylvania Motor Oil." In general size and shape respondent's emblem simulates the emblem of the Pennsylvania Grade Crude Oil Association, and the most conspicuous words on

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both the "Guaranteed 100% Pure Pennsylvania Oil." In respondent's emblem appear the words, "Spec. No. —" and upon that of the Pennsylvania Grade Crude Oil Association appears "Permit No. —." The words "Spec. No. —" appearing in respondent's emblem are of no significance and are meaningless.

In naming and designating some of its motor oils and greases, respondent uses abbreviations of and words coined from the name Pennsylvania in such a way as to suggest to the purchaser or prospective purchaser that they are made entirely of Pennsylvania oil.

PAR. 5. In truth and in fact respondent does not own, operate or control an oil refinery, it does not refine and prepare virgin crude oil for use as motor oil nor does it have the proper and usual equipment for such purpose. Respondent is engaged solely in the blending and canning of motor oils and greases and its motor oils and greases contain to a substantial extent oils and additives other than those produced from the Pennsylvania oil fields, and some of said products contain no Pennsylvania oil whatever. Respondent is not a member of the Pennsylvania Grade Crude Oil Association and is not entitled to use the emblem of said Association.

PAR. 6. The Society of Automotive Engineers has developed a system of numbers to indicate relative viscosity of motor oils and through long usage this system of letters and numbers has come to have a definite meaning when used in connection with motor oils. The higher numbers used in the system indicate heavier oils to be used in higher temperatures and in fast driving and the lower numbers a lighter oil to be used when the temperature is lower. There is a substantial demand on the part of the consuming public for oils with the true viscosity indicated by the said numbers.

Respondent places on its cans and other containers the letters and numbers used by the Society of Automotive Engineers to indicate relative viscosity, but the oil contained therein does not have the relative viscosity indicated by said letters and numbers.

PAR. 7. In the course and conduct of its business and for the purpose of inducing the purchase of its products, the respondent has made certain representations concerning its products, in its catalogs and other advertising material and on its oil cans and other containers, purporting to be descriptive of its products. The following representations, among others, have been used by the respondent:

Zeroll Motor Oil. Especially refined for sub-zero temperature. Zeroll will flow freely and lubricate perfectly at lower temperatures than any other motor oil known. Peps up sluggish motors in cold weather.

Three Star Penn Motor Oil will not thin out or break down under the hardest, toughest service. Holds its body under high temperatures. Will not sludge.

Penn-Durance Motor Oil. Super-refined and compounded from high grade bright stocks and neutral oils. Will not break down or thin out.

Pensile-Vis. The scientific refining process used in the manufacture of this oil produces a pure dewaxed heat-resisting stock, having a low cold test and a high flash and fire. Superior lubrication such as Pensile-Vis assures reduced friction, heat and drag so that power usually lost through these sources is saved. Therefore because of more scientific operation, brought about by the use of this pre-tested motor oil, lower gasoline and oil consumption results.

Safety Seal. Uniformity is such that we fearlessly label each package of Safety Seal with the certified 2,000 mile money-back guarantee. This guarantee is your definite assurance that this oil has been refined to meet the high standards required of any motor oil. Strict supervision and analysis in our modern laboratory such as is applied to all premium motor oils now on the market also protects you.

Ultra Penn. Regular use of Ultra Penn can be expected to give you savings up to 50 percent in motor oil alone. The better performance it brings about in your motor can save you 10 percent and more on gasoline. Besides these savings, about one third the usual wear on motor parts is prevented.

Graf-O-Lyne. Evens up minute abrasions and produces an oil having a high film strength and greater oiliness. If consistently used it will double motor life and reduce the danger of scored cylinder walls and burnt bearings. Insures against scored cylinders during the starting period.

PAR. 8. In truth and in fact, respondent's product "Zeroil" will not flow more freely and lubricate more perfectly at lower temperatures than many other oils. "Three Star Penn Motor Oil" will thin out and break down under service and will not hold its body under high temperatures, and will sludge. "Penn-Durance Motor Oil" will break down and thin out, and it is not super-refined. In fact, all oils constantly change their viscosity with changes of temperature and will break down and thin out and sludge. The use of respondent's product "Ultra Penn" motor oil, as compared with the use of other standard motor oils, will not result in a saving of up to 50 percent, or any substantial percentage, on motor oils, or result in a savings of 10 percent, or any other substantial percentage, of the usual wear on motor parts. None of respondent's said products, including the product "Graf-O-Lyne," will, if consistently used, double or substantially increase motor life; nor will such products reduce the danger of scored cylinders more so than other lubricants on the market.

