

C O N T E N T S

Witnesses

FOR THE COMMISSION

Coolidge, Sollace B.

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Exhibits

FOR IDENTIFICATION IN EVIDENCE

COMMISSION'S

823-A, -B, -C, -D,
-E, -F and -G

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824

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493-A, -B, -C, -D,
-E, -F and -G

1333

N39104

- - -

OFFICIAL REPORT OF PROCEEDINGS
BEFORE THE
Federal Trade Commission

DOCKET No. 5253

In the Matter of: NATIONAL LEAD COMPANY et al.

Place: Cleveland, Ohio

Date: July 25, 1946

Pages: 1310-1334

ELECTREPORTER, INC.,

(WARD & PAUL)

OFFICIAL REPORTERS

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C E R T I F I C A T E

This is to certify that the following pages and related exhibits are a transcript of hearings before the FEDERAL TRADE COMMISSION in the matter of:

DOCKET NO. - 5253

CASE TITLE - National Lead Co., et al.

PLACE - Cleveland, Ohio

DATE - July 25, 1946

PAGES NUMBERED 1310 to 1334 INCLUSIVE:

which were had as therein appears, and that this is the original transcript thereof for the files of the Commission.

ELECTREPORTER, INC.

Official Reporter

By

Wayne Birdsall
Vice-President.

N39104.02

1 823-B, to that set forth in 823-C?

2 A I would assume that it was as of June 21, 1934, as
3 there is no intervening bulletin between this and this
4 (indicating).

5 Q I call your attention to Commission's Exhibit 823-F,
6 and the geographical differentials set forth thereon. Those
7 appear to be the same as those on 823-C. Can you state
8 whether those differentials -- geographical differentials
9 applied continuously from the date of 823-C to the date of
10 823-F?

11 A Yes, sir.

12 Q I show you Commission's Exhibit 823-G, and call your
13 attention to the statement, "Pacific coast only," and the
14 price quoted thereunder, which is apparently one-quarter of
15 a cent higher than the price set forth immediately above.
16 Do you recall the states which comprised the Pacific coast
17 area, as referred to on that document?

18 A It would be all states west of the Rocky Mountains.

19 Q Please state the period of time over which that geograph-
20 ical differential as set forth in that exhibit has been quoted
21 by Sherwin-Williams in offering dry white lead for sale.

22 A I don't believe I could answer that question without
23 referring to records.

24 Q Do you recall whether such differentials were quoted in
25 1936?

1 A No, sir; I don't.

2 Q Does the Sherwin-Williams Company enter into contracts
3 with purchasers of dry white lead covering quarterly require-
4 ments?

5 A Dry white lead?

6 Q Yes.

7 A Yes, sir.

8 Q Are such contracts on a printed form?

9 A Yes, sir.

10 Q Over what period of time have such printed form con-
11 tracts for dry white lead been employed by Sherwin-Williams
12 Company?

13 A Ever since I have been with the company; how long be-
14 fore that, I don't know.

15 Q Does Sherwin-Williams enter into contracts with pur-
16 chasers of dry red lead and litharge covering quarterly re-
17 quirements?

18 A No, sir.

19 Q Have they ever?

20 A Not to my knowledge.

21 Q Does the Sherwin-Williams Company generally sell lead
22 pigments in accordance with its published and announced prices
23 and terms of sale?

24 MR. WELCH: Objection. Your Honor, the record in
25 this case already shows the inspection of thousands of in-

1 voices. They have all been analyzed and tabulated, and
2 they certainly show what the general practice of the company
3 is, as to whether it does or does not sell according to its
4 published prices, which price list the Commission also has
5 in evidence.

6 We say that is the best evidence of how the com-
7 pany does business.

8 MR. WRIGHT: I submit that while there is a rec-
9 ord of thousands of Sherwin-Williams invoices in the record
10 already, that doesn't purport to cover the undoubted millions
11 of invoices that the Sherwin-Williams Company has covering
12 transactions they have entered into over a period of years
13 with which this complaint is concerned.

14 TRIAL EXAMINER NORWOOD: Read the question.

15 (The reporter read the last question.)

16 TRIAL EXAMINER NORWOOD: Overruled, answer the
17 question.

18 MR. WELCH: Exception.

19 A Yes, sir.

20 By Mr. Wright:

21 Q Does Sherwin-Williams Company sell dry red lead and
22 litharge in carload quantities?

23 A Yes, sir.

24 Q Will you state the method of quoting prices on carload
25 quantities of dry red lead?

1 A It is done on a differential basis over the pig lead
2 market then existing.

3 Q Existing at what time?

4 A At the time of quotation.

5 Q At the time of the quotation?

6 A Yes, sir.

7 Q Will you explain the expression "Pig lead"? What
8 market?

9 A New York pig lead market.

10 Q Now, is that an average pig lead market?

11 A It could be either one. If it was a spot sale, it
12 would be quoted on the pig lead market existing at the time
13 of quotation. If it was covering requirements over a period
14 of time, it could be done on either basis, either an average
15 monthly pig lead quotation or on a spot basis.

16 Q What quotation is used?

17 A Either one.

18 Q What quotation for pig lead, American Smelting & Re-
19 fining Company quotation on pig lead?

20 A No, sir; the New York market.

21 Q Well, what sources of market information are used to
22 determine?

23 A Engineering Mining Journal is the official publication
24 that we use for determining pig lead quotations.

25 Q In shipping lead pigments to the customers, does the

1 Sherwin-Williams Company in all instances pre-pay the freight?

2 MR. WELCH: Objection. The document is already in
3 evidence to show what the freight practices are and how it
4 is handled. We don't think this witness has been qualified
5 to show familiarity with freight rates.

