

Complaint

60 F.T.C.

IN THE MATTER OF

PIERCE OIL & REFINING COMPANY ET AL.

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

Docket C-80. Complaint, Feb. 21, 1962—Decision, Feb. 21, 1962

Consent order requiring Springfield, Ill., concerns engaged in the sale to the public of reclaimed lubricating oil obtained from motor crankcase drainings, to cease selling their said product in the same kind of containers as those used for new and unused oil, with no markings to indicate its reprocessed nature, which furthered the deception by the words "crude" and "a perfected blend" printed thereon; and to cease similar deceptive use of the word "guaranteed".

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 Pierce Oil & Refining Company, a corporation, Springfield RefinOil Company, a corporation, and Perry W. Pierce and Twylah M. Pierce, individually and as officers of said corporations, and Perry W. Pierce, individually and trading as Sorco Oil & Refining Company, as Springfield RefinOil Company, and as Perry W. Pierce, hereinafter referred to as respondents, have violated the provisions of the 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. Respondents Pierce Oil & Refining Company and Springfield RefinOil Company are corporations organized, existing and doing business under and by virtue of the laws of the State of Illinois. Individual respondents Perry W. Pierce and Twylah M. Pierce are officers of said corporate respondents. They formulate, direct and control the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. Individual respondent Perry W. Pierce is also doing business as Sorco Oil & Refining Company, as Springfield RefinOil Company and as Perry W. Pierce. All respondents have a principal office and place of business at 1023 E. Washington Street in the city of Springfield, State of Illinois.

PAR. 2. Respondents are now, and for more than a year last past have been, engaged in the sale and distribution of reclaimed, or reprocessed, used lubricating oil to dealers for resale to the purchasing public. Among brand names under which their said products are sold is that of "Saf T lube". Respondents cause and have caused

said products when sold to be transported from their place of business in the State of Illinois to purchasers thereof located in various other states of the United States.

PAR. 3. In the course and conduct of their business, respondents are now, and have been, in competition with individuals and with firms and other corporations engaged in the sale and distribution of lubricating oil in commerce between and among the various states of the United States.

PAR. 4. Respondents' oil consists in whole or in substantial part of used oil, obtained from drainings of motor crank cases and from other sources, which is thereafter reclaimed or reprocessed. Said oil is sold in containers of the same general size, kind and appearance as those used for new oil and has the appearance of new and unused oil. The containers bear no markings of any kind indicating that said product is reclaimed or reprocessed used oil.

In the absence of a disclosure on the containers that the oil therein is used, reclaimed, or reprocessed, the general understanding and belief on the part of dealers and of the purchasing public is that oil sold in containers such as are used by respondents is, in fact, new oil and not used, reclaimed or reprocessed oil. This belief is enhanced by the representations printed on respondents' oil containers as follows:

1. Refined from special crudes selected for maximum lubrication qualities under extreme temperatures and conditions.
2. SAF-T-LUB motor oil, guaranteed to give instant protection and safe lubrication to the motor. A high grade-superior motor oil perfected for maximum performance and longer life.
3. SAF T LUB. A Perfected blend for instant protection MOTOR OIL.
4. Heat resisting with maximum lubrication for automobiles, trucks, tractors, busses.

PAR. 5. Through the use of the words "crude" and "a perfected blend" on their containers, respondents have represented that their oil is made from new unused blends of crude oils. In truth and in fact, respondents' oil is reclaimed from used motor oil and contains oils of various types.

PAR. 6. Through the use of the word "guaranteed" respondents have represented that their said products are guaranteed in every respect.

PAR. 7. Said statement and representation was false, misleading and deceptive. In truth and in fact, the guarantee provided did not disclose the name of the guarantor, nor the terms, conditions or extent of the application of the guarantee.

PAR. 8. Respondents' said acts and practices further serve to place in the hands of the uninformed or unscrupulous dealers a means and

instrumentality whereby such persons may mislead the purchasing public with respect to the nature of respondents' product.

