

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

been duly made in accordance with such allegations; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this 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, and that the effective date of the initial decision based on the complaint and agreement herein shall be stayed by the Commission, so that said initial decision shall not become the decision of the Commission unless and until the Commission issues an order to cease and desist in the matter of Mohawk Refining Corporation, et al., docket No. 6588; that the complaint herein may be used in construing the terms of the order agreed upon, which may be altered, modified or set aside in the manner provided for other orders; that the 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; and that the order set forth in the agreement and hereinafter included in this decision shall have the same force and effect as if entered after a full hearing.

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 the agreement.

The order agreed upon fully disposes of all the issues raised in the complaint, and adequately prohibits the acts and practices charged therein as being in violation of the Federal Trade Commission Act. Accordingly, the hearing examiner finds this proceeding to be in the public interest and accepts the agreement containing consent order to cease and desist as part of the record upon which this decision is based. Therefore,

It is ordered, That respondent, Acme Refining Corp., a corporation, and its officers, and Irving Handshuh, Laurence H. Bernstein, Archie Sandin, and Jacob W. Doll, individually and as officers of said corporation, and respondents' 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

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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 February 14, 1957, 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 respondents 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 January 25, 1957, be, and it hereby is, adopted as the decision of the Commission.

It is further ordered, That the respondents, Acme Refining Corp., a corporation, and Irving Handshuh, Laurence H. Bernstein, Archie Sandin and Jacob W. Doll, individually and as officers of said corporation, 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 contained in the aforesaid initial decision.

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IN THE MATTER OF

SUPREME PETROLEUM PRODUCTS, INC., ET AL.

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

Docket 6682. Complaint, Nov. 30, 1956—Decision, Mar. 7, 1958

Consent order requiring sellers in Philadelphia, Pa., to cease selling to dealers for resale to the purchasing public reclaimed motor oil obtained from drainings of motor crankcases, or a blend of such oil with new oil, 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 WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondents with violation of the Federal Trade Commission Act in connection with the sale of lubricating oil made in whole or in part from oil which has been previously used. An agreement has now been entered into by respondents and counsel supporting the complaint which provides, among other things, that respondents admit all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondents specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified, or set aside in the manner provided for other orders of the Commission; and that the 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 agreement further provides that the effective date of the initial decision based thereon shall be stayed by the Commission, so that such decision shall not become the decision of the Commission until and unless an order to cease and desist is issued by the Commission in the matter of *Mohawk Refining Corp.*, docket 6588.

The hearing examiner having considered the agreement and pro-