6 TRIAL EXAMINER NORWOOD: I think he may tell us
7 if he knows. Counsel may enlarge on this information.

8 THE WITNESS: Will you read the question again?

9 TRIAL EXAMINER NORWOOD: Objection overruled. Read
10 the question.

11 (The reporter read the last question.)

12 A You mean by that actually prepaying it?

13 Q Yes, sir.

14 A We either prepay or allow the freight on the invoice.

15 Q When you allow the freight on the invoice, the customer
16 pays the freight?

17 A Yes, sir.

18 Q And it is deducted from the invoice?

19 A Yes, sir.

20 Q Do red lead in oil and litharge in steel kegs and cans
21 generally carry the same freight classifications and freight
22 rates as white lead in oil?

23 A I couldn't answer that question offhand.

24 Q Do dry red lead and litharge in bags and barrels or drums
25 carry the same freight classifications and freight rates as

1 dry white lead in similar containers?

2 A I believe so.

3 Q Do you represent the Sherwin-Williams Company in the
4 Lead Industries Association?

5 A Exactly what do you mean by representation?

6 Q Do you attend the meetings of the Lead Industries
7 Association as a representative of Sherwin-Williams Company?

8 A No, sir.

9 Q Your answer refers to the present time?

10 A Yes, sir.

11 Q Have you ever represented Sherwin-Williams Company?

12 A Yes, sir; during NRA days.

13 Q Over what period of time was that, do you recall?

14 A Not exactly, no.

15 Q Does the Sherwin-Williams Company furnish statistics
16 to the Lead Industries Association showing production, stocks
17 and shipments of lead pigments?

18 A Yes, sir.

19 Q On what time basis are those statistics furnished;
20 monthly, annually?

21 A Monthly.

22 Q Does Sherwin-Williams Company receive from the Lead In-
23 dustries Association statistics on production, stocks and
24 shipments of lead pigments?

25 A In total by the industry, yes.

1 Q They show the total of the production, stocks and ship-
2 ments for the industry?

3 A Yes, sir.

4 Q Do they show any percentage of the various companies?

5 A No, sir.

6 Q Are you able to ascertain your position with reference
7 to the remainder of the industry by these statistics supplied
8 to you by the Lead Industries Association?

9 A Our percentage of the industry; yes, sir.

10 Q Will you state on a percentage basis, as near as you
11 can, the relative position of Sherwin-Williams in the ship-
12 ment of white lead in oil to the rest of the industry during
13 1943?

14 A Approximately five per cent.

15 Q During 1944?

16 A Approximately the same.

17 Q Has that approximate five per cent position extended
18 over any considerable period of time?

19 A It has been around that figure for a great many years.

20 Q Can you state the relative position of Sherwin-Williams
21 on a percentage basis to the rest of the industry in ship-
22 ments of dry white lead for 1943, say?

23 MR. WELCH: That is, shipments to customers?

24 MR. WRIGHT: Yes, sir.

25 A Shipments to customers?

1 By Mr. Wright:

2 Q Yes, sir.

3 A Practically nothing, less than one per cent.

4 Q Would your answer be the same as to the year 1940?

5 A Yes, sir; it would.

6 Q Has that less than one per cent relation obtained over
7 any considerable period of time?

8 A In normal years, that is true.

9 Q Will you state the relative position on a percentage
10 basis as to shipments to customers of dry red lead during
11 1943?

12 A Practically nil.

13 Q Has that obtained over any considerable period of time?

14 A Yes, sir.

15 Q For how many years, would you say?

16 A As long as I have been in the business.

17 Q With reference to litharge?

18 A It would be less than one per cent.

19 Q Would that also apply over a great many years, or has
20 it been --

21 A Fifteen years, at least.

22 Q How about red lead in oil?

23 A Practically nil.

24 MR. WRIGHT: I have no further questions, your
25 Honor.

1 MR. WELCH: May we have a recess, your Honor?

2 TRIAL EXAMINER NORWOOD: Five minutes recess.

3 (A short recess was taken.)

4 TRIAL EXAMINER NORWOOD: The witness will resume
5 the stand. Proceed.

6 MR. WRIGHT: I have no further questions, your
7 Honor.

8 MR. WELCH: No questions, you Honor.

9 TRIAL EXAMINER NORWOOD: The witness is discharged.

10 (Witness excused.)

11 TRIAL EXAMINER NORWOOD: Commission's Exhibit 493-A
12 to G, inclusive, the objection is overruled and the exhibit
13 is received in evidence.

14 (The papers referred to, heretofore marked for
15 identification Commission's Exhibits 493-A to G, in-
16 clusive, were received in evidence.)

17 TRIAL EXAMINER NORWOOD: Anything further?

18 MR. WRIGHT: No, sir; nothing further. I suggest
19 that we adjourn to St. Louis on the 29th.

20 TRIAL EXAMINER NORWOOD: Anything further counsel
21 wish to take up at this time?

22 The hearing is now adjourned to reconvene in the
23 City of St. Louis, Missouri, in Room 425 of the U. S. Court
24 House, at 10 o'clock a.m., on the 29th day of July, 1946.
25 That means the standard time of that zone.