

IN THE MATTER OF
ST. REGIS PAPER COMPANY, ET AL.

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

Docket 6476. Complaint, Dec. 7, 1955—Decision, Feb. 12, 1959

Consent order requiring 17 of the nation's leading paper bag manufacturers—alleged, along with the four other manufacturers cited, to account for substantially all the more than two billion annual production of multi-wall paper shipping sacks, and charged with using the same pricing formula to quote identical delivered prices to customers, regardless of location or freight costs—to cease entering into and carrying out any planned common course of action among themselves or with others to fix prices of said products.

In 1956 the examiner dismissed charges as to Raymond Bag Co. and Thomas Phillips Co., who no longer made and sold the sacks.

On April 11, 1959 (p. 1672 herein), charges were dismissed without prejudice as to the remaining two respondents, Fulton Bag and Cotton Mills and Equitable Paper Bag Co.

INITIAL DECISION AS TO ALL REMAINING RESPONDENTS
EXCEPT FULTON BAG AND COTTON MILLS
AND EQUITABLE PAPER BAG COMPANY

Mr. Andrew C. Goodhope, Mr. Ross D. Young, Jr., and Mr. John Perechinsky supporting complaint.

LeBoeuf, Lamb & Leiby, by *Mr. Horace R. Lamb* and *Mr. Craigh Leonard*, of New York, N.Y., for St. Regis Paper Company;

Hale and Dorr, by *Mr. Joseph N. Welch*, of Boston, Mass., for Bemis Brothers Bag Company;

Mr. George Gruber, of New York, N.Y., for Arkell & Smiths;

Battle, Fowler, Neaman, Stokes & Kheel, by *Mr. Ludlow S. Fowler*, of New York, N.Y., for Chase Bag Company;

Katzenbach and Salvatore, by *Mr. Frank S. Katzenbach, III*, and *Mr. Arthur A. Salvatore*, of Trenton, N.J., for Universal Paper Bag Company;

Mr. Israel B. Oseas, of New York, N.Y., for Hudson Pulp & Paper Corporation;

Gallop, Climenko & Gould, by *Mr. Jesse Climenko*, of New York, N.Y., for National Container Corporation;

Davis, Polk, Wardwell, Sunderland & Kiendl, by *Mr. Ralph M. Carson*, of New York, N.Y., for International Paper Company;

Hunton, Williams, Gay, Moore & Powell, by *Mr. Joseph C. Carter, Jr.*, of Richmond, Va., for Albemarle Paper Manufacturing Corporation, Seaboard Bag Corporation and Virginia-Carolina Chemical Corporation;

Heller, Ehrman, White & McAuliffe, by *Mr. Robert C. Harris*, of San Francisco, Calif., for Ames Harris Neville Company;

Mr. Philip S. Ehrlich, of San Francisco, Calif., for Crown Zellerbach Corporation;

Dorff and Levy, by *Mr. I. Alfred Levy*, of New York, N.Y., for Gilman Paper Company;

Vinson, Elkins, Weems & Searls, by *Mr. W. Buck Arnold*, of Houston, Tex., for Lone Star Bag & Bagging Company;

Mr. Carney W. Mimms, of New York, N.Y., for Union Bag-Camp Paper Corporation;

Stephens and Gignilliat, by *Mr. W. Hugh Stephens*, of Savannah, Ga., for Chemical Packaging Corporation.

Before *Mr. John Lewis*, hearing examiner.

The Federal Trade Commission issued its complaint against the above-named respondents on December 7, 1955, charging them with the use of unfair methods of competition, in commerce, in violation of the Federal Trade Commission Act, by entering into a combination or conspiracy to hinder, lessen, restrict and restrain competition in price in the sale and distribution of multi-wall paper shipping sacks. After being served with said complaint, respondents appeared by counsel and filed their separate answers thereto. Thereafter, by orders dated respectively, February 20, 1956, and November 9, 1956, the complaint herein was dismissed as to respondents Raymond Bag Company and Thomas Phillips Company on the ground, substantially, that said respondents had ceased engaging in the manufacture and sale of multi-wall paper shipping sacks. Subsequently the remaining respondents, except Fulton Bag and Cotton Mills and Equitable Bag Co., entered into separate but identical agreements, dated December 8, 1958, containing a consent order to cease and desist purporting to dispose of all of this proceeding as to all remaining respondents, except Fulton Bag and Cotton Mills and Equitable Bag Co. Said agreements, which have been signed by all respondents who are parties thereto, by counsel for said respondents, and by counsel supporting the complaint, and approved by the director and assistant director of the Commission's Bureau of Litigation, have been submitted to the above-named hearing examiner for his

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consideration, in accordance with Section 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings.