PAR. 9. On the cans and containers of many of the oils and greases of respondent appears another emblem bearing the following legend:

Automotive Test Laboratories of America—Tested and Approved.

The purchasing public is thereby led to believe that respondent's oils and greases have been tested and approved by laboratories used extensively in the oil industry for the testing and approving of motor oils as to quality, value and efficacy in use.

In truth and in fact, the Automotive Test Laboratories of America is not a bona fide laboratory for the testing of automotive oils and its reports as such are not the result of bona fide tests and are not disinterested. Furthermore, this so-called laboratory ceased to function in about July 1938, but respondent has continued since that time to use such emblem.

PAR. 10. The use by the respondent of the emblem simulating the emblem of the Pennsylvania Grade Crude Oil Association and the statements and representations thereon and the use of the abbreviations of the word Pennsylvania and words coined therefrom, as hereinabove alleged, are misleading and deceptive and cause the purchasing public to believe that the products in connection with which said emblem and said abbreviations and coined words are used are manufactured from Pennsylvania oil in their entirety, whereas in truth and in fact some of said products contain no Pennsylvania oil at all, while others contain some Pennsylvania oil and a substantial quantity of oil produced in States other than Pennsylvania.

Through all the aforesaid acts, practices and methods, the respondent falsely represents and implies that the motor oils and greases offered for sale and sold by it in said commerce are superior in grade, quality and performance to the ordinary standard types of oils and greases offered for sale by competitors. In truth and in fact, most standard competitive products, of comparative type, are equal in grade, quality and performance to, and in many instances excel, respondent's said products.

PAR. 11. The use by the respondent of the aforesaid acts, practices and methods has the tendency and capacity to, and does, mislead and deceive a substantial portion of the purchasing public and cause it erroneously to believe that the aforesaid representations and implications are true, and that respondent owns, operates or controls a refinery where said products are produced, that said products are 100 percent pure Pennsylvania oil, that said products have been tested and approved by a recognized testing laboratory and that said products are superior in grade, quality and performance to ordinary standard oils and greases, of comparative type, and as a result of said erroneous and mistaken belief, induced as aforesaid, many members of the purchasing public have purchased respondents' said products, thereby unfairly diverting trade to the respondent from its competitors in commerce between and among the several States of the United States and in the District of Columbia, to the injury of said competitors and to the injury of the public.

PAR. 12. The aforesaid acts, practices and methods of the respondent, as herein alleged, are all to the prejudice and injury of the public

and respondent's competitors and constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on October 31, 1941, issued and served its complaint in this proceeding upon respondent, Associated Motor Oils, Inc., charging it with the use of unfair methods of competition and unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer, the Commission, by order entered herein, granted respondent's motion for permission to withdraw said answer and to substitute therefor an answer admitting all the material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearing as to said facts, which substitute answer was duly filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and substitute answer, and the Commission, having duly considered the matter and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Associated Motor Oils, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 2313 South LaSalle Street in the city of Chicago, State of Illinois. For several years last past respondent has been engaged in the business of blending and canning motor oils and greases, both directly under its own trade brands and under brands which it packages for marketers and jobbers, and in the sale and distribution of said products in commerce between and among the various States of the United States. Respondent causes said products, when sold, to be transported from its place of business in the State of Illinois to purchasers thereof located in other States of the United States and in the District of Columbia.

Respondent previously engaged in the said business under the corporate name, Associated Refineries, Inc. On March 25, 1940, the corporate name of respondent was changed from Associated Refineries, Inc., to Associated Motor Oils, Inc.

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In the course and conduct of its business, respondent has been and is in substantial competition with other corporations and with partnerships, firms, and individuals likewise engaged in the sale and distribution of motor oils and greases in commerce between and among the several States of the United States and in the District of Columbia. Among said competitors of the respondent are many who do not in any manner misrepresent their business status or the grade, quality or performance of their said products.

PAR. 2. The Pennsylvania Grade Crude Oil Association is a non-profit association organized in 1923, and has been in continuous operation since that time. Its membership is composed of practically all the refiners of motor oils produced in the Pennsylvania oil fields and a number of jobbers and distributors of such oils. The purpose of said association is to establish higher standards of quality for oils produced in the Pennsylvania oil fields, to advertise such oils, to protect the Pennsylvania oil industry against adulteration of its products and to prevent the sale of oils produced elsewhere as Pennsylvania products. The association provides an emblem and advertising matter to be used, which signify that such distributor is a member of the association. The emblem certifies that the oil sold under it is a pure unadulterated oil produced from the Pennsylvania oil fields, and a bond is given by each member as a guarantee of these facts. The emblem is quite distinct in arrangement, shape, coloring and wording, the featured wording being "Guaranteed 100% Pure Pennsylvania Oil." As a result of the activity of the association, the emblem and the insignia referred to, as well as the name "Pennsylvania" and derivations thereof, have acquired a definite secondary meaning to the purchasing public when used in connection with motor oils. They indicate and suggest pure unadulterated oil produced from the Pennsylvania oil fields, for which there exists a substantial public demand.

