

Order

IN THE MATTER OF
MADISON MILLS, INCORPORATEDMODIFIED ORDER TO CEASE AND DESIST¹*Docket 1776. January 31, 1933*

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent, testimony and evidence, and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", and the Commission having heretofore, to wit, on December 14, 1931, entered and served its order upon respondent requiring it to cease and desist from certain practices; and it appearing to the Commission upon reconsideration of the matter that paragraph 3 of the said order should be rescinded,

It is now ordered, That paragraph 3 of the cease and desist order heretofore issued in this proceeding on the 14th of December, 1931, be and the same is hereby rescinded.

¹ The complaint, findings, and original order in this matter, relating to respondent's practices of shipping shirts different in designs, patterns, etc., from those ordered, c.o.d. without privilege of inspection, and without giving customer notice of exhaustion of stock of particular garment ordered and opportunity for further selection; of falsely and misleadingly representing that dissatisfied customer's money would be returned "at once, without question"; and of making unwarranted and misleading use of such words as "Mills", "Shirt Manufacturers", etc., are reported in 15 F.T.C. 375 et seq.

The original order (omitting the usual formal demand for report of compliance within a specified period) required respondent, its agents and employees, in connection with the advertisements, sale or distribution by it in interstate commerce of shirts, to cease and desist as follows:

(1) Where shipments are made to customers c.o.d. without privilege of inspection, from representing, directly or indirectly, to purchasers or prospective purchasers that it will ship shirts of the designs, patterns, or styles selected and ordered by the said purchasers, unless and until it refrains from substituting shirts of designs, patterns or styles of its own selection different from those by the said purchasers so selected and ordered.

(2) From representing, directly or indirectly, to prospective purchasers that if the said purchasers are dissatisfied, the purchase price will be refunded at once without question, unless and until it actually does make prompt refunds whenever a shirt is returned by a dissatisfied customer.

(3) From directly or indirectly representing, through the use of such phrases as "Madison made shirts", "Mills", "shirt manufacturers", "factory to wearer price", that it is the manufacturer of products sold and distributed by it until such time as said respondent does actually own, operate, or control a manufactory wherein are fabricated or made the shirts which it so sells and distributes.

IN THE MATTER OF

RICHARD A. O'BRIEN, TRADING AS O'BRIEN & CO.

COMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 2083. Complaint, Dec. 16, 1932—Order, Feb. 7, 1933

Consent order requiring respondent individual, in connection with sale and offer of his so-called "P.H. Powder" in interstate commerce, to cease and desist from representing in his advertisements or otherwise, that said powder is effective to rid animals of worms, or is an animal conditioner, cures or prevents distemper or has been proved by experience so to do, or cures or prevents certain other ailments, or has certain tonic and fortifying effects, as in said order set forth and specified.

Mr. Alfred M. Craven for the Commission.

COMPLAINT

Acting in the public interest, pursuant to the provisions of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", the Federal Trade Commission charges that Richard A. O'Brien, trading as O'Brien & Co., hereinafter referred to as the respondent, has been and is using unfair methods of competition in interstate commerce, in violation of the provisions of section 5 of the said act, and states its charges in that respect as follows:

PARAGRAPH 1. Respondent, Richard A. O'Brien, is engaged at Seattle, Wash., in the business of selling to the trade and to the public generally, a preparation intended for, and used as, a conditioner, tonic and medicine for animals, particularly fur-bearing animals, said preparation being generally known in the trade and to the public as "P.H." Powder—and in the shipment thereof in interstate commerce from his principal place of business in Seattle, Wash., to the purchasers thereof located in Alaska and in various States of the United States other than the State of Washington. In the course and conduct of his said business, respondent is and has been in competition with other individuals, partnerships, and corporations located in the United States, engaged in the sale and distribution in interstate commerce of stock powders and medicines which are used for the same purposes as those for which respondent's said powder is used.