

Syllabus

IN THE MATTER OF
ODORA COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2166. Complaint, Mar. 15, 1934—Decision, Nov. 5, 1934*

Where a corporation engaged in the manufacture of kraft corrugated, permeable cardboard receptacles such as closets and chests, and in the sale thereof, knocked down, to retail dealers and jobbers, for resale to the public, for use, set up, for storage of clothes, etc., in substantial competition with sellers of such effective storage receptacles for moth protection as tight cabinets or chests containing in the body proper at least 70 percent of $\frac{3}{4}$ -inch red cedar wood, and with sellers of tight storage receptacles of cardboard or heavy paper, garment bags, and other articles for similar purposes,—

Marked, branded, and represented its aforesaid closets and chests as “cedarized” and so sold the same to dealers, by whom they were thus designated and sold to the public, and represented in advertisements which it circulated throughout the United States among dealers and purchasers and prospective purchasers, and which it encouraged dealers to publish, and to the expense of which latter advertising it contributed, that the so-called cedar retainers, or “cedarizers”, which contained oil of cedar and were enclosed within its said receptacles, gave forth a pungent cedar vapor guaranteed to be continuous for a year, with assurance of lasting protection from moths to articles stored therein, through providing an atmosphere obnoxious to the flying and egg-laying forms of moth life, and that the public could trust said receptacles like cedar walls, by reason of said fact and the fact that they were dust-proof, damp-proof and insect-proof, and that if clean garments were placed therein infestation or moth damage would not occur;

The facts being that they were neither dust-proof, damp-proof, moth-proof, nor moth-deterrent, and that the so-called cedar retainers, or strips of absorbent paper sprayed with a cedar oil combination, contained only a small fraction of the amount of such oil necessary for the vapor therefrom to act as a fumigant in substantially airtight cedar chests in destroying the destructive moth larvae, as was also true of its so-called “cedarizers”, or small receptacles within which such oil, cedar shavings, and other substances were stored, and that the loose joints of said receptacles, set up, permitted the evaporation of a large part of the oil in said retainers even before reaching the consuming public, and permitted the entry of air, dust and moths;

With effect of deceiving and misleading the public through said representations made by it and its dealers, into the belief that its said receptacles had the qualities pertaining to wood cedar chests by reason of the oil included therewith, as above set forth, and would retain said characteristics during the time articles subject to damage from moths were stored therein, and that they were damp-proof, dust-proof, and moth-proof, and could not be entered by moths when used for storage purposes, and into purchasing the same in reliance upon such beliefs, instead of the aforesaid much more costly wood cedar chests, or other storage receptacles of competitors, and thus diverting trade to it from competitors:

Complaint

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Held, That such practices, under the circumstances set forth, were to the prejudice and injury of competitors and the public, and constituted unfair methods of competition.

Mr. Edward E. Reardon for the Commission.

Mr. Robert Watson, of Washington, D. C., and *Mr. Israel B. Oseas*, of New York City, for respondent.

COMPLAINT

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, having reason to believe that Odora Company, hereinafter referred to as respondent, has been, and now is, using unfair methods of competition in commerce, as "commerce" is defined in said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby states its charges in that respect as follows:

PARAGRAPH 1. The respondent, Odora Company, is a corporation organized and existing under and by virtue of the laws of the State of New York, with its principal place of business at 140 West Twenty-second Street, in the City of New York.

PAR. 2. The respondent is engaged, and for some time past has been engaged, in the manufacture of chests made of cardboard material for the storage of blankets, clothing, and other household effects subject to the ravages of moths, which chests are and have been sold by respondent and shipped from its place of business in the State of New York to dealers in other States of the Union.

PAR. 3. That there are in the United States, and were at all times herein mentioned, manufacturers of chests made of cedar wood, in whole or in large part, for storage of blankets, clothing, and other household effects; manufacturers of storage chests made of wood and other materials other than cedar wood; that these manufacturers sell and ship their chests from their respective places of business to dealers located in various States of the Union other than the States of the respective manufacturers.

PAR. 4. That the respondent in its said sales is in substantial competition with the other manufacturers hereinabove mentioned.

