

day of May, 1960, become the decision of the Commission; and, accordingly:

It is ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

IN THE MATTER OF
THE GRAND UNION COMPANY ET AL.

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

Docket 7344. Complaint, Dec. 30, 1958—Decision, June 1, 1960

Consent order requiring two subsidiaries of a large supermarket chain to cease representing falsely that margarine was a dairy product, by listing it with cheese and butter under the headings "Dairy Department" and "Ultra-Fresh Dairy Department," in newspaper advertising.

The complaint was dismissed as to the parent company for lack of proof.

Mr. Morton Nesmith for the Commission.

Mr. Bernard Margolius and *Mr. Ralph H. Deckelbaum*, of Washington, D.C., for respondents.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated December 30, 1958, amended on December 1, 1959, the respondents are charged with violating the provisions of the Federal Trade Commission Act.

On March 21, 1960, respondents Square Deal Market Co., Inc., a corporation, trading as Food Fair and Supermarket Wholesalers, Inc., a corporation, and their attorneys, entered into an agreement with counsel in support of the complaint for a consent order.

Under the foregoing agreement, the respondents admit the jurisdictional facts alleged in the complaint, as amended. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and have the same force and effect as if entered after a full hearing and the document includes a waiver by the respondents of all rights to challenge or

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contest the validity of the order issuing in accordance therewith. The agreement further recites that it is for settlement purposes only and does not constitute an admission by the respondents that they have violated the law as alleged in the complaint.

The hearing examiner finds that the content of the agreement meets all of the requirements of section 3.25(b) of the Rules of the Commission.

The agreement provides that the complaint, as amended, insofar as concerns respondent The Grand Union Company, should be dismissed for the reason that there is no proof to be adduced to bind said corporation.

The hearing examiner being of the opinion that the agreement and the proposed order provide an appropriate basis for disposition of this proceeding as to all of the parties, the agreement is hereby accepted and it is ordered that the agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission. The following jurisdictional findings are made and the following order issued.

1. Respondent Square Deal Market Co., Inc., trading as Food Fair, is a corporation organized and existing under the laws of the State of Delaware. Respondent Supermarket Wholesalers, Inc., is a corporation organized and existing under the laws of the State of Delaware. The principal office and place of both corporate respondents is located at 2060 West Virginia Avenue, N.E., Washington, D.C.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That the complaint be and the same is hereby dismissed as to The Grand Union Company, a corporation.

It is further ordered, That respondents, Square Deal Market Co., Inc., a corporation, trading as Food Fair, or trading under any other name, and Supermarket Wholesalers, Inc., a corporation, and their officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of oleomargarine or margarine, do forthwith cease and desist from, directly or indirectly:

1. Disseminating, or causing to be disseminated, by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any statement, word, grade designation, design, device, symbol, sound, or any combination thereof, which represents or suggests that said product is a dairy product;

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2. Disseminating, or causing to be disseminated, by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act of said product, any advertisement which contains any of the representations prohibited in paragraph 1 of this order.

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 1st day of June, 1960, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Square Deal Market Co., Inc., a corporation, trading as Food Fair, and Supermarket Wholesalers, Inc., a 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.