PAR. 9. The aforesaid acts and practices of the respondents, and the failure to disclose that their oil is composed in whole or in part of used oil which has been reclaimed or reprocessed, has had, and now has, the tendency and capacity to mislead and deceive a substantial number of retailers and members of the purchasing public into the erroneous and mistaken belief that said oil is refined by respondent from virgin crude oil, and to induce the purchasing public to purchase substantial quantities of respondents' product because of such erroneous and mistaken belief.

PAR. 10. 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 constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5(a)(1) of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondents, Pierce Oil & Refining Company and Springfield RefinOil Company, are corporations organized, existing and doing business under and by virtue of the laws of the State of Illinois, with their office and principal place of business located at 1023 East Washington Street, in the city of Springfield, State of Illinois.

Respondents, Perry W. Pierce and Twylah M. Pierce, are officers of said corporations, and their address is the same as that of said corporations.

Respondent, Perry W. Pierce, is also doing business as Sorco Oil & Refining Company, as Springfield RefinOil Company, and as Perry W. Pierce, all of which have a principal office and place of business at 1023 East Washington Street, in the city of Springfield, State of Illinois.

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, Pierce Oil & Refining Company, a corporation, Springfield RefinOil Company, a corporation, and their officers, and Perry W. Pierce and Twylah M. Pierce, individually and as officers of said corporations, and Perry W. Pierce, individually and trading as Sorco Oil & Refining Company, as Springfield RefinOil Company and as Perry W. Pierce, or under any other name, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of lubricating oil, do forthwith cease and desist from:

1. Advertising, offering for sale or selling, any lubricating oil which is composed in whole or in part of oil which has been reclaimed or in any manner processed from previously used oil, without disclosing such prior use to the purchaser or potential purchaser in the advertising and sales promotion material, and by a clear and conspicuous statement to that effect on the front panel or front panels on the container.

2. Representing in any manner that lubricating oil composed in whole or in part of oil that has been manufactured, reprocessed or re-refined from oil that has been previously used for lubricating purposes, has been manufactured from oil that has not been previously used.

3. Representing, directly or by implication, that their products are guaranteed, unless the name of the guarantor is disclosed and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

It is further ordered, That the 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 this order.

Complaint

60 F.T.C.

IN THE MATTER OF

JANICE JUNIORS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FLAMMABLE FABRICS ACTS

Docket C-81. Complaint, Feb. 21, 1962—Decision, Feb. 21, 1962

Consent order requiring New York City manufacturers to cease violating the Flammable Fabrics Act by selling in commerce dresses which were so highly flammable as to be dangerous when worn, and furnishing customers with a false guaranty that the required tests were made and showed the dresses not to be highly flammable.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Janice Juniors, Inc., a corporation, Nat Rolfe and Phil Rolfe, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Flammable Fabrics 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, Janice Juniors, Inc., is a corporation duly organized, existing and doing business under and by virtue of the laws of the State of New York. Respondents Nat Rolfe and Phil Rolfe are President and Secretary, respectively, of Janice Juniors, Inc. The individual respondents formulate, direct and control the policies, acts and practices of said corporate respondent. The business address of all respondents is 1400 Broadway, New York, N.Y.

PAR. 2. Respondents, subsequent to July 1, 1954, the effective date of the Flammable Fabrics Act, have manufactured for sale, sold and offered for sale, in commerce; have imported into the United States; and have introduced, delivered for introduction, transported and caused to be transported, in commerce; and have transported and caused to be transported for the purpose of sale or delivery after sale in commerce; as "commerce" is defined in the Flammable Fabrics Act, articles of wearing apparel, as the term "article of wearing apparel" is defined therein, which articles of wearing apparel were, under Section 4 of the Flammable Fabrics Act, as amended, so highly flammable as to be dangerous when worn by individuals.