

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Deborah Platt Majoras, Chairman**
 Pamela Jones Harbour
 Jon Leibowitz
 William E. Kovacic
 J. Thomas Rosch

<p>In the Matter of</p> <p>AMERICAN PETROLEUM COMPANY, INC., a corporation.</p>
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DOCKET NO. C-4198

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 ("Commission"), having reason to believe that American Petroleum Company, Inc., a corporation, hereinafter sometimes referred to as "respondent," has violated the provisions of said Act, and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

1. Respondent American Petroleum Company, Inc. ("American Petroleum") is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Puerto Rico, with its office and principal place of business located at Road 865 KM 0.2, Barrio Campanillas, Toa Baja, Puerto Rico 00951.
2. American Petroleum has for many years been engaged in the business of importing lubricating oil to, and selling lubricating oil in, the Commonwealth of Puerto Rico. The president and owner of American Petroleum is Nelson Soto.
3. Puerto Rico Law 278 of September 14, 2004 was intended to create incentives for the safe disposal of used lubricating oil. The law required all persons in the chain of distribution, from the importer to the end-user, to pay an environmental deposit of fifty cents for each quart of lubricating oil purchased. The deposit could be recovered after the used lubricating oil was delivered to an authorized collection center.
4. During 2005 and 2006, American Petroleum joined with numerous others in the Puerto Rico lubricating oil industry to lobby for the delay, modification, and/or repeal of Law 278. These efforts were partially successful. The Legislature postponed the starting date for the law until March 31, 2006.

5. In March 2006, with the effective date for Law 278 approaching, American Petroleum and several competing importers and sellers of lubricating oil adopted a new strategy to pressure the Legislature and the Governor to repeal Law 278. The companies agreed to cease importing lubricating oil, beginning on March 31, 2006, and continuing for so long as Law 278 remained in effect.
6. On March 31, 2006, companies in the lubricating oil industry held a press conference in San Juan, with Nelson Soto of American Petroleum acting as the spokesman for the group. Soto announced that: (i) in order to pressure the government, numerous companies have agreed to suspend the importation of lubricating oil; (ii) this action will continue until Law 278 is repealed; and (iii) as existing inventories are depleted, the suspension of imports will result in shortages of lubricating oil throughout the island.
7. In December 2006, the Puerto Rico Legislature repealed Law 278.
8. The acts and practices of American Petroleum, including the acts and practices alleged herein, are in commerce or affect commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
9. The agreement among American Petroleum and its competitors to cease importing lubricating oil, as alleged herein, had the purpose and effect, or the tendency and capacity, to restrain competition unreasonably, to increase prices, and to injure consumers.

Violations Alleged

10. As set forth in Paragraph 5 above, American Petroleum agreed with competitors to restrict the importation and sale of lubricating oil, in violation of Section 5 of the Federal Trade Commission Act, as amended.
11. The acts and practices of respondent, as alleged herein, constitute unfair methods of competition in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45. Such acts and practices, or the effects thereof, will continue or recur in the absence of appropriate relief.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this twenty-first day of August, 2007, issues its complaint against respondent.

By the Commission.

Donald S. Clark
Secretary

SEAL: