

Opinion

IN THE MATTER OF
WEST COAST PACKING CORPORATION ET AL.

Docket 5432. Order and opinion, Feb. 24, 1956

Order denying petitions and motions to dissolve desist order on grounds that another corporation purchased entire stock of respondent corporation and none of individual respondents owned any stock in successor company, though two still acted as officers.

Mr. Edward S. Ragsdale for the Commission.

Ekdale & Shallenberger, of San Pedro, Calif., for respondents.

ORDER DENYING PETITIONS AND MOTIONS TO DISSOLVE CEASE
AND DESIST ORDER AND DIRECTING FILING OF COMPLIANCE REPORT

This matter having come on to be heard upon petitions and motions to dissolve, or to modify, the cease and desist order herein,¹ filed on behalf of Chicken of the Sea, Incorporated (formerly named West Coast Packing Corporation), and on behalf of the named individual respondents, and upon answer in opposition thereto filed by counsel supporting the complaint; and

The Commission, for the reasons stated in the accompanying decision, having denied said petitions and motions:

It is ordered, That respondents shall, within thirty (30) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the cease and desist order hereinbefore entered.

DECISION ON PETITIONS AND MOTIONS TO DISSOLVE OR MODIFY
CEASE AND DESIST ORDER

Per curiam:

On September 5, 1946, the Commission issued its findings as to the facts and conclusion and order to cease and desist in this proceeding directing and requiring West Coast Packing Corporation and its officers and the named individual respondents, in connection with the sale of sea food products in commerce, to cease and desist from paying or granting, directly or indirectly, to any buyer, anything of value as a commission or brokerage, or any compensation, allowance or discount in lieu thereof, upon purchases made for such buyer's own account. Thereafter, the Van Camp Sea Food Company, Inc., purchased 96% of the outstanding stock of West Coast

¹ Order to cease and desist, dated Sept. 5, 1946, is reported in 43 F.T.C. 111.

Packing Corporation and the latter's name was changed to Chicken of the Sea, Incorporated, which together with the individual respondents (by individual respondent Albert Vignolo, Jr.) are the petitioners and movants here.

The petitions and motions in effect seek to have the cease and desist order vacated upon the following grounds: The purchase by Van Camp Sea Food Company, Inc., of West Coast Packing Corporation, now named Chicken of the Sea, Incorporated, included all of the common and preferred stock in West Coast Packing Corporation owned by the individual respondents herein and no one of the individual respondents now owns any interest in West Coast Packing Corporation (Chicken of the Sea, Incorporated).

Chicken of the Sea, Incorporated, presently purchases the products of its parent corporation, Van Camp Sea Food Corporation, for resale throughout the United States and elsewhere. Individual respondent Albert Vignolo, Sr., presently is Chairman of the Board of Chicken of the Sea, Incorporated, and allegedly takes no active part in the formulation of its business policies. He is compensated with a monthly honorarium of \$100 per month. Individual respondent Albert Vignolo, Jr., presently is a Vice-President of Chicken of the Sea, Incorporated, in charge of sales of brands formerly packed by West Coast Packing Corporation which sales, it is claimed, amount to less than 4% of sales of Chicken of the Sea, Incorporated. Individual respondent Eugene Giacomino is represented as being in no way connected with Chicken of the Sea, Incorporated, at the present time and as not being engaged in any business or commercial pursuit and as not intending to so engage at any time in the future.

We have concluded that petitioners and movants have failed to establish any facts to warrant the Commission's vacating the order to cease and desist. On the contrary, West Coast Packing Corporation, now named Chicken of the Sea, Incorporated, still is engaged in the sale in commerce of sea food products under the same brand names formerly distributed by it. The fact that less than 4% of some \$48,000,000 of annual sales of Chicken of the Sea, Incorporated, are now made under these brands is, in our opinion, immaterial. The change of name of West Coast Packing Corporation, to Chicken of the Sea, Incorporated, and the fact that sales have increased and that the majority of the stock in Chicken of the Sea, Incorporated, is now held by Van Camp Sea Food Company, Inc., do not provide grounds, legal or equitable, for vacating the order. The necessity for the order remains the same as when the order issued.

The petitions and motions are denied.

Decision

IN THE MATTER OF

KORDOL CORPORATION OF AMERICA ET AL.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT*Docket 6088. Complaint, June 8, 1953*—Decision, Feb. 27, 1956*

Order requiring a corporation in New York City to cease representing falsely in advertising in newspapers, etc., and by radio broadcasts that the drug preparation "Kordolin" which it sold and distributed was an effective treatment for, and would afford complete and permanent relief from the aches and pains of all kinds of arthritis, rheumatism, lumbago, neuritis, and sciatica; was an amazing new discovery; and was more effective as an analgesic than aspirin.

Mr. Joseph Callaway for the Commission.

Mock & Blum, of New York City, for respondents.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on March 24, 1953, issued and subsequently served its original complaint in this proceeding upon respondents Kordol Corporation of America, a corporation, and Lewis S. Block and Lillian B. Block, individually and as officers of said corporation, to which complaint the respondents filed answer. Thereafter, on June 8, 1953, the Commission issued its amended complaint naming the identical respondents, to which amended complaint the respondents filed their answer.

The amended complaint under which this proceeding was tried charges the respondents with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said Act. Thereafter hearings were held in due course in which testimony and other evidence in support of and in opposition to the allegations of the complaint were introduced before the above-named hearing examiner therefore duly designated by the Commission, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final consideration by said hearing examiner on the amended complaint, the answer thereto, testimony and other evidence, proposed findings as to the facts and conclusions presented by counsel, oral argument thereon not having been requested; and said hearing examiner, having duly considered the record herein, finds that this

* Amended complaint. Original complaint issued Mar. 24, 1953.