PAR. 3. Through the use on its labels and in its catalogues and other advertising material of the name Associated Refineries, Inc., either alone or in conjunction with respondent's present corporate name, Associated Motor Oils, Inc., respondent represents to members of the purchasing public, and the purchasing public is thereby led to believe, that respondent controls and operates a refinery wherein its said products are made or refined and that the purchasers of its products are dealing directly with the manufacturer of said products.

A substantial part of the purchasing public prefers to purchase motor oils directly from the refiner of the oil, believing that in so doing they secure better products, prices and other advantages not ordinarily procurable through dealers or other middlemen.

PAR. 4. On some of its products sold and distributed in commerce as aforesaid, respondent has also caused to be placed an emblem bearing the following legend,

All Motor Oils Bearing This Seal Guaranteed 100% Pure Pennsylvania Motor Oils. Spec. No. —.

superimposed upon an outline map of the State of Pennsylvania. The containers or cans also contain the representation that the contents are "100% Pure Pennsylvania Motor Oil" or "Certified 100% Pure Pennsylvania Motor oil." In general size and shape respondent's emblem simulates the emblem of the Pennsylvania Grade Crude Oil Association, and the most conspicuous words on both are "Guaranteed 100% Pure Pennsylvania Oil." On respondent's emblem appear the words "Spec. No. —" and on that of the Pennsylvania Grade Crude Oil Association appears "Permit No. —." The words "Spec. No. —" appearing on respondent's emblem have no significance and are meaningless.

In naming and designating some of its motor oils and greases, respondent uses abbreviations of words coined from the name Pennsylvania in such a way as to suggest to the purchaser or prospective purchaser that they are made entirely of oil derived from the Pennsylvania oil fields.

PAR. 5. In truth and in fact respondent does not own, operate or control an oil refinery, it does not refine and prepare virgin crude oil for use as motor oil, nor does it have the proper and usual equipment for such purpose. Respondent is engaged solely in the blending and canning of motor oils and greases and its motor oils and greases contain to a substantial extent oils and additives other than those produced from the Pennsylvania oil fields, and some of said products contain no Pennsylvania oil whatever. Respondent is not a member of the Pennsylvania Grade Crude Oil Association and is not entitled to the use of the emblem of said Association.

PAR. 6. The Society of Automotive Engineers has developed a system of numbers to indicate relative viscosity of motor oils and through long usage this system of letters and numbers has come to have a definite meaning when used in connection with motor oils. The higher numbers used in the system indicate heavier oils to be used in higher temperatures and in fast driving, and the lower numbers of lighter oil to be used when the temperature is lower. There is a substantial demand on the part of the consuming public for oils with the true viscosity indicated by the said numbers.

Respondent places on its cans and other containers the letters and numbers used by the Society of Automotive Engineers to indicate

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relative viscosity, but the oil contained therein does not have the relative viscosity indicated by said letters and numbers.

PAR. 7. In the course and conduct of its business and for the purpose of inducing the purchase of its products, the respondent has made certain representations concerning its products in its catalogues and other advertising material and on its oil cans and other containers' purporting to be descriptive of its products. The following representations, among others, have been used by the respondent:

Zeroll Motor Oil. Especially refined for sub-zero temperatures. Zeroll will flow freely and lubricate perfectly at lower temperatures than any other motor oil known. Peps up sluggish motors in cold weather.

Three Star Penn Motor Oil will not thin out or break down under the hardest, toughest service. Holds its body under high temperatures. Will not sludge.

Penn-Durance Motor Oil. Super-refined and compounded from high grade bright stocks and neutral oils. Will not break down or thin out.

Pensile-Vis. The scientific refining process used in the manufacture of this oil reduces a pure dewaxed heat-resisting stock, having a low cold test and a high flash and fire. Superior lubrication such as Pensile-Vis assures reduced friction, heat and drag so that power usually lost through these sources is saved. Therefore because of more scientific operation brought about by the use of this pre-tested motor oil, lower gasoline and oil consumption results.

