

IN THE MATTER OF
O. J. McCLURE TRADING AS
O. J. McCLURE TALKING PICTURES

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

Docket 6607. Complaint, July 31, 1956—Decision, Nov. 24, 1956

Consent order requiring a Chicago manufacturer of manually operated sound slidefilm projectors to cease disparaging his competitors' automatic sound slidefilm projectors by false representations, made orally and in advertising, that the competitive projectors did not actually operate automatically, were worthless and considered a failure by users, and were misrepresented and sold by firms operating a racket.

Mr. Donald K. King and Mr. S. F. House for the Commission.
Respondent appearing for himself.

INITIAL DECISION BY ROBERT L. PIPER, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondent on July 31, 1956, charging him with having violated the Federal Trade Commission Act by making false and misleading representations disparaging and defaming his competitors' products. In lieu of submitting answer to the complaint, respondent entered into an agreement, dated September 20, 1956, containing a consent order to cease and desist, disposing of all the issues in this proceeding without hearing, which agreement has been duly approved by the Director of the Bureau of Litigation. Said agreement has been submitted to the undersigned, heretofore duly designated to act as hearing examiner herein, for his consideration in accordance with Section 3.25 of the Rules of Practice of the Commission.

Respondent, pursuant to the aforesaid agreement, has admitted all of the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. Said agreement further provides that respondent waive all further procedural steps before the hearing examiner or the Commission, including the making of findings of fact or conclusions of law and the right to challenge or contest the validity of the order to cease and desist entered in accordance with such agreement. It has also been agreed that the record herein shall consist solely of the complaint and said agreement, that the agreement shall not become a part of the official record

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Order

unless and until it becomes a part of the decision of the Commission, that said agreement is for settlement purposes only and does not constitute an admission by respondent that he has violated the law as alleged in the complaint, that said order to cease and desist 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.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing the consent order, and it appearing that the order and agreement cover all of the allegations of the complaint and provide for appropriate disposition of this proceeding, the same are hereby accepted and ordered filed upon becoming part of the Commission decision pursuant to Sections 3.21 and 3.25 of the Rules of Practice, and the hearing examiner accordingly makes the following findings, for jurisdictional purposes, and order:

1. Respondent is an individual trading as O. J. McClure Talking Pictures, with his office and principal place of business located at 1115 West Washington Street, in the City of Chicago, State of Illinois.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent hereinabove named. The complaint states a cause of action against said respondent under the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That the respondent O. J. McClure, an individual trading as O. J. McClure Talking Pictures, or under any other name, his representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution, of manually operated sound slidefilm projectors in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Disparaging the efficiency of automatic sound slidefilm projectors in a manner imputing that they are worthless, unworkable, not automatic and useless.

2. Disparaging the efficiency of automatic sound slidefilm projectors in a manner casting aspersion on the integrity and honesty of the competitors manufacturing such machines.

3. Disparaging the efficiency of automatic sound slidefilm projec-

tors in a manner imputing that competitors manufacturing such machines are foisting a fraud on the public.

4. Disparaging the value of competitors' automatic sound slide-film projectors by oral or published statements which are false or unfair.

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 24th day of November 1956, become the decision of the Commission; and, accordingly:

It is ordered, That the respondent herein shall within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist.

Decision

IN THE MATTER OF
FLORIDA CITRUS EXCHANGE

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 2 (C)
OF THE CLAYTON ACT

Docket 6255. Complaint, Oct. 25, 1954—Decision, Nov. 26, 1956

Order requiring a Florida cooperative corporation, acting as selling agent for its 45 member cooperative associations and their member growers or packers of citrus fruits, to cease paying brokerage fees on sales of citrus fruit made to buyers direct or through the buyer's wholly owned subsidiary, the instant case involving pool-car sales to buying groups.

Mr. Edward S. Ragsdale and Mr. Cecil G. Miles for the Commission.

Mr. Counts Johnson, of Tampa, Fla., for respondent.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

THE COMPLAINT

On October 25, 1954, the Federal Trade Commission issued its complaint in this proceeding, charging the above-named Respondent with having violated Section 2(c) of the Clayton Act as amended by the Robinson-Patman Act (U.S.C., Title 15, Section 13) by paying or allowing brokerage fees or commission or discount in lieu thereof to various buyers of citrus fruit in commerce, who buy either for their own accounts, as brokers for other buyers, or through a wholly-owned subsidiary for their own accounts.

The Respondent is described in the complaint as a cooperative corporation organized under the laws of the State of Florida, with its principal office and place of business at Tampa, Florida. The complaint also alleges that Respondent acts as selling agent for its membership of about forty-five packers of citrus fruit, who are located at various places in the State of Florida. Respondent is also described as being a substantial factor in the distribution of citrus fruits, effecting annual sales of approximately \$25,000,000.

THE ANSWER

On November 19, 1954, Respondent submitted its answer admitting its corporate identity as a cooperative corporation, but asserting that its membership consists, not of forty-five packers of citrus fruit, as alleged, but of fruit-packing organizations, which, with their packer members, number in the aggregate approximately forty-five coopera-