

Decision

IN THE MATTER OF
THE LAFAYETTE BRASS MANUFACTURING
COMPANY, INC., ET AL.

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

Docket 6671. Complaint, Oct. 31, 1956—Decision, July 23, 1957

Consent order requiring three associated New York concerns to disclose the foreign origin of lawn sprinklers, hose nozzles and connections, and faucet aerators they import in whole or in part from Japan, and to cease selling such products as wholly of domestic origin; and to cease misrepresenting the extent to which their sprinklers can withstand water pressure.

A charge that respondents falsely represent that they manufacture the products they sell, by use of the word "Manufacturing" in their corporate names, is still pending.

Simeon F. House, Esq. supporting the complaint.

Charles Korn, Esq., and *Marvin Machson, Esq.*, of New York, N.Y., for respondents.

INITIAL DECISION PRO TANTO* BEFORE JAMES A. PURCELL,
HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on October 31, 1956, charging them with violation of the Federal Trade Commission Act in the offering for sale, sale and distribution of various products, including lawn sprinklers, hose nozzles, hose connections and faucet aerators, in commerce as the word "commerce" is defined in said Act. Subsequent to service of the complaint respondents appeared by counsel and thereafter entered into an agreement providing for the issuance of a consent order to cease and desist, dated May 9, 1957, purporting to dispose of all of the charges of the complaint as to all parties, *except* as to the use of the word "manufacturing" in the corporate names of the respondents The Lafayette Brass Manufacturing Company, Inc., and The Durst Manufacturing Company, Inc., as more specifically charged in Paragraph Nine of the complaint.

Said agreement, which has been signed by all respondents and their counsel, as well also by counsel in support of the complaint,

* There remains to be disposed of by future action a charge in the complaint of improper and misleading use of the word "manufacturing" in the corporate names of respondents, The Lafayette Brass Manufacturing Company, Inc., and The Durst Manufacturing Company, Inc.

and approved by the Director and Assistant Director of the Commission's Bureau of Litigation, has been submitted to the above-named hearing examiner for his consideration and action in accordance with Section 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings.

Respondents, pursuant to the aforesaid agreement, have admitted all of the jurisdictional facts alleged in the complaint, and have agreed that the record may be taken as if findings of jurisdictional facts had been made in accordance with such allegations. Said agreement further provides that, with respect to that part of the proceeding therein disposed of, respondents waive any further procedural steps before the hearing examiner and the Commission, the making of findings of fact or conclusions of law, and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with said agreement. It has also been agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if entered after a full hearing and that the complaint may be used in construing the terms of said order. It was further agreed that the aforesaid 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.

The portion of this proceeding, which is the subject of the aforementioned agreement containing consent order, having now come on for final consideration on the complaint and the said agreement, and it appearing that, with respect to the issues covered by said agreement, the order therein contained provides for an appropriate disposition, *pro tanto*, of this proceeding as to all parties, said agreement is hereby accepted and is ordered filed upon becoming a part of the decision of the Commission, pursuant to Sections 3.21 and 3.25 of the Commission's Rules of Practice. The hearing examiner accordingly makes the following jurisdictional findings and order:

1. That respondents, The Lafayette Brass Manufacturing Company, Inc., The Durst Manufacturing Company, Inc., and Marshall Metal Products, Inc., are corporations existing and doing business under and by virtue of the laws of the State of New York, with their offices and principal place of business located at No. 409 Lafayette Street, New York, New York. Respondents Pauline D. Kohn, Norman Redlich and David Durst are officers of said corporations and formulate, direct and control the policies, acts and practices of said corporate respondents. Their address is the same as that of the corporate respondents.

2. That the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named.

3. That the complaint herein states a valid cause of action against the said respondents, under the provisions of the Federal Trade Commission Act, and that this proceeding is in the interest of the public.

ORDER

It is ordered, That respondents The Lafayette Brass Manufacturing Company, Inc., a corporation, The Durst Manufacturing Company, Inc., a corporation, Marshall Metal Products, Inc., a corporation, and their officers, and respondents Pauline D. Kohn, Norman Redlich and David Durst, individually and as officers of said corporate respondents, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the sale and distribution of lawn sprinklers, hose nozzles, hose connections and faucet aerators and other similar products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Offering for sale or selling said products, which are in whole or substantial part of foreign origin, without clearly and conspicuously disclosing on such products and their containers, in such manner that it will not be hidden or obliterated, the country of origin thereof.

2. Representing, directly or by implication, that its products are of domestic origin, when, in fact, such products are manufactured in whole or in substantial part in Japan or any other foreign country.

3. Representing, directly or by implication, that their lawn sprinklers are crimped in such a manner as to withstand the water pressure of any municipality in the United States, unless such is the fact, or otherwise misrepresenting the extent to which said sprinklers can withstand water pressure.

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 23rd day of July, 1957, 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.

Appearances

54 F.T.C.

IN THE MATTER OF
CALIFORNIA FISH CANNERS ASSOCIATION, INC., ET AL.

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

Docket 6623. Complaint, Aug. 29, 1956—Decision, July 24, 1957

Consent order requiring a substantial part of the West Coast tuna industry, including an association of cannery owners and its eight corporate members, seven associations of tuna boat owners, and three area unions of fishermen and cannery workers, to cease concerted fixing of prices for the purchase and sale of canned, raw, or frozen tuna fish, and suppressing competition in the industry, including practices of curtailing the volume and raising the price of tuna imported from Japan, maintaining a patrol of all fishing ports coming into San Pedro harbor to unload at the canneries to ascertain that they sold all tuna at the established prices and paid an assessment for the maintenance of the patrol, coercing buyers to pay fixed prices and, on the part of the cannery owners' association, collecting statistics of individual inventories, purchases, sales, etc., for price-fixing purposes; and Order dismissing complaint as to certain respondents.

Before *Mr. Earl J. Kolb*, hearing examiner.

Mr. Fletcher G. Cohn, *Mr. Lewis F. Depro*, *Mr. Arthur Edgeworth* and *Mr. Charles I. Steele* for the Commission.

Covington & Burling, of Washington, D.C., for California Fish Cannery Ass'n, Inc.

Ekdale & Shallenberger, of San Pedro, Calif., for F. E. Booth Co., Inc., Pan-Pacific Fisheries, Inc., South Coast Fisheries, Inc., South Pacific Canning Co., Inc., West Shore Co. and South Pacific Canning Co.

Mr. Herbert R. Lande, of San Pedro, Calif., for California Marine Curing & Packing Co.

Mr. J. Marion Wright, of Los Angeles, Calif., for Franco-Italian Packing Co., Inc.

Mr. M. L. Real, of San Diego, Calif., for High Seas Tuna Packing Co., Inc., Pan-Pacific Fisheries, Inc., The Quaker Oats Co., South Coast Fisheries, Inc., South Pacific Canning Co., Inc., West Shore Co. and South Pacific Canning Co.

Mitchell, Silberberg & Knapp, of Los Angeles, Calif., for The Quaker Oats Co.

Mr. Douglas R. Giddings, of San Diego, Calif., for Breast-o'-Chicken Tuna, Inc., Van Camp Sea Food Co., Inc., Western Cannery Co. and Westgate-California Tuna Packing Co.

Norblad, Wyatt & MacDonald, of Astoria, Ore., for Columbia River Packers Ass'n, Inc.