

IN THE MATTER OF
ARCH V. SHIPMAN ET AL. TRADING AS
SHIPMAN MANUFACTURING COMPANY

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 6529. Complaint, Mar. 16, 1956—Decision, Aug. 22, 1956

Consent order requiring manufacturers in Los Angeles, Calif., of vending machines and ball point pens dispensed thereby, to cease representing falsely in newspaper advertisements and by agents that they turned over accounts for servicing to purchasers of their machines, to whom large profits would accrue; that the purchase price of the machines was secured by merchandise; that a tremendous number of repeat purchases of the pens was assured; and that purchasers would be given exclusive sales territory and advantageous locations for the machines.

Mr. George E. Steinmetz for the Commission.

Mr. Jack Altman, of Los Angeles, Calif., for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter, issued March 16, 1956, charges respondents with violation of the Federal Trade Commission Act in connection with the sale and distribution of their vending machines. An agreement has now been entered into by respondents and counsel supporting the complaint which provides, among other things, that respondents admit all of the jurisdictional allegations in the complaint; that the answer filed by respondents to the complaint shall be considered as having been withdrawn, and that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondents specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified, or set aside in the manner provided for other orders of the Commission; and that the agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and proposed order and being of the opinion that they provide an adequate basis for an appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. The respondents, Arch V. Shipman, Robert V. Shipman and Mildred Grosse, are copartners doing business under the name Shipman Manufacturing Company, with their principal office and place of business located at 1326 South Lorena Street, Los Angeles, California.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That the respondents, Arch V. Shipman, Robert V. Shipman and Mildred Grosse, individually and trading and doing business under the firm name of Shipman Manufacturing Company, or under any other name or names, and their respective representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of pen vending machines, or other similar merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

1. That accounts are turned over to their purchasers for servicing;
2. That large profits will accrue to the purchasers of their vending machines or that the profits are in excess of those usually and ordinarily arising through the use of their vending machines;
3. That the purchase price of their pen vending machines is secured by merchandise, or secured in any other manner that is not in accord with the facts;
4. That any number of repeat purchases of the pens dispensed by their vending machines is assured;
5. That purchasers are allotted exclusive sales territory unless such is the fact;
6. That locations for the pen vending machines will be secured for the use of the purchasers unless such locations are in fact supplied.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 22nd day

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of August, 1956, become the decision of the Commission; and, accordingly:

It is ordered, That the respondents herein shall within sixty (60) 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 order to cease and desist.

Commissioner Anderson not participating.

Appearances

IN THE MATTER OF
WILSON TOBACCO BOARD OF TRADE, INC., ET AL.ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 6262. Complaint, Nov. 9, 1954—Decision, Aug. 23, 1956

Order requiring an association of dealers in leaf tobacco, including warehousemen operating the 19 warehouses on the Wilson, North Carolina, market, which had, on Apr. 8, 1952, replaced the earlier floor place system by adoption of the "performance" system to cease collectively—

- (1) Allocating selling time for the ensuing year on a "poundage" rather than basket basis;
- (2) Limiting the amount of tobacco which might be resold by speculators or rehandlers other than warehousemen, and restricting the time in which such tobacco might be so sold; and
- (3) Allotting to a newcomer on the Wilson market for his ensuing first year of operation the same amount of time as the last previous entrant had for that year, providing he built as large a warehouse; otherwise, in proportion to the size built.

Mr. Rufus E. Wilson for the Commission.

Lucas, Rand & Rose, of Wilson, N.C. and *Sanders, Gravelle, Whitlock & Markey* and *Howrey & Simon*, of Washington, D.C., for Wilson Tobacco Board of Trade, Inc., Banner Warehouse of Wilson, Inc., Harriss Sales Corp., Big Dixie Warehouse Co., Inc., Clark's Warehouse, New Planters Warehouse, Cozart-Eagles and Co., Watson Warehouse Co., Inc., James I. Miller Tobacco Co., Inc., Wilson Tobacco Co., Inc., Smith-Carr, Wilson Warehouse Ass'n and various officers, directors and partners thereof.

Battle, Winslow & Merrell, of Rocky Mount, N.C., also represented Ula H. Cozart, Jr., Sydnor M. Cozart, Banner Warehouse of Wilson, Inc., Big Dixie Warehouse Co., Inc., New Planters Warehouse and various officers, directors and partners thereof.

Blackwell, Blackwell & Canady, of Winston-Salem, N.C., also represented Herbert H. Harriss and Harriss Sales Corp. and its officers and directors.

Mr. Chas. B. McLean, of Wilson, N.C., for Wainwright's, Inc. and its officers and directors.

Gardner, Connor & Lee, of Wilson, N.C., for S. Grady Deans, Stephen E. Griffin and Growers Cooperative Warehouse, Inc. and its officers and directors.

Carr & Gibbons, of Wilson, N.C., and *Diamond & Brylawski*, of Washington, D.C., also represented New Planters Warehouse and Smith-Carr and the partners thereof.