The signatory respondents, pursuant to the aforesaid agreements, have admitted all the jurisdictional facts alleged in the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. Said agreements further provide that such 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 such agreement. It has been agreed that the order to cease and desist issued in accordance with said agreements 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 has also been agreed that the record herein shall consist solely of the complaint and said agreements, and that said agreements are for settlement purposes only and do not constitute an admission by respondents that they have violated the law as alleged in the complaint.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreements containing consent order, and it appearing that the order provided for in said agreements covers all the allegations of the complaint and provides for an appropriate disposition of this proceeding as to all parties signatory thereto, said agreements are hereby accepted and are ordered filed upon this decision's becoming the decision of the Commission pursuant to Sections 3.21 and 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and the hearing examiner, accordingly, makes the following jurisdictional findings and order:

1. Respondent St. Regis Paper Company is a corporation organized and existing under and by virtue of the laws of the State of New York, with its office and principal place of business located at 150 East 42d Street, New York, N.Y.

Respondent Bemis Brothers Bag Company is a corporation organized and existing under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at 40 Central Street, Boston, Mass.

Respondent Arkell & Smiths is a corporation organized and existing under and by virtue of the laws of the State of New

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York, with its office and principal place of business located at Canajoharie, N.Y.

Respondent Chase Bag Company is a corporation organized and existing under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 155 East 44th Street, New York, N.Y.

Respondent Universal Paper Bag Company is a corporation organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania, with its office and principal place of business located at New Hope, Pa.

Respondent Hudson Pulp & Paper Corp. is a corporation organized and existing under and by virtue of the laws of the State of Maine, with its office and principal place of business located at 477 Madison Avenue, New York, N.Y.

Respondent National Container Corporation is a corporation organized and existing under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 7 Central Park West, New York, N.Y.

Respondent International Paper Company is a corporation organized and existing under and by virtue of the laws of the State of New York, with its office and principal place of business located at 220 East 42nd Street, New York, N.Y.

Respondent Albemarle Paper Manufacturing Company is a corporation organized and existing under and by virtue of the laws of the State of Virginia, with its office and principal place of business located at Tredegar Street, Richmond, Va.

Respondent Ames Harris Neville Company is a corporation organized and existing under and by virtue of the laws of the State of California, with its office and principal place of business located at 2800 17th Street, San Francisco, Calif.

Respondent Seaboard Bag Corporation, hereinafter referred to as respondent Seaboard, is a corporation, organized and existing under and by virtue of the laws of the State of Virginia with its office and principal place of business located at 3405 Moore Street, Richmond, Va. It is engaged in the manufacture, sale and distribution of paper products including multiwall paper shipping sacks.

Respondent Lone Star Bag & Bagging Company, hereinafter referred to as respondent Lone Star, is a corporation organized and existing under and by virtue of the laws of the State of Texas with its office and principal place of business located at 2215 Dumble Road, Houston, Tex. It is engaged in the manu-

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facture, sale and distribution of paper products including multi-wall paper shipping sacks.

Respondent Union Bag & Paper Corporation, hereinafter referred to as respondent Union, is a corporation organized and existing under and by virtue of the laws of the State of New York with its office and principal place of business located at 233 Broadway, New York, N.Y. It is engaged in the manufacture, sale and distribution of paper products including multiwall paper shipping sacks.

Respondent Virginia-Carolina Chemical Corporation, hereinafter referred to as respondent Virginia-Carolina, is a corporation organized and existing under and by virtue of the laws of the State of Virginia with its office and principal place of business located at 401 East Main Street, Richmond, Va. It is engaged in the manufacture, sale and distribution of paper products including multiwall paper shipping sacks.

Respondent Chemical Packaging Corporation, hereinafter referred to as respondent Chemical, is a corporation organized and existing under and by virtue of the laws of the State of Georgia with its office and principal place of business located at Atlantic Coastline Wharves, Savannah, Ga. It is engaged in the manufacture, sale and distribution of paper products including multi-wall paper shipping sacks.

Respondent Equitable Paper Bag Company, hereinafter referred to as respondent Equitable, is a corporation with its office and principal place of business located at 45-48 Van Dam Street, Long Island City, N.Y. It is engaged in the manufacture, sale and distribution of paper products including multiwall paper shipping sacks. Respondent's state of incorporation is unknown.