PAR. 5. That in offering for sale and selling its said storage chest respondent designates, marks, and advertises it as "cedar chest"; "cedarized chest"; "Odora cedar-fold chest"; "the chest with the cedar retainer"; and represents that it is "the only chest that can feature the year guarantee of continuous cedar-vapor. The patented retainer (an exclusive feature) loaded at our plant with pungent

ever-fresh cedarized moth killer, offers assurance of lasting protection"; represents that it is "moth proof", "damp proof", "dust proof"; that it "will absolutely kill all moths and moth eggs if present when garments are stored"; and that the moth-proof construction of the chest will keep moths out; and by other words and methods represents that said storage boxes and chests will preserve clothing and other such household effects against the ravages of moths.

PAR. 6. That in truth and in fact respondent's storage chests are not of such construction as to be dust-proof and damp-proof; said boxes and chests are not "cedarized" as that word is generally understood by dealers and the public; they contain no cedar wood in their make-up but are of cardboard or other paper fibre; they contain no element or elements or material that is, or would be, moth deterrent or that would cause the destruction of moths or moth eggs; and are not of such construction as to keep out moths.

PAR. 7. That for a long time chests made of cedar wood in whole or in large part have been and are known to and used by the public as protection against the ravages of moths, by excluding them from materials therein stored which were not infested at the time of storage, and/or by destroying such as infested the materials at the time of storage or that gained entrance after storage; that the manufacturers of storage chests not made of cedar, mentioned in paragraph 3 hereof, truthfully represent and have represented their chests and have refrained from representing that they are deterrent to, or destructive of, moths.

PAR. 8. That respondent's false advertisements and misrepresentations to dealers as hereinabove set out has deceived such dealers and has caused them to repeat and pass on such misrepresentations to the using public; that in advertisements dealers have designated them as "cedarized chests"; have represented that they would kill all moths and moth eggs if present when garments were stored; have represented the chests to be of moth-proof construction that would keep moths out; and that the patented "cedarizer" contained in said boxes and chests would kill moths and destroy their eggs, and by other words and means have passed on to the public the misrepresentation, and have led the public into the belief that respondent's boxes and chests afforded protection against the ravages of clothes moths.

PAR. 9. That said false marking, false designation, and misrepresentations have been, and are, unfair and injurious to those competitors of respondent who sell storage chests made in whole or in large part of cedar wood and that are truthfully represented as

moth repellent and moth destructive as well as unfair and injurious to those manufacturers who make and sell storage chests not of cedar wood and which they do not represent to be moth repellent and moth destructive; and are prejudicial to the using public, and constitute unfair methods of competition in commerce within the meaning and intent of Section 5 of an Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", approved September 26, 1914.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of an Act of Congress approved September 26, 1914 (38 Stat. 717), the Federal Trade Commission issued and served a complaint upon the above named respondent charging it with the use of unfair methods of competition in commerce in violation of the provisions of said act.

The respondent having filed its answer herein, hearings were had and evidence was thereupon introduced, on behalf of the Commission and the respondent, before an examiner of the Federal Trade Commission, duly appointed.

Thereupon this proceeding came on for final hearing upon the briefs filed on behalf of the Commission and the respondent, and upon oral argument of counsel for the Commission and the respondent; and the Commission having duly considered the record and being fully advised in the premises finds that this proceeding is in the interest of the public and makes this its findings as to the facts and the conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, Odora Company, is a corporation organized in or about the year 1928 under the laws of the State of New York, and having a place of business at 140 West Twenty-second Street, New York City.

PAR. 2. The respondent is engaged, and has been engaged, at all times since in or about the year 1931 in the manufacture and in the sale of cardboard storage receptacles, closets, and chests, which it regularly sells to retail dealers and jobbers for resale through them to members of the public for the storage of clothing and other materials.

