

UNITED STATES OF AMERICA

Before the

FEDERAL TRADE COMMISSION

SEP 2 1947
SECTION 1

In the Matter

of

Docket No. 5253

National Lead Company, a corporation, et al

Now come the respondents, The Eagle-Picher Company and The Eagle-Picher Sales Company, by their attorneys, Edmund P. Wood and Richard Serviss, and submit the following proposed findings of fact, conclusions of law, and reasons therefor:

1. These respondents adopt the proposed findings of fact, conclusions of law and reasons therefor submitted by the respondent, National Lead Company.

2. Additionally, these respondents request the following specific findings of fact:

(a) The Eagle-Picher Company and The Eagle-Picher Sales Company (hereinafter called Eagle-Picher) engage in the business of selling lead pigments in

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interstate commerce throughout the United States in which business they are second in size to National Lead Company (hereinafter called National). Due to the difference in sizes of the two companies, Eagle-Picher is not in a position to compete with National, on lead pigments manufactured from pig lead, by means of a general policy of price cutting or price war. Nevertheless, it is the policy of Eagle-Picher to compete with National in the sale of lead pigments and Eagle-Picher does so compete actively by means of research which develops different and better products, by means of sales service, by means of technical service to customers providing them with the benefit of Eagle-Picher's research facilities, and by means of national advertising intended to increase consumer acceptance of the Eagle-Picher products.

(b) Particularly, Eagle-Picher research has developed special pigments known as basic lead sulphate, leaded zinc oxide and blue lead which Eagle-Picher manufactures from its own raw materials and sells in competition with pigments manufactured from pig lead. All of the Eagle-Picher organization has been actively engaged in promoting consumer acceptance and greater utilization of these products in competition with those promoted by the other respondents herein.

(c) Eagle-Picher's research laboratories have developed many special lead oxides for the storage battery industry and Eagle-Picher's technical experts have instructed the company's customers in the manner of their use, which has improved the competitive position of the Eagle-Picher customers in relation to that of the customers of National and that of the large battery manufacturers which produce their own lead oxides.

(d) Eagle-Picher has not indulged in any unfair method of competition by conspiracy or otherwise.

(e) Eagle-Picher has not discriminated among its customers in its sale of lead pigments.

(f) Eagle-Picher cannot compete with National except by selling on a delivered price basis because of National's greater size and greater number of manufacturing plants.

3. These proposed findings are supported by the records as a whole and particularly by the testimony of the witnesses produced by The Eagle-Picher Company and the exhibits introduced in connection with their testimony:

Getz	3328	As to proposed findings (a) and (b)
Harner	3416	" " " " (a), (b) and (c)
Chubb	3462	" " " " (c)

Vasterling	3591	As to proposed finding (b)
Mitchell	3620	" " " " (c)
Bowlbey	3632	" " " " (a)
Hayt	3659	" " " " (a) and (b)

Respectfully submitted,

Edmund P. Wood

Edmund P. Wood

Richard Serviss

Attorneys for respondents

The Eagle-Picher Company

The Eagle-Picher Sales Company