

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

that it 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 agreement is hereby accepted and ordered filed upon this decision and said agreement becoming part of the Commission's 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 a corporation organized and existing under the laws of the State of Michigan with executive offices located at 2001 Sanford Street, Muskegon Heights, Michigan. Respondent is engaged principally in the manufacture and sale of parts for both original installation and replacement use in automotive vehicles.

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 Clayton Act, as amended by the Robinson-Patman Act.

ORDER

It is ordered, That the respondent Sealed Power Corporation, a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the sale to the jobbing trade for replacement purposes of automotive replacement parts, consisting of piston rings, piston products, cylinder sleeves, valve products, water pumps and parts, and other related items in commerce, as "commerce" is defined in the Clayton Act, do forthwith cease and desist from discriminating in the price of such products of like grade and quality:

1. By selling to any one purchaser at net prices higher than the net prices charged to any other purchaser who, in fact, competes with the purchaser paying the higher price in the resale and distribution of respondent's products.

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 3rd day

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

It is ordered, That the respondent herein 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.

Decision

IN THE MATTER OF
FLORIDA CITRUS MUTUALORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL
TRADE COMMISSION ACT*Docket 6074. Complaint, Dec. 15, 1952—Decision, May 6, 1957*

Order requiring a Florida non-profit cooperative marketing association and its 7,000 member producers of citrus fruit to cease cooperating with handlers, shippers, or processors, to fix price at which the latter sold citrus fruit and citrus fruit products, and to restrict the quantity of citrus fruit and products to be shipped in interstate commerce.

Mr. Fletcher G. Cohn and Mr. Lewis F. Depro for the Commission.

Mabry, Reaves, Carlton, Anderson, Fields & Ward and Mr. Counts Johnson, of Tampa, Fla., and *Mr. Robert E. Freer*, of Washington, D.C., for respondents.

Mr. A. Y. Milam, of Jacksonville, Fla., for Florida State Chamber of Commerce, intervenor.

Mr. William H. Dial, of Orlando, Fla., for Florida Bankers Association, intervenor.

INITIAL DECISION BY EVERETT F. HAYCRAFT, HEARING EXAMINER

STATEMENT OF THE CASE

The respondent Florida Citrus Mutual, hereinafter referred to as FCM, is a non-stock, non-profit cooperative marketing association, organized and existing by virtue of the Agricultural Cooperative Act of Florida, with its office and place of business in the Florida Citrus Mutual Building in Lakeland, Florida. It received its charter in February, 1948, and reached its required membership in February, 1949, and began functioning at the commencement of the 1949-50 citrus fruit season.

On December 15, 1952, the Federal Trade Commission issued its complaint against the said respondent FCM, its directors, officers and members, charging them with unfair methods of competition in violation of Section 5 of the Federal Trade Commission Act. Among other things, it was alleged that the respondent FCM and its members represent in the aggregate approximately 85 percent of the citrus fruit grown in the State of Florida and are in a position to dominate and control the channels, extent and methods of distribution and the prices of citrus fruit and citrus products shipped from the State of Florida to the various other States of the United States and to the District of Columbia. It was also alleged that