PAR. 3. The respondent, during all the times since in or about the year 1931, has sold its storage receptacles, closets, and chests, mentioned and referred to hereinafter, to retail dealers and to whole-

sale dealers or jobbers in such articles, purchasers thereof, located in the District of Columbia and in the various States of the United States other than New York, for resale through the dealers to members of the public, users thereof, and the respondent has caused its storage closets and chests, when so sold by it, to be transported from New York, or from the State of origin of the shipment thereof, to, into, and through the District of Columbia and States other than New York, or the State of origin of the shipment, to the purchasers. The respondent's storage receptacles were resold to the public during said times, the chests at about 69 cents each and the closets at about \$1.29 each.

PAR. 4. During all the times mentioned in paragraph 3 hereof, other individuals, firms, and corporations, located in the various States of the United States, hereinafter called sellers, are and have been engaged in the business of the sale of various receptacles used in the storage of clothing and other materials, such as garment bags, boxes, closets, cabinets, and chests to retail dealers and to jobbers or wholesale dealers for resale through them to members of the public. The sellers have, respectively, caused their storage receptacles, when so sold by them, to be transported from the State of the seller, or from the State of origin of the shipment, to, into, and through the District of Columbia and other States, to the purchasers.

Some of the sellers, during the times above mentioned, were engaged in the sale of and sold storage receptacles, which they sold to the dealers above referred to at various prices from \$5 upward, each, and which were resold to the public at retail at various prices from \$10 upward, each, including boxes, closets, cabinets or chests made of wood, in various sizes, which contained in the body proper of the box, cabinet or chest (top, sides, and bottom) at least 70 percent of $\frac{3}{4}$ -inch red cedar wood, and from that amount up to 100 percent of red cedar wood; and some of the sellers were engaged in the sale of and sold cardboard storage boxes, closets, and chests in various sizes; and others of the sellers sold garment storage bags made of heavy paper.

PAR. 5. The respondent, during all the times referred to in paragraph 4 hereof, has been and still is in substantial competition in interstate commerce in the sale of its storage receptacles with the sellers, respectively, referred to in paragraph 4 hereof.

PAR. 6. During all the times mentioned in paragraph 3 hereof the respondent's storage receptacles, closets, and chests were made of kraft corrugated cardboard, the closets 60 inches high by 20 inches wide and 15 inches in depth; the chests, 30 inches long by 12 inches

wide and 14 inches deep. Each closet and chest sold by respondent (with the exception of some closets and chests sold by respondent in 1933, to a certain department store in New York City), was provided with a cedar retainer, consisting of a sheet or pad of paper about blotting paper thickness extending over nearly the entire length and about half the width of one of the interior walls of the closet or chest, and covered by a sheet of perforated paper. The paper or pad covered by the perforated paper was sprayed by respondent at its factory, before being sold, with exactly one ounce of an oil compound consisting 85 percent of cedar oil and 15 percent of pine oil.

PAR. 7. The closets and chests sold by respondent in 1933 to the department store referred to in paragraph 6 hereof were provided with a special so-called cedarizer, consisting of a paper carton or box 18 inches by 7 inches by 1 inch, which was glued to an inner wall of the closet or chest and containing, or for the purpose of containing, cedar shavings, paradichlorobenzine, naphthaline, and cedar oil. The cedarizer, when the closets and chests were sold by respondent and by said department store, was covered with cellophane to delay or to prevent evaporation of the materials which it held. Respondent's directions in connection with the use of closets or chests provided with the cedarizer were for the users to remove the cellophane when the closets or chests were put in use for storage purposes.

In 1932 and after 1933 the department store referred to herein sold and now sells respondent's closets and chests provided with the so-called cedar retainer. It sold respondent's closets and chests provided with the so-called cedarizer in 1933, but not before or after 1933.

PAR. 8. The respondent's closets and chests above mentioned were regularly sold by the respondent to retail dealers and to jobbers, folded or knocked down. When the closets and chests were shipped by respondent from its factory to the dealers, each one was regularly, individually wrapped by respondent in heavy kraft paper sealed with gummed tape. So wrapped, they were regularly packed in bundles in corrugated shipping cases and the cases were sealed with gummed tape and bound with string. The shipping cases were used for delivery of the closets and chests from respondent's factory to the dealers. The wrapping around the individual closets and chests was for the purpose of use in the handling of the closets and chests by the retail dealers locally, including delivery to their customers, and it was not intended to be removed until the closets or chests were set up for use for storage. The closets and chests were provided with leather fastening straps and strap fasteners for use in keeping them closed when set up for storage purposes.