Safety Seal. Uniformity is such that we fearlessly label each package of Safety Seal with the certified 2,000 mile money-back guarantee. This guarantee is your definite assurance that this oil has been refined to meet the high standards required of any motor oil. Strict supervision and analysis in our modern laboratory such as is applied to all premium motor oils now on the market also protects you.

Ultra Penn. Regular use of Ultra Penn can be expected to give you savings up to 50 percent in motor oil alone. The better performance it brings about in your motor can save you 10 percent and more on gasoline. Besides these savings, about one third the usual wear on motor parts is prevented.

Graf-O-Lyne. Evens up minute abrasions and produces an oil having a high film strength and greater oiliness. If consistently used it will double motor life and reduce the danger of scored cylinder walls and burnt bearings. Insures against scored cylinders during the starting period.

PAR. 8. In truth and in fact respondent's product "Zeroll" will not flow more freely and lubricate more perfectly in lower temperatures than many other oils. "Three Star Penn Motor Oil" will thin out and break down under service and will not hold its body under high temperatures, and will sludge. "Penn-Durance Motor Oil" will break down and thin out and it is not super-refined. In fact all oils consistently change their viscosity with changes of temperature and will break down and thin out and sludge. The use of respondent's product "Ultra Penn" motor oil, as compared with the use of other standard motor oils, will not result in a saving of up to 50 percent or any substantial percentage, on motor oils, or result in a saving of

10 percent, or any other substantial percentage, of the usual wear on motor parts. None of respondent's said products, including the product "Graf-O-Lyne," will, if consistently used, double or substantially increase motor life; nor, will such products reduce the danger of scored cylinders more than other lubricants on the market.

PAR. 9. On the cans and containers of many of the oils and greases of respondent appears another emblem bearing the following legend: "Automotive Test Laboratories of America—Tested and Approved." The purchasing public is thereby led to believe that respondent's oil and greases have been tested and approved by laboratories used extensively in the oil industry for the testing and approving of motor oils as to their value, quality, and efficacy in use.

In truth and in fact, the Automotive Test Laboratories of America is not a bona fide laboratory for the testing of automotive oils and its reports as such are not the result of bona fide tests and are not disinterested. Furthermore, this so-called laboratory ceased to function in about July 1938, but respondent has continued since that time to use such emblem.

PAR. 10. The use by the respondent of the emblem simulating the emblem of the Pennsylvania Grade Crude Oil Association and the statements and representations thereon and the use of the abbreviations of the word "Pennsylvania" and words coined therefrom, as hereinabove set forth, are misleading and deceptive and cause the purchasing public to believe that the products in connection with which said emblem and said abbreviations and coined words are used are manufactured from oils derived from the Pennsylvania oil fields in their entirety, whereas in truth and in fact some of said products contain no Pennsylvania oil at all, while others contain some Pennsylvania oil and a substantial quantity of oil derived from fields other than the Pennsylvania oil fields.

Through all the aforesaid acts, practices and methods, the respondent falsely represents and implies that the motor oils and greases offered for sale and sold by it in said commerce are superior in grade, quality and performance to the ordinary standard types of oils and greases offered for sale by competitors. In truth and in fact, most of the standard competitive products, of comparative type, are equal in grade, quality and performance to, and in many instances excel, respondent's said products.

PAR. 11. The use by the respondent of the aforesaid acts, practices and methods has the tendency and capacity to, and does, mislead and deceive a substantial portion of the purchasing public and cause it erroneously to believe that the aforesaid representations and impli-

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cations are true, and that the respondent owns, operates or controls a refinery where said products are produced; that said products are 100 percent pure Pennsylvania oil; that said products have been tested and approved by a recognized testing laboratory and that said products are superior in grade, quality and performance to ordinary standard oils and greases of comparative type, and as a result of said erroneous and mistaken belief, induced as aforesaid, many members of the purchasing public have purchased said respondent's products, thereby unfairly diverting trade to the respondent from its competitors in commerce between and among the several States of the United States and in the District of Columbia, to the injury of said competitors and to the injury of the public.

CONCLUSION

The aforesaid acts and practices of respondent as herein found are all to the prejudice and injury of the public and respondent's competitors and constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of the respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and its conclusion that respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Associated Motor Oils, Inc., its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of its motor oils and greases, or any products of substantially similar composition or possessing substantially similar properties, whether sold under the same name or any other name, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that Associated Motor Oils, Inc., owns, controls, or operates a refinery wherein its said products are made or refined.

2. The use of any design, insignia, or emblem in advertising or on containers, labels, or in any other manner, which simulates the emblem or insignia of the Pennsylvania Grade Crude Oil Association.

