

directed solely to that question, in accordance with Rule XXIII.

23 In Witness Whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 25th day of November, A. D. 1944.

By the Commission.

Otis B. Johnson,
Secretary.

137 UNITED STATES OF AMERICA.

BEFORE THE FEDERAL TRADE COMMISSION.

* * (Caption—5253) * *

ANSWER OF ANACONDA COPPER MINING COMPANY.

(Stamp: Federal Trade Commission. Received Feb. 14, 1945. Secretary.)

The respondent Anaconda Copper Mining Company, by its attorneys, reserving all rights to object to lack of jurisdiction herein, answering the complaint herein:

Paragraph One: States that it is without knowledge of the reason for the belief of the Federal Trade Commission as alleged in Paragraph One of Count I of the Complaint that the parties named in the caption hereof have violated the provisions of Section 5 of the Federal Trade Commission Act, or that a proceeding thereunder would be in the interests of the public, and it hereby denies that it has in any way violated Section 5 or any other provision of the Federal Trade Commission Act or that this proceeding is in the public interest.

138 Paragraph Two: States, with respect to Paragraph Two of Count I of the Complaint, that it is without knowledge or information as to any facts forming the basis for the charge that the respondent National Lead Company has monopolized or attempted to monopolize the interstate sale of white lead and that it has acted unlawfully to secure a monopolistic control over the prices of white lead in the United States.

Respondent denies the truth of the combined, conspired and cooperated respondents to hinder, lessen and elimination in the sale of white lead in the United States.

Respondent denies the truth of the charge that respondent has used unfair, oppressive, discriminatory acts, methods and practices in connection with the sale of white lead in the United States.

Paragraph Three: With respect to Paragraph Three of Count I of the Complaint, respondent admits that it is a Montana corporation with its principal office at 25 Broadway, New York, N. Y., and that its subsidiary, National Smelting & Refining Company, is a Montana corporation with its principal office at 25 Broadway, New York, N. Y.

Respondent states that it is without knowledge or information as to the truth of the allegations in Paragraph Three of Count I of the Complaint with respect to respondents other than respondent National Smelting & Refining Company.

Paragraph Four: With respect to Paragraph Four of the Complaint, respondent states that white lead is a white, exceedingly fine powder of lead carbonate. It is a chemical compound of lead and carbon, and its processes including corrosion of metal surfaces, and its use in the manufacture of paint, admit that white lead principally contains lead hydroxide, but avers that the composition of white lead may vary slightly in the products of different manufacturers. White lead is one of several lead pigments which is commonly referred to in its dry or powder form as white lead or paint manufacturers as white lead or white lead-in-oil. It is in the form of a paste of lead and linseed oil. Either in the form of powder or paste, it is usable by paint manufacturers in the manufacture of paint, although lead paste is not commonly used by paint manufacturers. Paint manufacturers use white lead paint of the desired consistency by lead with varying amounts of linseed oil, turpentine, and other thinners and driers. White lead paint of the desired consistency may be made by the paint manufacturers by the use of lead paste varying amounts of linseed oil, turpentine, and other thinners and driers. Except as

140 by the foregoing admissions, respondent

and every allegation contained in Paragraph Four A of Count I of the Complaint.

Respondent admits the allegations contained in Paragraph Four B of Count I of the Complaint.

Respondent states that it is without knowledge or information as to the truth of the averments contained in Paragraph Four C of Count I of the Complaint.

Paragraph Five: With respect to the allegations of Paragraph Five of Count I of the Complaint, respondent admits:

That certain of respondents herein other than itself are engaged in the manufacture, sale and distribution of white lead in interstate commerce; that respondents National Lead Company and Eagle Picher Lead Company are engaged in the manufacture of white lead paint; that white lead is an important item of the commerce of respondent International Smelting & Refining Company between and among several States; that white lead is the principal item used in the manufacture of white lead paint; that white lead paint or paint produced from white lead-in-oil is held in high esteem by painters and users for application to exteriors of buildings and other structures. Respondent is without knowledge as to whether Sherwin-Williams and Glidden manufacture white lead paint.

141 It is without knowledge as to the period covered by the Complaint during which respondent Eagle Picher Lead Company directly sold and distributed white lead in commerce, or as to whether or when it sold such white lead in commerce indirectly through any subsidiary.

It denies that in any period covered by the Complaint, it either sold or distributed white lead, lead-in-oil, or white lead paint, or that Anaconda Lead Products Company was an operating division.

It admits that Anaconda Lead Products Company was a partly owned subsidiary and until in or about 1936 was engaged in the manufacture and sale of white lead.

It admits that respondent International Smelting & Refining Company has sold and distributed white lead, and that its subsidiary Anaconda Sales Company, Pigments Division, has sold white lead obtained from respondent International Smelting & Refining Company.

The total combined production of the producing respondents constitutes a very substantial proportion of all white lead produced and sold in the United States.

The production and sale of white lead-in-oil by respondent International Smelting & Refining Company constitutes a small proportion of the total produced and sold in the United States. Respondent has 142 knowledge or information as to the truth of the averments contained in Paragraph Four C of Count I of the Complaint.

Other than as above referred to, respondent denies each and every allegation of knowledge and information as to the truth of the allegations contained in Paragraph Five of the Complaint.

Paragraph Six: Denies each and every allegation contained in Paragraph Six of Count I of the Complaint.

Paragraph Seven: Respondent denies each and every allegation of knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph Seven A; Seven A(1), (1), (2), and (9) of Count I of the Complaint.

Respondent denies each and every allegation contained in Paragraph Seven B; Seven B(1), (1), (2), and (6) of Count I of the Complaint. (8) in so far as it is alleged that the same were done with the cooperation of respondent; otherwise respondent has information sufficient to form a belief as to the truth of the averments in said Paragraph Seven B(8).

Paragraph Eight: Denies each and every allegation contained in Paragraph Eight A; Eight A(1), (1), (2), and (9) of Count I of the Complaint.

Respondent International Smelting & Refining Company quotes delivered prices for white lead in certain areas, sometimes referred to as "local" prices. These prices are the same within certain areas, but there are some variations in freight rates. Respondent International Smelting & Refining Company's prices quoted by International Smelting & Refining Company correspond substantially to those referred to in Paragraph Eight A(1), (1), (2), and (9) of the Complaint but are not identical thereto.

That the delivered prices quoted by respondent International Smelting & Refining Company are in terms of differentials above a

Answer of Anaconda.

that the delivered prices quoted by respondent International Smelting & Refining Company are not the same as those quoted by its competitors, including the other respondents named in this proceeding, in so far as is known to it; that prices quoted by respondent International Smelting & Refining Company and the pricing methods adopted by it have been quoted and adopted in good faith in order to meet the competition of other sellers of white lead who were at the same time offering and selling in the areas in which it does business competitive white lead products of similar quantities and grades; that respondent is in-144 formed and believes that dealers purchasing respondent International Smelting & Refining Company's lead-in-oil frequently sell the same at the same price to their customers as they sell the lead-in-oil of other respondents; that certain customers located at or near respondent International Smelting & Refining Company's factory are charged the same price as certain customers located at a greater distance.

Paragraph Nine: Respondent denies each and every allegation contained in Paragraph Nine of Count I of the Complaint.

Paragraph Ten: Respondent denies each and every allegation contained in Paragraph Ten of Count I of the Complaint.

Paragraph Eleven: Respondent denies each and every allegation contained in Paragraph Eleven of Count I of the Complaint.

Paragraph Twelve: Respondent states that it is without knowledge or information as to the reason for the belief of the Federal Trade Commission that the respondents have violated the provisions of the Clayton Act, as amended by the Robinson-Patman Act, as alleged in Paragraph One of Count II of the Complaint, and hereby 145 denies that it has violated the provisions of the Clayton Act, as amended by the Robinson-Patman Act or that this proceeding is in the public interest.

Paragraph Thirteen: With respect to the allegations of Paragraph Two of Count II of the Complaint, respondent denies that during any period covered by the Complaint, it has either sold or distributed white lead, white lead-in-oil, or white lead paint, and therefore denies it has ever unlawfully discriminated in any way as between customers in the sale of white lead, or lead-in-oil, or white lead paint.