PAR. 9. During all the times mentioned in paragraph 3 hereof the cardboard, of which the respondent's closets and chests referred to in said paragraph 3 were made, was permeable to air and to the gas or vapor from cedar and pine oils, which are volatile oils, and the respondent's closets and chests, in the condition in which they were when set up for use, in accordance with the instructions of respondent therefor, for the storage of clothing and other materials by members of the public who purchased them for that purpose, had openings or apertures at their joints or closures sufficiently large to permit freely the entry of moths and air.

PAR. 10. During all the times mentioned in paragraph 3 hereof garment bags and cardboard storage closets and chests referred to in paragraph 4 hereof and sold by the sellers referred to in said paragraph were constructed of heavy paper or cardboard, respectively, which was permeable to air and to gas or vapor from cedar oil, and they were so constructed that they were without openings or apertures sufficiently large to permit the entry of moths, when used for storage of materials.

PAR. 11. During all the times mentioned in paragraph 3 hereof, the boxes, closets, cabinets, and chests referred to in paragraph 4 hereof and sold by some of the sellers referred to in said paragraph, were made substantially airtight, and of red cedar wood in the body proper (top, sides, and bottom), variously, from a minimum of 70 percent of $\frac{3}{4}$ -inch red cedar wood, up to 100 percent of $\frac{3}{4}$ -inch red cedar wood.

PAR. 12. Storage receptacles, garment bags, boxes, closets, cabinets, and chests are used for the storage of clothing and other materials ordinarily for a period of seven months in a year.

PAR. 13. The average life of the clothes moth is from 10 to 14 days. It may not live more than a day, it may live a little over a month, depending on the ease with which it emerges from the cocoon, and the temperature to which the cocoon was exposed. The female moth begins to lay eggs about the first day she emerges from the cocoon, and lays a small number the first day, but reaches her maximum egg laying capacity within a day, which is maintained for a day or two and then the number of eggs laid drops off and after ten days she ceases to lay. Some moths will lay not more than two eggs in a day. An average moth will lay from 50 to 75 eggs in a day, and 100 to 125 eggs is the average total of eggs a moth will lay. From the egg laid by the female moth the larva or worm is hatched and that is the only form of moth life that causes damage to clothing or other stored materials. The length of life of moth larvae varies a great deal according to food, temperature, and humidity, the larva being capable of going into a resting stage for a month, or even for two years.

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PAR. 14. The aroma or odor of cedar oil does not act as a repellent so as to prevent moths from entering closed storage receptacles, the interiors of which contain or are impregnated with cedar oil. The aroma or odor has no effect on any stage of moth life. As a fumigant, the vapor from cedar oil will kill young moth larvae, and some of the older larvae, and it will also cause the activity of the older larvae to be suspended.

PAR. 15. In order to be effective upon moth larvae as a fumigant, cedar oil, or other volatile oils or chemicals, must be held in a practically airtight container in order that the evaporating gas or vapor be confined and sufficient concentration of the gas or vapor accomplished.

PAR. 16. Evaporation of cedar oil from red cedar boards, varying in thickness from three-fourths inch to one-twentieth inch, or thin veneer, progresses in proportion to the thinness of the board.

Over a period of four months three-fourths inch red cedar board, exposed freely to the air, loses 13.3 percent of its oil by evaporation; one-half inch loses 16.3 percent; three-eighths inch, 23.3 percent; one-fourth inch, 37.3 percent; one-eighth inch, 38.8 percent; and one-twentieth inch, or thin veneer, 53 percent of its oil.

At the end of two years the loss of oil by evaporation for the same boards freely exposed to the air, is respectively, 30.3, 41.3, 48.6, 59.2, 62.2, and 77.8 percent for the thin red cedar wood veneer.

PAR. 17. A square foot of $\frac{3}{4}$ -inch red cedar board contains approximately 0.9 of an ounce of cedar oil.

