

Decision

IN THE MATTER OF
SINGER MANUFACTURING COMPANY ET AL.

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

Docket 6685. Complaint, Dec. 6, 1956—Decision, May 1, 1957

Consent order requiring the sales corporation selling new and used Singer sewing machines through company-owned retail stores in various States, to cease representing and selling repossessed and used machines as new, floor samples, or demonstrators; and failing to reveal clearly the used nature of the machines.

Mr. Michael J. Vitale for the Commission.

Winthrop, Stimson, Putnam & Roberts, by *Mr. Arthur E. Pettit*, New York, N.Y., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on December 6, 1956, charging Respondents with representing and selling in commerce, as new, Singer sewing machines which appear to be new and unused, but which allegedly are floor samples, demonstrators, or exchanged or repossessed machines; and with failing to disclose such fact, in violation of the Federal Trade Commission Act.

On March 1, 1957, Respondent Singer Sewing Machine Company, its counsel, and counsel supporting the complaint entered into an Agreement Containing Consent Order To Cease And Desist, which was approved by the Director and the Assistant Director of the Commission's Bureau of Litigation, and thereafter submitted to the Hearing Examiner for consideration. All parties signatory thereto agree that the complaint herein should be dismissed as to Respondent Singer Manufacturing Company, because it has not and does not direct or participate in any retail selling activities referred to in the complaint herein. This fact is attested in two affidavits attached to and made a part of the agreement, and executed, respectively, by the Vice President and the Secretary of Respondent Singer Sewing Machine Company.

Respondent Singer Sewing Machine Company is identified in the agreement as a New Jersey corporation, with its office and principal place of business located at 149 Broadway, New York, New York.

Respondent admits all the jurisdictional facts alleged in the complaint and agrees that the record may be taken as if findings of

jurisdictional facts had been duly made in accordance with such allegations.

Respondent, in the agreement, waives any further procedure before the Hearing Examiner and the Commission; the making of findings of fact or conclusions of law; and all the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist as contained in the agreement 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; that the complaint herein may be used in construing the terms of said order; and that the agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

After consideration of the allegations of the complaint and the provisions of the agreement and the proposed order, the Hearing Examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the Hearing Examiner accepts the Agreement Containing Consent Order To Cease And Desist; finds that the Commission has jurisdiction over the Respondents and over their acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That respondent Singer Sewing Machine Company, a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of sewing machines in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that sewing machines which have been repossessed, exchanged, used for teaching purposes or as rentals, are new;
2. Failing to clearly reveal that sewing machines which have been repossessed, exchanged, used for teaching purposes or as rentals, are repossessed, exchanged, have been used for teaching purposes or as rentals, as the case may be;
3. Representing, directly or indirectly, that repossessed sewing machines are demonstrators or floor samples.

It is further ordered, That the complaint herein, insofar as it relates to Respondent Singer Manufacturing Company, a corporation, be, and the same hereby is, dismissed.

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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 1st day of May, 1957, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF
SEALED POWER CORPORATION

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

Docket 6654. Complaint, Oct. 17, 1956—Decision, May 3, 1957

Consent order requiring a manufacturer of automotive parts in Muskegon, Mich., to cease discriminating in price in sales of its products under franchises providing for volume discounts on individual and group purchases which resulted in higher and less favorable net prices to some jobbers than to their competitors.

Eldon P. Schrup, Esq., for the Commission.

Lou L. Landman, Esq., of Muskegon, Mich., for respondent.

INITIAL DECISION BY ROBERT L. PIPER, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondent on October 17, 1956, charging it with having violated Section 2(a) of the Clayton Act, as amended by the Robinson-Patman Act. Respondent appeared by counsel and entered into an agreement, dated March 1, 1957, 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 made duly 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 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