

Order

53 F.T.C.

IN THE MATTER OF
MARYLAND BAKING CO. ET AL.

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

Docket 6327. Order, May 31, 1957

Order modifying, to accord with decision of the Court of Appeals for the Fourth Circuit¹ cease and desist order of June 29, 1956, 52 F.T.C. 1679, so as to require respondent baking company to cease discriminating in price "by selling ice cream cones to any purchaser at [higher prices] *a price which is lower* than the price[s] charged any other purchaser engaged in the same line of commerce where [, in the sale of said cones to] *such lower price undercuts the price at which the purchaser charged the lower price* [, respondent The Maryland Baking Company is in competition with another seller] may purchase ice cream cones of like grade and quality from another seller.²

Before *Mr. Everett F. Haycraft*, hearing examiner.

Mr. Rice E. Schrimsher for the Commission.

Burke, Gerber & Wilen, of Baltimore, Md., and *Mr. William Simon*, of *Howrey & Simon*, of Washington, D.C., for respondents.

MODIFIED ORDER TO CEASE AND DESIST

This matter having been heard by the Commission upon the appeal of respondent, The Maryland Baking Company, and counsel supporting the complaint from the hearing examiner's initial decision, on briefs and oral argument of counsel; and, the Commission having duly considered the record and the questions raised on appeal, and having thereafter, on the 29th day of June, 1956, rendered its decision in which it denied the appeals and adopted as its own the findings, conclusions, and order contained in the initial decision; and issued the order to cease and desist against respondent, The Maryland Baking Company, its officers, representatives, agents, and employees; and

Respondent, The Maryland Baking Company, having filed in the United States Court of Appeals for the Fourth Circuit its petition for review of, and to set aside, said order to cease and desist; and the Court having heard the cause on briefs and oral argument, including a suggested alternative form of order submitted by the Commission pursuant to request of the Court; and the Court having

¹ 243 F. 2d 716, Apr. 8, 1957.

² Language deleted by the Court from the original order is enclosed in brackets; language added is italicized.

1106

Order

thereafter, on the 8th day of April, 1957, filed its decision and decree in which it modified the order of the Federal Trade Commission in accordance with the suggested alternative order submitted by the Commission, and affirmed said order as modified; and

The Commission being of the opinion that its order to cease and desist, issued on June 29, 1956, should be modified so as to accord with the decision and decree of the United States Court of Appeals for the Fourth Circuit modifying the said order to cease and desist as aforesaid:

It is ordered, That respondent, The Maryland Baking Company, a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the sale or distribution of ice cream cones in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from discriminating, directly or indirectly, in the price of such products of like grade and quality, by selling ice cream cones to any purchaser at a price which is lower than the price charged any other purchaser engaged in the same line of commerce, where such lower price undercuts the price at which the purchaser charged the lower price may purchase ice cream cones of like grade and quality from another seller.

It is further ordered, That respondent, The Maryland Baking Company, 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 this order.

IN THE MATTER OF
REYNOLDS METALS COMPANY AND
LIFETIME SALES, INC.

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

Docket 6650. Complaint, Oct. 12, 1956—Decision, June 1, 1957

Consent order requiring the exclusive distributor of "Lifetime Stainless Steel Ware" for the States of Wisconsin, Minnesota, Iowa, northern Illinois, and eastern Nebraska, to cease representing falsely that all food elements were preserved by use of such cooking utensils and the "waterless" method of cooking; that most illnesses are the result of vitamin and mineral deficiencies; that use of competitive cooking utensils would injure health of users, while its own would assure good health; making false claims of danger to health in the use of competitive cooking utensils of aluminum, copper, and glass; and representing itself falsely as the maker of the cooking products it sold.

As to respondent manufacturer of the stainless steel ware, complaint was dismissed Oct. 8, 1957, following sale of all that part of its production herein concerned.

Mr. Morton Nesmith and Mr. John Mathias for the Commission.
Mr. Earl F. Colborn, Jr., of Fairchild, Foley & Sammond, of Milwaukee, Wis. for Lifetime Sales, Inc.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on October 12, 1956, charging Respondents with the dissemination of false, misleading and disparaging representations in connection with their stainless steel cooking utensils, in violation of the Federal Trade Commission Act.

On April 15, 1957, Respondent Lifetime Sales, Inc., its counsel, and counsel supporting the complaint herein 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.

The agreement identifies Respondent Lifetime Sales, Inc., as a Wisconsin corporation, with its office and principal place of business located at 3716 North 92nd Street, Milwaukee, Wisconsin.

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.