The cedar retainer of the respondent's closets and chests, referred to in paragraph 3 hereof, was supplied at the respondent's factory, before the closets and chests were sold and delivered to the dealer purchasers as set forth in said paragraph 3, with exactly one ounce of an oil compound, consisting 85 percent of cedar oil and 15 percent of pine oil.

PAR. 18. When respondent's closets, 60 by 20 by 15 inches in size, are set up for use as receptacles for the storage of materials, the interior surface of the walls (top, sides, and bottom) measures $33\frac{1}{3}$ square feet.

When respondent's chests 30 by 12 by 14 inches in size are set up for use as receptacles for the storage of materials, the interior surface of the walls (top, sides, and bottom) measures 13.16 square feet.

PAR. 19. Wood chests, of the same size and dimensions as respondent's closets (60 by 20 by 15 inches), made with only 40 percent of $\frac{3}{4}$ -inch red cedar board in the body proper (top, sides, and bottom), have approximately $13\frac{1}{3}$ square feet (of the total $33\frac{1}{3}$ square feet of their interior wall surface) of red cedar board. The cedar wood in

such chest contains 12 ounces of cedar oil, or more than 12 times as much cedar oil as the respondent puts in the cedar retainer of its closets.

Wood chests of the same size and dimensions as respondent's chests (30 by 12 by 14 inches) and made only 40 percent of $\frac{3}{4}$ -inch red cedar board in the body proper (top, sides, and bottom) have 5.264 square feet of interior surface of red cedar board, containing 4.737 ounces of cedar oil, or nearly 5 times more cedar oil than respondent has put in its chests.

The wood chests herein mentioned are practically airtight. Nevertheless, notwithstanding the wood in their construction contains the above quantities of cedar oil, the atmosphere therein permits the eggs of clothes moths, which may infest material when stored in the chests, to develop into moth larvae that damage stored material.

PAR. 20. Owing to the nature of the material of which the respondent's closets and chests are and have been made and their loose condition when set up for use as storage receptacles, as set forth in paragraph 9 hereof, evaporation of the oil and of the materials, respectively, with which the so-called cedar retainer and cedarizer used with respondent's closets and chests were supplied, was very rapid, and the oil and materials were quickly dispersed in the form of vapor or gas and escaped from the interiors of the closets and chests into the outer air. In one instance, for example, one of respondent's closets, on the day it was purchased from respondent's retail distributor enclosed in the sealed wrapper in which it left respondent's factory, had only 2.154 grams of oil remaining in its cedar retainer, or 0.076 of the ounce of oil with which its cedar retainer was furnished at respondent's factory. In other words, there was present in the closet, on the day it was sold, less than one thirteenth of the ounce of the oil with which its cedar retainer was originally supplied by respondent at the factory.

PAR. 21. Storage receptacles, however, closets, cabinets, and chests, made of wood, practically airtight, and containing in the body proper (top, sides, and bottom) as much as 70 percent of $\frac{3}{4}$ -inch red cedar wood, furnish an atmosphere within them that does not permit the eggs of clothes moths in such storage receptacles to develop into larvae which can cause damage to stored material and later develop into clothes moths. Such storage receptacles, by tests and by experience with their use as storage receptacles, have been definitely established as efficient preventives of moth damage to clothing and other materials stored in them.

PAR. 22. For more than 25 years last past manufacturers in the cedar wood chest industry in the United States have produced and

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sold, in interstate commerce, storage receptacles made in part or entirely of red cedar wood, and marked, branded or otherwise described and advertised as cedar chests, cedar closets and cedar cabinets when offered for sale and when sold.

PAR. 23. On December 2, 1932, the industry, engaged in the United States in the manufacture of cedar wood chests, held a trade practice conference under the auspices of the Federal Trade Commission, to consider, among other things, the prevention of the practice in the sale of wood chests in interstate commerce, of representing such chests as cedar chests, when they contained in their body proper only cedar veneer, or cedar wood of only $\frac{1}{8}$ inch in thickness, and the said industry made and passed the resolutions or rules mentioned and referred to in paragraphs 24 and 25 hereof.