ORDER

It is ordered, That respondent corporations St. Regis Paper Company, Bemis Brothers Bag Company, Arkell & Smiths, Chase Bag Company, Universal Paper Bag Company, Hudson Pulp & Paper Corporation, National Container Corporation, International Paper Company, Albemarle Paper Manufacturing Company, Ames Harris Neville Company, Crown Zellerbach Corporation, Gilman Paper Company, Seaboard Bag Corporation, Lone Star Bag & Bagging Company, Union Bag-Camp Paper Corporation, Virginia-Carolina Chemical Corporation, and Chemical Packaging Corporation, and their respective officers, agents, and employees, in or in connection with the offering for sale, sale

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and distribution of multiwall paper shipping sacks in interstate commerce, do cease and desist from entering into, continuing, cooperating in, or carrying out any planned common course of action, agreement, understanding, combination or conspiracy between and among any two or more of said respondents, or between any one or more of said respondents and others not parties hereto, to do or perform any of the following things:

1. Establishing, fixing or maintaining prices, terms, or conditions of sale for multiwall paper shipping sacks, or adhering to any prices, terms or conditions of sale so established or fixed.

2. Quoting or selling multiwall paper shipping sacks at prices calculated or determined pursuant to or in accordance with a formula zone delivered price system or any other plan or system which prevents purchasers from securing any advantage in price in dealing with one or more of the respondents as against any of the other respondents or any others not parties hereto.

3. Circulating or exchanging between or among respondents, or any of them, a formula for pricing of multiwall paper shipping sacks, or price factors, or terms or conditions of sale for the pricing of multiwall paper shipping sacks, or a list or lists of zone delivered prices or of prices by any other designation for multiwall paper shipping sacks, or zone differentials or changes of zone differentials.

4. Using, directly or indirectly, in computing price quotations, or in making, quoting or in charging prices, any such formula or price factor or zone differential obtained from another respondent by means of such circulation or exchange.

Provided, however, That in interpreting and construing the foregoing provisions of this order, it is understood that:

- (1) The Federal Trade Commission is not acting to prohibit, or interfere with, any respondent from entering into a bona fide offer, agreement or transaction with any other manufacturer, wholesaler, jobber or agent for the sale of multiwall paper shipping sacks, whether or not such other manufacturer, wholesaler, jobber or agent is a respondent, to buy from, to sell to, or to manufacture for the account of any such other manufacturer, wholesaler, jobber, or agent multiwall paper shipping sacks at any price or on any terms and conditions of sale independently determined and offered and independently accepted in any bona fide agreement or transaction.

- (2) Nothing contained in this order shall be construed as prohibiting any of the respondents from taking such action relating

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to its export sales as would be lawful under the provisions of the Webb-Pomerene Export Trade Act.

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 12th day of February 1959, become the decision of the Commission; and, accordingly:

It is ordered, That the respondents St. Regis Paper Company, Bemis Brothers Bag Company, Arkell & Smiths, Chase Bag Company, Universal Paper Bag Company, Hudson Pulp & Paper Corporation, National Container Corporation, International Paper Company, Albemarle Paper Manufacturing Company, Ames Harris Neville Company, Crown Zellerbach Corporation, Gilman Paper Company, Seaboard Bag Corporation, Lone Star Bag & Bagging Company, Union Bag-Camp Paper Corporation, Virginia-Carolina Chemical Corporation, and Chemical Packaging 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.

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IN THE MATTER OF
RENAIRE CORPORATION (PENNSYLVANIA) ET AL.

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

Docket 6555. Complaint, May 17, 1956—Decision, Feb. 12, 1959

Order requiring an eleven-company corporate family engaged in the sale of home freezers and foods under its "Renaire Plan," to cease representing falsely in advertising in newspapers, by radio and television, etc., that participants in its said "Plan" could buy a freezer and food for the same amount as would be required to buy the same quantity of food in regular retail channels and save enough to pay for a television set, vacation, or freezer, remodel a home, or buy an auto; to cease describing sales personnel as "expert food analysts," "accredited food budget analysts," or "trained qualified food consultants"; and to cease representing falsely that other food sellers did not sell Government inspected meats, that each carton of food they sold carried a United States Department of Agriculture seal, and that they could control the cost of food because it was inspected by U.S. inspection officials.

Mr. Floyd O. Collins supporting the complaint.

Mr. Edwin P. Rome of the firm of *Blank, Rudenko & Klaus*, of Philadelphia, Pa., for respondents.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

STATEMENT

The Federal Trade Commission issued its complaint May 17, 1956, charging respondents with unfair methods of competition and unfair and deceptive acts and practices in commerce in connection with the sale of freezers and food. Such unfair methods and unfair and deceptive acts were alleged to consist of false advertising of their products and of their food plan. The complaint further alleged in part that the individual respondents directed and controlled the policies and practices of the corporate respondents; that all of the corporate respondents were operated as a joint enterprise; that they were all engaged in interstate commerce in the sale of freezers and food and were in substantial competition in commerce with others engaged in the sale and distribution of freezers and food.

Joint answer was filed by all respondents, which admitted the corporate set up; that the various corporate respondents were operated as a joint enterprise; that they were engaged in the sale