

IN THE MATTER OF
LA FLORIDANA CIGAR FACTORY, INC., ET AL.
CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 7048. Complaint, Jan. 22, 1958—Decision, June 11, 1958

Consent order requiring manufacturers of cigars in Tampa, Fla., to cease representing falsely, by use of the words "Havana" and "Habana" on boxes and bands of cigars containing large amounts of non-Cuban tobacco, that the cigars were composed entirely of tobacco grown in Cuba; and to disclose to the purchasing public their practice of using a processed paper as the binder for certain of their cigars.

Charles W. O'Connell, Esq., for the Commission.

George W. Ericksen, Esq., Macfarlane, Ferguson, Allison & Kelly, of Tampa, Fla., for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (hereinafter referred to as the Commission) on January 22, 1958, issued its complaint herein under the Federal Trade Commission Act against the above-named respondents.

On April 10, 1958, there was submitted to the undersigned hearing examiner of the Commission for his consideration and approval an agreement containing consent order to cease and desist, which had been entered into by and between respondents, their counsel, and counsel supporting the complaint, under date of April 4, 1958, and subject to the approval of the Bureau of Litigation of the Commission. Such agreement had been thereafter duly approved by the Director and an Assistant Director of that Bureau.

On due consideration of the said agreement containing consent order to cease and desist, the hearing examiner finds that said agreement, both in form and in content, is in accord with section 3.25 of the Commission's rules of practice for adjudicative proceedings, and that by said agreement the parties have specifically agreed that:

1. Respondent La Floridana Cigar Factory, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 1607 17th Street, in the city of Tampa, State of Florida.

Respondents Faustino Casares, William E. Diaz and Violet C. Diaz are president, vice president, and secretary-treasurer, respec-

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tively, of said corporation. Their office and place of business is the same as that of the corporate respondent.

2. Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on January 22, 1958, issued its complaint in this proceeding against respondents, and a true copy was thereafter duly served on respondents.

3. 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.

4. This agreement disposes of all of this proceeding as to all parties.

5. Respondents waive:

a. Any further procedural steps before the hearing examiner and the Commission;

b. The making of findings of fact or conclusions of law; and

c. All of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement.

6. 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.

7. This agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

8. This 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 parties have further specifically agreed that the proposed order to cease and desist included in said agreement may be entered in this proceeding by the Commission without further notice to respondents; that when so entered it shall have the same force and effect as if entered after a full hearing; that it 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.

Upon due consideration of the complaint filed herein and the said agreement containing consent order to cease and desist, the latter is hereby approved, accepted and ordered filed, if and when it shall have become a part of the Commission's decision. The hearing examiner finds from the complaint and the said agreement containing consent order to cease and desist that the Commission has jurisdiction of the subject matter of this proceeding and of the persons of each of the respondents herein; that the complaint states a legal cause for complaint under the Federal Trade Commission Act against each of the

respondents, both generally and in each of the particulars alleged therein; that this proceeding is in the interest of the public; that the following order as proposed in said agreement is appropriate for the just disposition of all of the issues in this proceeding; and that said order therefore should be, and hereby is, entered as follows:

ORDER

It is ordered, That respondent La Floridana Cigar Factory, Inc., a corporation, and its officers, and respondents Faustino Casares, William E. Diaz and Violet C. Diaz, individually and as officers of said corporation and their agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of cigars in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the terms "Havana" or "Habana" or any other term or terms indicative of tobacco grown on the island of Cuba, either alone or in conjunction with any other terms, to describe, designate or refer to cigars not made entirely from tobacco grown on the island of Cuba; except that cigars containing a substantial amount of tobacco grown on the island of Cuba may be described, designated or referred to as "blended with Havana" or by any term of similar import or meaning, provided that the qualifying words are clearly and conspicuously set out in immediate connection with the word "Havana" or other term indicative of tobacco grown on the island of Cuba.
2. Failing to disclose in the labeling and advertising that their cigars contain a paper binder, when such is the fact.

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 11th day of June 1958, become the decision of the Commission; and, accordingly:

It is ordered, That the above named respondents 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.

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IN THE MATTER OF
ADELL CHEMICAL CO., INC.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 7056. Complaint, Feb. 7, 1958—Decision, June 11, 1958*

Consent order requiring a concern in Holyoke, Mass., to cease selling its household detergent "Lestoil" without warning purchasers that it was a combustible mixture and should not be used near an open flame or extreme heat, and to cease representing in television broadcasts that it could be used safely in such situations.

Mr. John T. Walker for the Commission.

Hale & Dorr, by *Mr. James D. St. Clair*, of Boston, Mass., for respondent.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on February 7, 1958, issued and subsequently served its complaint in this proceeding against respondent Adell Chemical Co., Inc., a corporation existing and doing business under and by virtue of the laws of the State of Massachusetts, with its office and principal place of business located at 51 Garfield Street, Holyoke, Mass.

On April 10, 1958, there was submitted to the undersigned hearing examiner an agreement between respondent and counsel supporting the complaint providing for the entry of a consent order. By the terms of said agreement, 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. By such agreement, respondent waives any further procedural steps before the hearing examiner and the Commission; waives the making of findings of fact and conclusions of law; and waives all of the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement. Such agreement further provides that it disposes of all of this proceeding as to all parties; that the record on which this initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement; that the latter shall not become a part of the official record unless and until it becomes