PAR. 24. On May 12, 1933, the Federal Trade Commission issued an official statement to the effect, among other things, that the rules as adopted by the industry at the trade practice conference mentioned in paragraph 23 hereof, and as set forth in Group I of the Commission's official statement, were approved and accepted by the Commission.

PAR. 25. Among the rules of the trade practice conference of the cedar chest industry, referred to in paragraph 23 hereof, and contained in Group I of the Federal Trade Commission's official statement, are rules 1, 2, 3, and 14, as approved by the Federal Trade Commission, as follows:

Rule 1.—The use in advertising, selling, or offering for sale of such expressions as "moth proof", "moth killing", "moth repelling", "cedarized", or similar misleading representations, in describing any cedar chest, cedar container or cedar receptacle which is not tightly constructed and which does not contain in the body proper (top, sides, ends, and bottom) at least 70 percent of three-quarter inch red cedar (*Juniperus virginiana*), is an unfair trade practice.

Rule 2.—The making or causing or permitting to be made or published any false, untrue, or deceptive statement by way of advertisement or otherwise concerning the grade, quality, quantity, substance, character, nature, origin, size, or preparation of any product of the industry, having the tendency and capacity to mislead or deceive purchasers or prospective purchasers, is an unfair trade practice.

Rule 3.—The false marking or branding of products of the industry with the effect of misleading or deceiving purchasers or prospective purchasers with respect to the quantity, quality, grade, substance or moth-killing or moth-repelling properties of the goods purchased, is an unfair trade practice.

Rule 14.—Advertising, selling, or offering for sale as cedar chests, cedar containers, or cedar receptacles, chests, containers, or receptacles which contain in the body proper (top, sides, ends, and bottom) more than 30 percent by weight of wood or woods other than cedar (*Juniperus virginiana*) is an unfair trade practice.

Since on or about the year 1932 all of the said manufacturers in the cedar wood chest industry have made such storage receptacles from red cedar wood with a minimum of 70 percent (top, sides, and bottom) of $\frac{3}{4}$ inch red cedar wood.

PAR. 26. The cedarizer mentioned in paragraph 7 hereof, lost, during a short period of exposure, most of its active ingredients by evaporation and the closets and chests sold by respondent provided with the cedarizer, mentioned in said paragraph 7, were poorly constructed, had open spaces at the top, bottom, and sides, permitting ingress of dust, dampness and insects, and loss by evaporation of the chemical compound contained in the cedarizer. The respondent's closets and chests, provided with the cedarizer, were not dust-proof, damp-proof nor moth-proof.

PAR. 27. The respondent during the times mentioned in paragraphs 3, 23, and 24 hereof, circulated advertisements throughout the United States among dealers, purchasers, and prospective purchasers of its closets and chests for resale to the public, in which respondent featured the cedar retainer of the closets and chests, and stated and represented both directly and indirectly that the closets and chests were moth repellent, and dust proof, and that they protected stored articles from damage by moths. The respondent, in its advertisements, suggested to the dealers that they use in their own advertisements the advertising matter circulated among them by respondent.

PAR. 28. The respondent during the times referred to in paragraph 27 hereof offered and made an allowance in money to dealers to be used to defray in part the expense of advertising respondent's closets and chests, and the respondent also furnished the dealers, upon their request, with advertising mats to be used in reproducing in the dealer's advertisements illustrations or pictures of respondent's closets and chests.

PAR. 29. The respondent, and dealers to whom respondent sold its closets and chests for sale at retail to the public, published advertisements in newspapers which were circulated among the public in various States and contained statements and representations to the effect, among others, that the cedar retainer of respondent's closets and chests gives forth a pungent cedar vapor continuously; that the cedar vapor from the cedar retainer was guaranteed to be continuous for a year; and that the cedar retainer offered assurance of lasting protection to articles stored in the closets and chests; that the cedarizer above mentioned keeps the moths at bay and kills moths and their eggs if present when garments are stored in the closets and chests; and that the members of the public purchasing the closets

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and chests can trust their clothes to the closets and chests because they are dust proof, damp proof, insect proof, cedarized affairs, just as they would trust their clothes to real cedar walls; that respondent's closets and chests provided an atmosphere therein obnoxious to the flying and egg-laying form of moth life and that if clean garments were placed within the closets and chests infestation or moth damage would not occur; and that the cedar retainer and cedarizer of the respondent's closets and chests was saturated with a moth preventive that contains oil of cedar, something that moths abhor and that keeps the moths at bay.