3. The use of the word "Pennsylvania" or any abbreviation or colorable simulation thereof, or the use of an outline of the State of Pennsylvania in advertising or on containers, labels, or in any other manner to designate or describe any oil product which is not composed wholly of oil derived from the Pennsylvania oil fields, *Provided, however*, That in the case of a product composed in part of oil derived from the Pennsylvania oil fields and in part from oil derived from other oil fields, such word or abbreviation thereof may be used as descriptive of the proportion of the oil derived from the Pennsylvania oil fields if there are used in immediate connection and conjunction therewith, in letters of at least equal size and conspicuousness, words or figures truthfully designating or describing the percentage of oil in said product which is derived from the Pennsylvania oil fields.

4. Representing, directly or by implication, that any oil product sold and distributed by the respondent which is not composed in its entirety of oils produced and having their origin in the Pennsylvania oil fields, is a pure Pennsylvania motor oil.

5. Representing, directly or by implication, that the respondent's oils and greases have been tested and approved by a disinterested laboratory as to quality, value and efficacy in use, unless said oils and greases have been tested and approved by a bona fide, disinterested automotive oils testing laboratory.

6. The use of any letters or numbers developed by the Society of Automotive Engineers which do not indicate the true, relative viscosity of respondent's products.

7. Representing, directly or by implication, that its product now designated "Zeroil Motor Oil," or any motor oil of similar character or quality, will flow more freely and lubricate more perfectly in lower temperatures than many other oils; or that its product now designated "Three Star Penn Motor Oil," or any motor oil of similar quality or character, will not thin out, break down, or sludge under service or that it will hold its body under high temperatures; or that its product now designated "Penn-Durance Motor Oil," or any motor oil of similar quality or character, will not break down or thin out, or that it is a super-refined oil; or that the use of its product now designated "Ultra Penn," or any motor oil of similar quality or character, as compared with other standard motor oils, will effect a saving up to 50 percent, or any substantial percentage, of motor oils, or result in a saving of

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10 percent, or any substantial percentage of the usual wear on motor parts; or that its product now designated "Graf-O-Lyne," or any motor oil of similar quality or character, will consistently double, or to any substantial extent increase, motor life and reduce the danger of scored cylinders more than any other lubricants on the market.

It is further ordered, That the respondent shall, within 60 days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

Syllabus

IN THE MATTER OF
WALTER L. MILLER, TRADING AS WAMILL QUILT
FACTORIES

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 4108. Complaint, Apr. 25, 1940—Decision, Mar. 31, 1942

Where an individual, engaged in the manufacture and interstate sale and distribution of quilts, bed coverings, and other products; through agents soliciting orders, and through advertising folders, pamphlets, circulars post-cards, sales slips, and other literature—

- (a) Represented that the filling in his "Wamill Feather-Down Quilts" consisted of 50 percent goose down and 50 percent feather down, that the feathers therein were treated in a special manner which afforded complete and lifelong deodorization, and that such quilts were of extra large size, light weight, extra warm, free from lint, mothproof, and would last a lifetime, and would not slide;

The facts being "Feather-Down" was a misnomer, down being the undercoating of water fowl, consisting of light, fluffy filaments growing from one quill point without any quill shaft, of a softer and finer texture and fluffier than feathers, which consist of quill shafts and barbs growing therefrom; and its said "Feather-Down Quilt" were not, during the period concerned, filled with goose down and feather down in proportions set forth, but were filled with chicken feathers with only a slight trace of down; neither treatment in question nor any other applied to such quilts will afford lifelong deodorization and make them permanently mothproof, or do more than temporarily mask objectionable odors and temporarily repel moths; and other representations above set forth were also false;

- (b) Represented that the quoted price of \$18.95 or two for \$37.50 was an introductory or special price, limited as to time:

The facts being \$18.95 or two for \$37.50 was the regular and customary price at which he sold his said product; and he never sold them at \$37.50;

- (c) Represented that he maintained a laboratory fully and properly equipped with facilities for experimenting with and testing said products, materials of which they were composed, and durability thereof; and that quilts in question were developed and tested under supervision and direction of experts, qualified by special education, training and experience, and had been tested and found satisfactory as to quality, workmanship, and durability of materials; and

- (d) Represented that he had been in business for over fifteen years and had sold such products to over 40,000 customers without having received a single complaint or expression of dissatisfaction;

The facts being he did not maintain any laboratory equipped with necessary facilities for experimenting with and testing his products, or the materials of which they were composed, and had not sold his products to over 40,000 customers;

With effect of misleading and deceiving a substantial portion of the purchasing public into the mistaken belief that such statements were true, and of