

Complaint

57 F.T.C.

IN THE MATTER OF
PIONEERS, INC., ET AL.

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

Docket 7844. Complaint, Mar. 25, 1960—Decision, Sept. 7, 1960

Consent order requiring Oakland, Calif., manufacturers of a preparation for the treatment of storage batteries designated "BATTERY AD-X2," to cease representing falsely in newspaper and magazine advertising that their said battery additive had been "PROVED Before the FEDERAL TRADE COMMISSION" and was "GOVERNMENT TESTED and PROVED".

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission having reason to believe that Pioneers, Inc., a corporation, and Jess M. Ritchie, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Pioneers, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 2812 Havenscourt Boulevard, Oakland 5, Calif.

Respondent Jess M. Ritchie is an individual and president of the corporate respondent Pioneers, Inc. This individual formulates, directs and controls the acts and practices of said corporate respondent. Said individual respondent has his office and principal place of business at the same place as that of the corporate respondent.

PAR. 2. Respondents are now, and have been for several years last past, engaged in the manufacture, sale and distribution of a product designated Battery AD-X2, a preparation for the treatment of storage batteries.

In the regular and usual course and conduct of their business, respondents now cause, and for several years last past have caused, said product, when sold, to be transported from their place of business in the State of California to the purchasers thereof located in various other States of the United States and in the District of Columbia.

Respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in said product, in com-

merce, among and between the various States of the United States and the District of Columbia.

PAR. 3. At all times mentioned herein respondents have been, and are now, in direct and substantial competition with other corporations, firms and individuals engaged in the manufacture, sale and distribution, in commerce, of products intended for similar use.

PAR. 4. In the course and conduct of their business as aforesaid, and for the purpose of inducing the sale of their product in commerce, respondents have caused, and now cause, the publication and dissemination of certain statements and pictorial presentation in newspapers and periodicals having a general circulation.

Typical, but not all inclusive, of said statements is the following:

BATTERY AD-X2 PROVED
Before the
FEDERAL TRADE COMMISSION
* * *
ONLY AD-X2 IS
GOVERNMENT TESTED and PROVED

Said representation is accompanied by a depiction of a seal, as set forth in Exhibit A attached hereto and made a part hereof.

PAR. 5. By means of the aforesaid statements and pictorial representation respondents have represented, and do represent, that their product has been proved before the Federal Trade Commission or has been tested and approved by this agency and that their product is Government tested and approved.

PAR. 6. The aforesaid statements and representations, as depicted in newspapers and periodicals, are false, misleading and deceptive in that respondents' said product has not been proved before the Federal Trade Commission or tested or approved by the Commission; nor has it been approved after tests by any Federal Agency.

PAR. 7. The use by respondents of the aforesaid false, misleading and deceptive statements, representations, practices and pictorial presentation has had, and now has, the capacity and tendency to, and does, mislead and deceive members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true, and into the purchase of a substantial quantity of respondents' product because of such erroneous and mistaken belief. As a result thereof, substantial trade has been, and is being, unfairly diverted to respondents from their competitors and substantial injury has been, and is being, thereby done to competition in commerce.

PAR. 8. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now consti-

Mr. John Brookfield, Jr., for the Commission.
Respondents, *pro se*.

"A spectacular triumph..."
U. S. Senator John Sparkman

- ① Save battery money... save cold nose and expensive tows!
- ② One easy to use treatment good for life of battery.
- ③ "It worked," Sinclair Weeks, U.S. Sect'y of Commerce.
- ④ 100% MONEY BACK GUARANTEE. BEWARE OF IMITATIONS!

© Reg. U. S. Patent Off. Nos. 647,463-65-66

Under the foregoing agreement, the respondents admit the jurisdictional facts alleged in the complaint. 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 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 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 Pioneers, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 2812 Havenscourt Boulevard, Oakland, Calif.

Respondent Jess M. Ritchie is an individual and president of said corporation, and his business address is the same as that of corporate respondent.

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 respondents Pioneers, Inc., a corporation, and its officers, and Jess M. Ritchie, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of a battery additive preparation sold under the name of AD-X2, or under any other name or names, or any other preparation of substantially the same composition or possessing substantially similar properties, whether sold under the same name or any other name in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication: That said product has been proved before or tested or approved by the Federal Trade Commission, or that said product has been Government tested and approved.

Complaint

57 F.T.C.

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 7th day of September 1960, become the decision of the Commission; and, accordingly:

It is ordered, That respondents herein 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.

Commissioner Kern not participating.
