

Order

IN THE MATTER OF
SALT PRODUCERS ASSOCIATION, ET AL.

MODIFIED CEASE AND DESIST ORDER

Docket 4320. Order, August 10, 1943

Modified order, pursuant to provisions of section 5 (i) of the Federal Trade Commission Act, and in accordance with decree below referred to, in proceeding in question, in which original order issued on November 10, 1941, 34 F. T. C. 38, and in which Circuit Court of Appeals for the Seventh Circuit on March 8, 1943, in *Salt Producers Association, et al. v. Federal Trade Commission*, 134 F. (2d) 354, 36 F. T. C. 1110, rendered its opinion and on April 20, 1943, issued its decree, modifying said order of the Commission in certain particulars and affirming the same in other particulars;

Requiring respondents, their officers, etc., in connection with offer, etc., in commerce, of salt, to cease and desist from—

Entering into, continuing, or carrying out, or directing, instigating, or cooperating in, any planned common course of action, mutual agreement, combination, or conspiracy, to fix or maintain the prices of salt or curtail, restrict, or regulate the production or sale thereof; and pursuant to any such planned or agreed common course of action, establishing or maintaining uniform prices or terms and conditions for the sale of salt; adhering or promising to adhere to published prices or terms pending the filing of changes with the Association; continuing the delivered price zones heretofore used for making quotations; etc., as in said order in detail set out and specified; and

Doing or performing any of the things forbidden by order in question, or aiding, assisting or cooperating in the performance thereof, on the part of respondent Stevenson, Jordon & Harrison, Inc., and respondents Charles R. Stevenson and D. M. Metzger, as officers thereof, and their agents, etc., all as in detail set out and specified in order in question, and subject to the provisos thereof; and

Subject to further proviso that nothing in such order is to be construed as prohibiting the respondents from entering into such contracts or agreements relating to the maintenance of resale prices as are not prohibited by the provisions of an Act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890 (the Sherman Act), as amended.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding coming on for further hearing before the Federal Trade Commission, and it appearing that on November 10, 1941, the Commission made its findings as to the facts herein and concluded therefrom that respondents had violated the provisions of the Federal Trade Commission Act, and issued and subsequently served upon them its order to cease and desist; and it further appearing that respondents on January 9, 1942, filed in the United States Circuit Court of Appeals for the Seventh Circuit petition to review and set aside the

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Commission's order, and that on March 8, 1943, the said court rendered its opinion and on April 20, 1943, issued its decree modifying the aforesaid order of the Commission in certain particulars and affirming the order in other particulars:

Now, therefore, Pursuant to the provisions of subsection (i) of section 5 of the Federal Trade Commission Act, the Commission issues this its modified order to cease and desist in conformity with said decree:

It is ordered, That the respondents, Salt Producers Association, a corporation; Avery Salt Co., a corporation; Barton Salt Co., a corporation; The Carey Salt Co., a corporation; Cayuga Rock Salt Co., a corporation; Colonial Salt Co., a corporation; Detroit Rock Salt Co., a corporation; Diamond Crystal Salt Co., Inc., a corporation; International Salt Co., a corporation; Jefferson Island Salt Co., Inc., a corporation; Hardy Salt Co., a corporation; Morton Salt Co., a corporation; Myles Salt Co., Ltd., a corporation; Mulkey Salt Co., a corporation; Ohio Salt Co., a corporation; Ruggles & Rademaker Salt Co., a corporation; Saginaw Salt Products Co., a corporation; Union Salt Co., a corporation; Watkins Salt Co., a corporation; Worcester Salt Co., a corporation; American Salt Corporation, a corporation, their officers, servants, agents, and employees, and Stevenson, Jordan & Harrison, Inc., Charles R. Stevenson and D. M. Metzger, respectively, president and treasurer of said Stevenson, Jordan & Harrison, Inc., and their agents, servants, and employees, or any two or more of said respondents, with or without the cooperation of others not parties hereto, in connection with the offering for sale, sale, and distribution of salt in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from entering into, continuing, or carrying out, or directing, instigating, or cooperating in, any planned common course of action, mutual agreement, combination, or conspiracy, to fix or maintain the prices of salt or curtail, restrict, or regulate the production or sale thereof, and from doing any of the following acts or things pursuant to any such planned or agreed common course of action:

1. Establishing or maintaining uniform prices for salt, or uniform terms and conditions in the sale thereof, or in any manner agreeing upon, fixing, or maintaining any prices, including terms and conditions of sale, at which salt is to be sold.

