

Decision

IN THE MATTER OF
P. W. MINOR & SON, INC., ET AL.

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

Docket 6565. Complaint, June 7, 1956—Decision, Sept. 15, 1956

Consent order requiring shoe manufacturers in Batavia, N.Y. to cease using the words "orthopedics" and "Corrector" in connection with certain of their stock shoes, and representing falsely on cartons and in advertisements that their several lines of shoes provided a variety of corrective and supporting features for foot ailments.

Mr. R. P. Bellinger for the Commission.

Mr. Irving Weinstein, of New York City, for respondents.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on June 7, 1956, issued and subsequently served its complaint in this proceeding against P. W. Minor & Son, Inc., a corporation existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at Batavia, New York, and respondents Henry H. Minor, Jr., Leo J. Hart and Charles B. Taft, individually and as officers of the corporate respondent, whose policies, acts and practices they were alleged to formulate, direct and control. The address of the individual respondents is likewise Batavia, New York.

On August 1, 1956, no hearings having been held, there was submitted to the undersigned hearing examiner an agreement between respondents and their counsel, and counsel supporting the complaint, providing for the entry of a consent order. By the terms of said agreement, respondents admit all the jurisdictional facts alleged in the complaint and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. By such agreement, respondents waive any further procedural steps before the hearing examiner and the Commission; waive the making of findings of fact and conclusions of law; and waive all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement. Such agreement further provides that it disposes of all of this proceeding as to all parties; that the record on which this initial decision and the decision of the Commission shall be

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based shall consist solely of the complaint and this agreement; that the latter shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; 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; and that the following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondents, and, when so entered, it shall have the same force and effect as if entered after a full hearing, and may be altered, modified, or set aside in the manner provided for other orders; and that the complaint may be used in construing the terms of the order.

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

1. Respondent P. W. Minor & Son, Inc., is a corporation existing and doing business under the laws of the State of New York, with its office and principal place of business located at Batavia, New York. The individual respondents, Henry H. Minor, Jr., and Leo J. Hart are officers of the said corporate respondent, and individual respondent Charles B. Taft was an officer of the said corporate respondent during the period referred to in the charges alleged in the complaint. The address of the three individual respondents is likewise Batavia, New York.

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 P. W. Minor & Son, Inc., a corporation, and its officers, and Henry H. Minor, Jr., Leo J. Hart, and Charles B. Taft and their representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of respondents' shoes designated as "Treadeasy Shoes" or any other shoe of similar construction or performing similar functions irrespective of the designation applied thereto, do forthwith cease and desist from:

1. Representing, directly or by implication, that their said shoes are orthopedic or corrective, or will cure, correct, or improve abnormalities, diseases, or disorders of the feet.

2. Representing, directly or by implication, that one purchasing and wearing respondents' said shoes can be assured of proper fit, or comfort.

3. Representing, directly or by implication, that respondents' shoe called Floridian, would be beneficial to all feet with rotating heels, or that any aid thus afforded to a particular foot would be adequate in cases of feet having rotating heels, or that any such aid thus afforded would be permanent or would extend beyond the time the shoe is on the foot.

4. Representing, directly or by implication, that respondents' shoe called the Stroller is anatomically correct for feet generally.

5. Representing, directly or by implication, that respondents' shoe known as the Easejoint can be depended upon to relieve pressure on any part of the foot, will afford help to anyone suffering from bursitis, that said shoe provides a bunion pocket, or will afford benefit to all enlarged or painful joints in any area of the foot.

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 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.

Commissioners Gwynne and Mason not participating.

IN THE MATTER OF
WARREN PETROLEUM CORPORATION ET AL.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 2(a)
OF THE CLAYTON ACT AND THE FEDERAL TRADE COMMISSION ACT

Docket 6227. Complaint, June 30, 1954—Order, Sept. 17, 1956

Order dismissing as not sustained by the evidence, complaint charging one of the largest marketers of liquefied petroleum gas in the United States with discriminating between buyers in the price at which it sold "LP-Gas" in the Lake Village, Ark., area in violation of Sec. 2(a) of the Clayton Act, and with making sales to certain industrial and domestic consumers at unreasonably low prices in the area with the intent and effect of destroying competition.

Mr. William H. Smith and *Mr. Brockman Horne* for the Commission.

Mr. Warren M. Sparks and *Mr. M. D. Wallingford*, of Tulsa, Okla., and *Mr. William Simon* and *Mr. John E. McClure*, of Washington, D.C., for Warren Petroleum Corp.

Catlett & Henderson, of Little Rock, Ark., for Butane Wholesale Gas Co. and Zero LP-Gas Co.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

THE COMPLAINT

On June 30, 1954, the Federal Trade Commission issued its complaint in the above-entitled proceeding, alleging in Count I thereof that respondent Warren Petroleum Corporation had, for a number of years last past, discriminated between buyers in the price at which it had sold in interstate commerce liquefied petroleum gas, hereinafter referred to as "LP-Gas," thereby diverting business to itself from its competitors and creating a dangerous tendency toward monopoly in the sale thereof, in violation of subsection (a) of Section 2 of the Clayton Act as amended by the Robinson-Patman Act.

The complaint describes LP-Gas as a product produced from crude oil mixtures as they come from producing oil and natural-gas wells, which, under relatively low pressure and at normal temperatures, can be transported and stored in liquid form and released as a gas at atmospheric pressure, for use domestically as a fuel for heating and refrigeration, and industrially as a fuel for internal combustion engines and for heating. Respondent Warren Petroleum Corporation is alleged to be one of the largest marketers of this product in the United States, its sales for 1952 amounting to \$103,352,915.00.