

Decision

IN THE MATTER OF
THOMAS J. YACENDA TRADING AS DEEP ROCK
REFINING CO.

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

Docket 6579. Complaint, June 27, 1956—Decision, Mar. 7, 1958

Consent order requiring a reclaimer in Richmond, Va., of motor oil obtained from drainings of motor crankcases, to cease selling the oil to dealers for resale to the purchasing public with no markings on containers or otherwise to indicate that the product was reclaimed used oil.

John W. Brookfield, Jr., Esq., for the Commission.

Harold H. Dervishian, Esq., for respondent.

INITIAL DECISION BY ROBERT L. PIPER, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondent on June 27, 1956, charging him with having violated the Federal Trade Commission Act by misleading the public and dealers into believing that respondent's used oil is new oil. Respondent appeared by counsel and entered into an agreement dated November 6, 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 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 he has violated the law

Order

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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 Thomas J. Yacenda is an individual trading and doing business as Deep Rock Refining Co., with his office and principal place of business located at Albany Avenue and East 8th Street, in the city of Richmond, Va.

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 Thomas J. Yacenda, an individual, trading as Deep Rock Refining Co. or under any other trade name, and respondent's agents, representatives, or employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of lubricating oil composed in whole or in part of oil which has been previously used and reclaimed, do forthwith cease and desist from:

1. Representing, directly or by implication, that such lubricating oil is new or unused oil, or refined from virgin crude oil.

2. Advertising, offering for sale or selling any lubricating oil previously used for lubricating purposes without disclosing such prior use to the purchaser or potential purchaser in advertising, in sales promotion matter, and by a clear and conspicuous statement to that effect on the container.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF
COMPLIANCE

The Commission, on December 13, 1956, having issued an order extending until further order the date on which the hearing examiner's initial decision in this proceeding otherwise would have become the decision of the Commission; and

The purpose of said order having been to effectuate a condition contained in the agreement for consent order theretofore executed by the respondent and counsel in support of the complaint, which condition was that the initial decision based on the agreement should not become the decision of the Commission until and unless the Commission should issue an order to cease and desist in the matter of Mohawk Refining Corp., et al., docket No. 6588; and

The Commission, on February 14, 1958, having issued an order to cease and desist in the matter of Mohawk Refining Corp., et al., docket No. 6588:

It is ordered, That the hearing examiner's initial decision herein, filed November 21, 1956, be, and it hereby is, adopted as the decision of the Commission.

It is further ordered, That the respondent, Thomas J. Yacenda, 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 contained in the aforesaid initial decision.

IN THE MATTER OF

ACME REFINING CORP. ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 6581. Complaint, June 29, 1956—Decision, Mar. 7, 1958*

Consent order requiring reclaimers in Newark, N.J., of motor oil obtained from drainings of motor crankcases, to cease selling the oil as such or blended with new oil to dealers for resale to the purchasing public with no markings on containers or otherwise to indicate that the product was reclaimed used oil.

Mr. John W. Brookfield, Jr., for the Commission.

Mr. Seymour Friedman, of Washington, D.C., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint alleges that the respondents have been and are engaged in the business of reclaiming used motor oil and in selling and distributing such lubricating oil, or a blend of such oil and new oil, in commerce, and charges that in the course of said business respondents have misrepresented said product as new oil by various statements printed on their oil containers and by failing to disclose on said containers that the oil contained therein is reclaimed used oil, and have thereby also placed in the hands of dealers a means and instrumentality of misleading the purchasing public with respect to the nature of respondents' products, in violation of the Federal Trade Commission Act.

Subsequent to the issuance of the complaint, respondents, their 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, Bureau of Litigation of the Commission, and thereafter transmitted to the hearing examiner for consideration.

The agreement identifies respondent Acme Refining Corp. as a New Jersey corporation with its office and principal place of business located at 12-34 Lister Avenue, Newark, N.J., and respondents Irving Handshuh, Laurence H. Bernstein, Archie Sandin, erroneously named in the complaint herein as Archie Sandlin, and Jacob W. Doll as individuals and officers of said corporation, located at the same address as the corporate respondent.

The agreement provides, among other things, that respondents admit all the jurisdictional facts alleged in the complaint and agree that the record may be taken as if findings of jurisdictional facts had