

Decision

IN THE MATTER OF
L. SILBERMAN & SONS, INC., ET AL.

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

Docket 6556. Complaint, May 21, 1956—Decision, Sept. 13, 1956

Consent order requiring Philadelphia wholesalers of shoe findings to cease stamping or labeling with the words "ASMC Horsehair" and "ASMC Pure Horsehair" shoebrushes which contained various quantities of palma, a vegetable fiber, or fibers other than horsehair.

Mr. Charles S. Cox for the Commission.

Mr. Benjamin Silberman, of Philadelphia, Pa., *in propria persona* and for L. Silberman & Sons, Inc.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

The complaint in this proceeding, issued May 21, 1956, charges the respondents L. Silberman & Sons, Inc., a corporation, and Benjamin Silberman, as an individual and as President of the corporate respondent, with violation of the Federal Trade Commission Act in connection with the interstate sale, shipment and distribution of shoebrushes, falsely representing such to be composed of "horsehair" and "pure horsehair".

After issuance of said complaint the respondents entered into an agreement, with counsel in support of the complaint, for a consent order disposing of all of the issues in this proceeding, said agreement having been duly approved by the Director of the Bureau of Litigation.

By the terms of said agreement, the respondents admitted all the jurisdictional allegations of the complaint and agreed that the record herein may be taken as though the Commission had made findings of jurisdictional facts in accordance with such allegations. By said agreement the parties expressly waived a hearing before the hearing examiner or the Commission, the making of findings of fact or conclusions of law by the hearing examiner or the Commission, the filing of exceptions and oral argument before the Commission, and all further and other procedure before the hearing examiner and the Commission to which the respondents may be entitled under the Federal Trade Commission Act or the Rules of Practice of the Commission.

By said agreement, respondents further agreed that the order to

Order

53 F.T.C.

cease and desist issued in accordance with said agreement shall have the same force and effect as if made after a full hearing, presentation of evidence and findings and conclusions thereon, and specifically waived any and all right, power or privilege to challenge or contest the validity of such order.

It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; that the complaint herein may be used in construing the terms of the order issued pursuant to said agreement; and that the said order may be altered, modified or set aside in the manner provided for other orders of the Commission.

Said agreement recites that respondent L. Silberman & Sons, Inc., is a corporation existing under and by virtue of the laws of the State of Pennsylvania; that the individual respondent, Benjamin Silberman, is President and majority stockholder of the corporate respondent and as such dominates, directs and controls the policies, acts and practices of the corporation. The office and principal place of business of both respondents is located at No. 349 North Third Street, Philadelphia, Pennsylvania.

The hearing examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provides for an appropriate disposition of this proceeding, the same is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice, and consonant with the terms of said agreement, the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents named herein; that this proceeding is in the interest of the public, and issues the following order:

ORDER

It is ordered, That respondent L. Silberman & Sons, Inc., a corporation, and its officers, and respondent Benjamin Silberman, individually and as an officer of said corporation, and said respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of shoe brushes in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Branding or labeling said brushes with the legend, word, or words "Horsehair" or "Pure Horsehair" unless and until the same, exclusive of the handle, is composed entirely of horsehair.

253

Decision

(2) Representing in any manner that said brushes are composed of "horsehair" or "pure horsehair" unless and until the same, exclusive of the handle, is actually composed entirely of horsehair.

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 13th day of September, 1956, become the decision of the Commission; and, accordingly:

It is ordered, That 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 Gwynne not participating.

IN THE MATTER OF
HIGH PENN OIL COMPANY, INC., ET AL.

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

Docket 6492. Complaint, Jan. 12, 1956—Decision, Sept. 15, 1956

Order requiring sellers in High Point, N.C., of reclaimed motor oil obtained from drainings of motor crank cases to cease representing that such reclaimed oil was new oil by selling it in containers of the same general size, kind, and appearance as those used for new oil, with no indication of its used nature, by misleading statements printed on the containers, and by use of the corporate name "High Penn Oil Company" on containers and on invoices and letterheads; and requiring them to disclose prior use conspicuously on the containers.

Mr. John W. Brookfield, Jr., for the Commission.

Mr. J. M. Brinson, of High Point, N.C., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint in this proceeding was issued on January 12, 1956, alleging that the above-named Respondents are now, and for more than one year last past have been, violating the Federal Trade Commission Act by engaging in unfair methods of competition and unfair and deceptive acts and practices in commerce in the sale and distribution of lubricating oil. The Respondents failed to answer this complaint, but, by their representative, Mr. J. M. Brinson, an individual Respondent, attended the hearing held in Greensboro, North Carolina, on May 31 and June 1, 1956. At the completion of the presentation of evidence in support of the complaint, a number of documents were received in evidence on behalf of Respondents, after which both counsel supporting the complaint and Respondents' representative rested. In due course counsel supporting the complaint submitted proposed findings as to the facts and a proposed conclusion, but Respondents submitted no proposed findings.

1. Respondent High Penn Oil Company, Inc., is a corporation organized and doing business under and by virtue of the laws of the State of North Carolina, with its office and principal place of business located at High Point, North Carolina, its mail address being Drawer 1752, High Point, North Carolina. The corporate Respondent also trades under the names of Thrift-Pride Oil Company and Dixie Oil Company. Respondents R. L. Brinson, R. L.