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Paragraph Fourteen: With respect to Paragraphs Three to Five, inclusive, of Count I, respondent repeats and incorporates the allegations contained in Paragraphs Three to Five of Count I fully as if set forth verbatim herein. In its knowledge and information sufficient to enable it to state the truth of the averments with respect to the allegations in said Paragraphs Three to Five, respondent denies the truth of the allegations of the Complaint.

Paragraph Fifteen: Denies each and every allegation contained in Paragraph Six of Count I of the Complaint, in so far as said allegations are contained in said paragraph.

Paragraph Sixteen: Denies each and every allegation contained in Paragraph Seven of Count I of the Complaint but states that International Smelting & Refining Company quotes delivered prices of white lead in different geographical areas and in different zones. Said variations in delivered prices are substantially to those shown on the map attached to said paragraph although they are not identical. It avers that International Smelting & Refining Company's prices and methods of pricing have been adopted in good faith in order to meet the competition of other white lead who are at the same time offering and selling competitive white lead products of similar quantities and grades.

Paragraph Seventeen: With respect to Paragraph Eight of Count I of the Complaint, respondent states that delivered prices in certain areas quoted by respondent International Smelting & Refining Company are the same though the distances withstanding that there may be variations in freight to deliver to one customer as against another customer in and out of the area.

Paragraph Eighteen: Denies each and every allegation contained in Paragraph Nine of Count I of the Complaint in so far as said allegations are contained in said paragraph.

Paragraph Nineteen: Denies each and every allegation contained in Paragraph Ten of Count I of the Complaint in so far as said allegations are contained in said paragraph.

Paragraph Nineteen: With respect to the allegations contained in Paragraph Ten of Count II of the Complaint, respondent states that when sales are made by International Smelting & Refining Company to customers in different areas, located at or near the boundary between said areas, delivered prices to purchasers in one area near said boundary may be higher than delivered prices to purchasers in the other area contiguous to said boundary, otherwise denies the allegations contained in said Paragraph Ten in so far as the same relate to it.

Paragraph Twenty: Denies each and every allegation contained in Paragraph Eleven of Count II of the Complaint but states that International Smelting & Refining Company classifies certain non-competitive customers such as railroads, dealers and industrial users, and that it makes due allowance for differences in the cost of sale and delivery resulting from different quantities in which white lead is purchased by certain purchasers in certain areas.

Paragraph Twenty-One: Denies each and every allegation contained in Paragraphs Twelve, Thirteen and Fourteen of Count II of the Complaint.

Wherefore respondent respectfully prays that the Complaint herein be dismissed.

Chadbourne, Wallace, Parke & Whiteside,
By Horace G. Hitchcock,
Office and Post Office Address:
No. 25 Broadway, Borough of
Manhattan, New York 4, N. Y.
*Attorneys for Respondent,
Anaconda Copper Mining
Company.*

ANSWER OF INTERNATIONAL
REFINING COMPANY

(Received Feb

The respondent International Smelting & Refining Company, by its attorneys, respectfully denies the lack of jurisdiction herein, answers the Complaint as follows:

Paragraph One: States that the reason for the belief of the respondent that the parties named in the Complaint are in violation of the provisions of Section 5 of the Sherman Act, or that a proceeding in equity is necessary in the interests of the public, and it is in any way violated Section 5 of the Sherman Act.

Paragraph Two: States, with reference to Count I of the Complaint, that the respondent has no information as to any facts or circumstances which would charge that the respondent has monopolized or attempted to monopolize the production of white lead and that it has a monopolistic control over the production of white lead in the United States.

Respondent denies the truth of the allegations contained in Paragraph One of Count I of the Complaint, and denies that it has combined, conspired and cooperated with others to hinder, lessen and eliminate the production of white lead in the United States.

Respondent denies the truth of the allegations contained in Paragraph Two of Count I of the Complaint, and denies that it has used unfair, oppressive or anticompetitive acts, methods and practices to hinder, lessen and eliminate the production of white lead in the United States.

Paragraph Three: With reference to Count II of the Complaint, Paragraph Three of Count I of the Complaint, respondent admits that Anaconda Copper Mining Company is a corporation with an office at 151 York, N. Y., and that it is