The respondent, as set forth in paragraph 3 hereof, sold its closets and chests, marked, branded and represented by it as "cedarized" closets and "cedarized" chests, and the dealers who purchased the closets and chests from respondent, in their advertisements above mentioned, in turn, represented the respondent's closets and chests as cedarized closets and chests.

PAR. 30. The respondent's closets and chests above mentioned were not dust proof, damp proof, or moth proof. The cedar retainer and the cedarizer with which the closets and chests were provided did not deter or prevent moths from entering them when they were set up and used for storage of materials. The closets and chests were loosely constructed, and were not airtight. When set up for use for storage purposes, according to the instructions of respondent, there were apertures at their joints or closures which permitted the access of moths and air to their interiors and the escape of vapor or gas from the cedar oil compound with which they were treated or supplied. They did not provide an atmosphere within them which prevented moths from laying eggs therein or prevented moth eggs, present in garments or other materials when stored, from hatching into moth larvae, which cause moth damage to garments or other stored articles. The cedar oil and other oils and chemicals in the said cedar retainer or cedarizer did not affect moth larvae in the closets and chests so as to dull their activity and prevent damage by them to materials stored in the closets and chests, and the representations mentioned and referred to in paragraph 29 hereof, made in advertisements by respondent and dealers to the public, were false.

PAR. 31. By means of marking or branding its closets and chests as cedarized closets and chests, and by means of the representations made by respondent and dealers as set forth in paragraph 29 hereof, the respondent and said dealers deceived and misled members of the public into the belief that respondent's closets and chests had the qualities and characteristics belonging to wood cedar chests by

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reason of the cedar oil in the respondent's closets and chests; into the belief that respondent's closets and chests would retain those qualities and characteristics during the time articles subject to damage by moths were stored in them; into the belief that the said closets and chests were damp proof, dust proof and moth proof, and that moths could not enter them when they were closed and in use as storage receptacles; and relying upon such belief into purchasing the respondent's closets and chests for the storage of materials subject to moth damage instead of purchasing storage receptacles, including wood cedar chests, cardboard chests, and cardboard or paper moth bags sold by respondent's competitors. The respondent's said representations and practices and the said representations and practices of the dealers referred to above, which the respondent cause them to make, thus diverted trade from respondent's competitors.

CONCLUSION

The practices of the respondent, Odora Company, and of the dealers above mentioned, which the respondent caused the said dealers to make, under the conditions and circumstances described in the foregoing findings, were to the prejudice and injury of respondent's competitors and were to the prejudice and injury of the public, and were unfair methods of competition in commerce and constitute a violation of 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."

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent to the complaint, testimony and evidence introduced, upon the briefs of counsel for the Commission and for the respondent, and upon oral argument on the part of counsel for the Commission and the respondent; and the Commission having made its findings as to the facts and its conclusion that the respondent, Odora Company, has violated 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"—

It is now ordered, That the respondent Odora Company, its officers, agents, and representatives, in connection with the sale and offering for sale; in interstate commerce between and among the several States of the United States and in the District of Columbia, of cardboard receptacles in the form of closets, chests or cabinets designed

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or intended for use by members of the public for the storage of household effects, clothing, or other cloth material, do cease and desist from:

(1) Marking, branding, or otherwise designating or describing such cardboard storage receptacles, or any part or accessory to the use thereof, with the word "cedar", or with any form of derivative of the word "cedar", such as the word "cedarized", either alone or in association with any other word or words;

Unless and until such cardboard receptacles shall be so constructed and be so provided with cedar oil, that, when used for storage, they—

(a) will not afford access to clothes moths to stored materials, and

(b) will, when closed, cause and maintain within them concentration of the vapor or gas from the cedar oil sufficient, as a fumigant, during any part of the storage period of seven months immediately following their sale by a respondent's distributor, to kill young moth larvae within a reasonable time after articles infested with them are deposited therein during such storage period;