2. Adhering, or promising to adhere, to filed or published prices or terms and conditions of sale for salt pending the filing of changes therein with the Salt Producers Association, or with any other agency, or with each other.

3. Continuing the delivered price zones heretofore used for making quotations and sales of salt, or establishing or maintaining any de-

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livered price zones which are similar to those heretofore used in that their use would result as heretofore in making the delivered prices of the respective corporations identical despite their different costs of delivery.

4. Exchanging, directly or through the Salt Producers Association, or any other agency or clearing house, price lists, invoices, and other records of sale showing the quantity, current prices, and terms and conditions of sale allowed by said corporations to dealers and distributors: *Provided, however,* That nothing herein shall prevent said association from collecting and disseminating to the respective manufacturers figures showing the total volume of sales of salt without disclosing the sales volume of individual producers, for the purpose or with the effect of restraining competition in the offering for sale, or sale, of salt.

5. Exchanging, directly or through the medium of the Salt Producers Association, or any other agency, the names of distributors or dealers who receive special discounts; for the purpose or with the effect of restraining competition in the offering for sale, or sale, of salt.

6. Curtailing, restricting, or regulating the quantity of salt to be produced and sold by said corporations by any method or means during any given period of time for the purpose or with the effect of restraining competition in the offering for sale, or sale, of salt.

7. Doing, or causing to be done, any of the things forbidden by this order through the medium of said Stevenson, Jordan & Harrison, Inc., Charles R. Stevenson or D. M. Metzger, or any other corporation, firm, or individual.

It is further ordered, That Stevenson, Jordan & Harrison, Inc., and Charles R. Stevenson and D. M. Metzger as officers thereof, and their agents, servants, and employees, do forthwith cease and desist from doing or performing any of the things forbidden by this order, or aiding, assisting, or cooperating in the performance thereof.

It is further ordered, That nothing in this order is to be construed as prohibiting the respondents from entering into such contracts or agreements relating to the maintenance of resale prices as are not prohibited by the provisions of an act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890 (the Sherman Act), as amended.

It is further ordered, That for the reasons appearing in the findings as to the facts the complaint herein be, and hereby is, dismissed as to the following respondents: T. M. Harrison, C. H. Ferris, N. M. Peris, E. G. Ackerman, A. H. Dyer, R. E. Case, F. L. Sweetser, W. R. Guthrie, A. P. Nonweiler, S. M. Hudson; R. R. Bliss, L. B. Platt, and Howard Marvin.

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IN THE MATTER OF
UNITED STATES MALTSTERS ASSOCIATION, ET AL.
MODIFIED CEASE AND DESIST ORDER

Docket 3555. Aug. 13, 1943

Order modifying cease and desist order in proceeding in question in which original findings and order issued on December 29, 1942, 35 F. T. C. 797, so as to require respondents, their officers, etc., in connection with offer, etc., in commerce, of malt, to cease and desist from—

Entering into, continuing, cooperating in, or carrying out, or directing, instigating, or cooperating in any planned common course of action, mutual agreement, understanding, combination, or conspiracy between and among any two or more of said respondents or between any one or more of said respondents and other not parties hereto, to establish, fix or maintain prices, terms or condition of sale for malt, or adhere or promise to adhere thereto; hold or participate in any meeting, discussion, or exchange of information among themselves or under the auspices of respondent Association; establish, use, etc., basing points and delivered prices; exchange, distribute or relay among manufacturing respondents or through respondent Association price lists or other information showing future prices; etc., as in detail specified in order below set out.

Before *Mr. Robert S. Hall* and *Mr. Webster Ballinger*, trial examiners.

Mr. Edward L. Smith for the Commission.

Mr. William W. Corlett, of New York City, and *Poppenhusen, Johnston, Thompson & Raymond*, of Chicago, Ill., for respondents; together with *Hubbard, Baker & Rice*, of Chicago, Ill., for respondent *Albert Schwill & Co.*

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answers of the respondents, testimony and other evidence in support of the allegations of said complaint and in opposition thereto taken before *Robert S. Hall*, a trial examiner of the Commission theretofore duly designated by it, report of *Webster Ballinger*, a trial examiner appointed to prepare and file a trial examiner's report upon the evidence (vice *Robert S. Hall*, deceased), and exceptions filed thereto, briefs filed in support of the complaint and in opposition thereto, and oral argument of counsel; and the Commission having duly made and entered its findings as to the facts, conclusion, and order to cease and desist, dated December 29, 1942; and the Commission having further considered said order to cease and desist heretofore issued and being of the opinion that a modified order to cease and desist should be issued in said