

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.

Brinson, Jr., and J. M. Brinson are individuals and officers of the corporate Respondent, dominate its affairs, and are responsible for the acts and practices herein found.

2. Respondents are now, and for more than two years last past have been, engaged in the business of reclaiming used motor oil and in selling and distributing such lubricating oil, or a blend thereof with new oil, in commerce, to dealers for resale to the purchasing public. Among the brand names under which their product is designated and sold are "Dixie", "Triple A", "Motor Gold", "Thrift-Pride", and "Rex". Respondents cause and have caused their lubricating oil, when sold, to be transported from their place of business in North Carolina to purchasers thereof located in various other states of the United States. Respondents maintain and have maintained a substantial course of trade in their lubricating oil in commerce among and between the various states of the United States, and therein are, and have been, in competition with individuals and with firms and corporations, likewise engaged in the sale and distribution of lubricating oil in commerce between and among the various states of the United States.

3. Respondents' oil consists in whole or in substantial part of used oil obtained from drainings of motor crankcases and other sources, collected from garages, service stations, bus service stations and elsewhere, which is thereafter reclaimed and reprocessed in respondents' plant. Such oil is sold in containers of the same general size, kind and appearance as those used for new oil and the oil itself has the appearance of new and unused oil. The containers are variously inscribed as follows:

- (1) REX MOTOR OIL
A High Quality Lubricant
Sealed For Your Protection
High Penn Oil Company, Inc.
High Point, N.C. ;
- (2) MOTOR GOLD
Saves Wear And Saves Gasoline
Makes More Power For Your Car
It Is As Good As The BEST
A Heat Resisting Oil Providing
Positive Lubrication For Old
And New Motors
High Penn Oil Company, Inc.,
High Point, N.C. ;
- (3) TRIPLE A MOTOR OIL
Sealed For Your Protection
High Penn Oil Company, Inc.,
High Point, N.C. ;

- (4) 100% Pure
THRIFT-PRIDE MOTOR OIL
Guaranteed Motor Safety
Thrifty-Pride Oil Co., High Point, N.C.;
- (5) DIXIE MOTOR OIL
More Power
More Miles Per Quart Of Oil
Less Carbon Less Corrosion Less Wear On Motor
A GOOD 1,000 MILE MOTOR OIL
Dixie Oil Company, High Point, N.C.

Consideration of the above representations reveals that Respondents' containers bear no markings of any kind indicating that Respondents' oil is used, reclaimed oil.

4. There exists in the minds of members of the purchasing public generally a preference for new oils as compared to used oils, and a belief that oil offered for sale in containers such as those used by Respondents is new oil.

5. On some of Respondents' containers, as well as on invoices and letterheads used in connection with the sale of their oil, appears the corporate name "High Penn Oil Company, Inc."

6. Respondents' used oil is collected from many sources, and cannot, after reclamation, be traced to the state of its origin; therefore the implication inherent in the use of "Penn" in Respondents' corporate name, that such oil is the product of the State of Pennsylvania, must of necessity imply that it is new oil. This implication, the general appearance of Respondents' containers, Respondents' failure to reveal thereon the fact that their oil has been used and reclaimed, and the general public preference for new oil and belief that oil so packaged and represented is new oil, all tend to create and foster in the minds of dealers and the purchasing public the mistaken belief that Respondents' used, reclaimed oil is in fact new.

7. Such acts and practices of Respondents also serve to place in the hands of dealers a means and instrumentality whereby the purchasing public can be misled with respect to the nature of Respondents' lubricating oil.

8. Respondents' aforesaid acts and practices, especially their failure to disclose that their oil is composed in whole or in part of used oil which has been reclaimed, have had and now have the capacity and tendency to mislead and deceive a substantial number of dealers and members of the purchasing public into the erroneous and mistaken belief that said oil is new oil, and to induce the purchase of substantial quantities thereof in commerce because of such erroneous and mistaken belief. As a result, substantial trade in com-

merce has been and is being unfairly diverted to Respondents from their competitors, and substantial injury has been and is being done to competition in commerce.

CONCLUSION

In consonance with the above-stated facts, this proceeding is found to be in the public interest, and the aforesaid acts and practices of Respondents are found to be all to the prejudice and injury of the public and of Respondents' competitors, and to constitute unfair methods of competition and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act. Accordingly,

It is ordered, That respondents High Penn Oil Company, Inc., a corporation, and its officers, and R. L. Brinson, R. L. Brinson, Jr., and J. M. Brinson, individually and as officers of said corporation, and Respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of lubricating oil composed in whole or in part of oil which has been previously used and reclaimed, do forthwith cease and desist from:

1. Representing, directly or by implication, that such lubricating oil is new or unused oil, or refined from virgin crude oil;
2. Advertising, offering for sale or selling any lubricating oil previously used for lubricating purposes without disclosing such prior use to the purchaser or potential purchaser in advertising, in sales promotion matter, and by a clear and conspicuous statement to that effect on the container.

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 15th day of September, 1956, become the decision of the Commission; and, accordingly:

It is ordered, That respondents High Penn Oil Company, Inc., a corporation, and R. L. Brinson, R. L. Brinson, Jr., and J. M. Brinson, individually and as officers of said corporation, 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.

Complaint

53 F.T.C.

IN THE MATTER OF
SCOVILL MANUFACTURING COMPANY

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 7 OF THE
CLAYTON ACT

Docket 6527. Complaint, Mar. 12, 1956—Decision, Sept. 15, 1956

Consent order requiring the nation's largest manufacturer of safety and common pins to divest itself of the safety and common pin production of an acquired competitor.

Before *Mr. Frank Hier*, hearing examiner.

Mr. William R. Tincher for the Commission.

Davis, Polk, Wardwell, Sunderland & Kiendl, by *Mr. Taggart Whipple*, of New York City, for respondent.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof and hereinafter more particularly designated and described, has violated and is now violating the provisions of Section 7 of the Clayton Act (U.S.C. Title 15, Sec. 18) as amended and approved December 29, 1950, hereby issues its complaint, pursuant to Section 11 of the aforesaid Act (U.S.C. Title 15, Sec. 21), charging as follows:

PARAGRAPH 1. Respondent Scovill Manufacturing Company (hereinafter referred to as "respondent") is a corporation organized and existing under the laws of the State of Connecticut, with its office and principal place of business at 99 Mill Street, Waterbury, Connecticut.

PAR. 2. DeLong Hook & Eye Company (hereinafter referred to as "DeLong") is, or at all times pertinent herein was, a corporation organized and existing under the laws of the State of Pennsylvania, with its office and principal place of business at 21st and Clearfield Streets, Philadelphia, Pennsylvania.

PAR. 3. Respondent is engaged in the production and sale of a variety of products in commerce, as "commerce" is defined in the Clayton Act. In the year ending December 31, 1954, respondent's sales of all products aggregated approximately \$110,000,000. Such production and sale in commerce included the production and sale of safety pins and common pins. In the year ending December 31, 1954, respondent's sales of these products aggregated approximately \$3,300,000. Respondent is, and prior to the acquisition de-