(2) Using the word "cedar" or any form or derivative of the word "cedar", such as the word "cedarized", either alone or in association with any word or words in advertisements in newspapers, circulars, or other publications, or verbally, to designate or to describe such cardboard storage receptacles, or any part or accessory to the use thereof;

Unless and until such cardboard receptacles shall be constructed and be provided with cedar oil and effective thereby as above set forth;

(3) Representing to dealers or others or causing it to be represented by dealers or others to members of the public, directly or indirectly, either verbally or in advertisements in newspapers, circulars, or other publications, or by means of the radio, that clothes moths, or their eggs, or moth larvae, which may infest articles stored therein, will be killed, or that their activities with respect to moth damage to such articles will be delayed or suspended by reason of any oil or oils, or chemicals with which such cardboard receptacles may be provided;

Unless and until such receptacles shall be so constructed and concentration of the vapor or gas from the oil or oils, or chemicals with which they are provided shall be maintained within them when used for storage as and to the same effect as set forth in paragraph 1, subdivision (b) of this order;

(4) Representing to dealers or others, or causing it to be represented by dealers, or others, to the public, either verbally or in advertisements in newspapers, circulars, or other publications, or

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by means of the radio, that such cardboard storage receptacles are dust proof or damp proof; or that they are of a construction that is proof against the access of clothes moths to materials stored in them, unless and until respondent's cardboard storage receptacles shall be in fact so constructed.

It is further ordered, That the respondent, Odora Company, shall within 30 days after the service of this order file with the Federal Trade Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order to cease and desist.

IN THE MATTER OF
**MAID-O-BEST, INC., G. M. MOSES, AND MORRIS AVER-
BACH, TRADING UNDER THE NAME OF THE MURIEL
COMPANY**

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

Docket 2168. Complaint, Apr. 9, 1934—Order, Nov. 5, 1934

Consent order requiring respondent corporation, its officers, etc., and respondent individuals, their agents, etc., in connection with the advertisement, offer and sale in interstate commerce and in the District of Columbia, of flavoring compounds, foodstuffs, toilet articles, household goods, and novelties, forthwith to cease and desist from—

- (a) Representing by photographs or otherwise that J. M. Gebhardt, a fictitious person, or any other fictitious person, is a director of sales of said corporation, or that it has a national sales organization, until such be the fact;
- (b) Representing that it is a manufacturer of products sold by it until it operates, owns, or controls a factory making said products, or using in advertising the words "Manufactured only by Maid-O-Best, Inc., St. Paul, Minnesota, U. S. A." or other words of similar import, until such be the fact;
- (c) Using the term "vanilla extract" to describe a flavoring product, unless made with ethyl alcohol and containing at least 50 percent of true vanilla from the vanilla bean, or representing that its so-called extract has no equal for quality, is the finest available at any price or that it is composed of vanillin and certain other ingredients and a liberal quantity of pure vanilla from the choicest vanilla beans, until a liberal quantity of pure vanilla thus made is actually used in preparation of said substance, as hereinbefore set forth;
- (d) Using words "orange", "lemon", "maple", and "almond" in connection with word "extract", unless product is composed of genuine ingredients suspended in ethyl alcohol, as distinguished from synthetic chemical substitutes;
- (e) Representing or setting forth in connection with its products, sold in combination deals or otherwise, "regular retail prices", which are fictitious and greatly in excess of usual prices for such products, or prices contemplated therefor, and representing to buyers values greatly in excess of the facts, and making other false or misleading representations of similar tenor, including, in substance, that the prices do not afford the seller a profit;
- (f) Representing falsely that a special account of \$3,000 or any other amount is deposited in a bank to cover refunds for returned products, unless and until such a sum be deposited and maintained in liquid form and available for such purposes; and

Ordered further that respondent Averbach, individually and trading as The Muriel Co., his agents, etc., in connection with the advertisement, offer for sale and sale of flavoring compounds, foodstuffs, toilet articles, house-