

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-

hold goods, and novelties among the several States and in the District, forthwith cease and desist from—

- (g) Representing that it is easy for agents to "earn up to \$15 every day in selling Muriel Company products";
- (h) Designating so-called food flavors as extracts until and unless they are genuine extracts, dissolved and carried in alcoholic solution, and representing cheap and inferior ingredients contained in flavoring preparations as of "high quality" and "purest and finest";
- (i) Representing falsely that he buys his raw materials in "tremendous quantities" and that "greater savings" are thereby "passed on" to housewives of America;
- (j) Representing that the product "Choc-O-Toddy" or any other product is made by said company, until made by him in or by a factory which he owns, operates or controls; or
- (k) Representing or setting forth in case of food flavoring or other products sold in combination deals or otherwise, selling prices to consumers which are fictitious and greatly in excess of those prevailing for similar products, or those contemplated for his said products, and representing retail values greatly in excess of the values of said products, and making false or misleading representations of similar tenor, and, particularly, respecting the value and quality of products sold by him, and importing that said products are sold at prices which do not afford a profit.

Mr. Marshall Morgan for the Commission.

Stacker & Stacker, of St. Paul, Minn., for respondents.

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 Maid-O-Best, Inc., G. M. Moses, an individual, and Morris Averbach, an individual trading under the name of The Muriel Company have been or are using unfair methods of competition in commerce as "commerce" is defined in said act, and it appearing that a proceeding in respect thereof would be in the public interest, the Commission hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Maid-O-Best, Inc., is a corporation organized under the laws of the State of Minnesota, with its principal office and place of business at St. Paul, Minn.

Respondent Maid-O-Best, Inc., from August 29, 1932, until March 1, 1933, was engaged in the sale and distribution in interstate commerce of flavoring compounds, foodstuffs, toilet articles, and novelties.

Respondent G. M. Moses, during the period next above stated, was the president of Maid-O-Best, Inc., and directed its activities and controlled the affairs and policy of said respondent corporation.

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Respondent Morris Averbach, trading under the name of the Muriel Company, located at 693 Selby Avenue, St. Paul, Minn., has been engaged since 1932 in the manufacture, sale and the offering for sale in interstate commerce of flavoring compounds, food-stuffs, toilet articles, and novelties.

In the course and conduct of their respective businesses respondents, Maid-O-Best, Inc., and Morris Averbach, have been and now are engaged in direct and substantial competition with various corporations, partnerships, and individuals engaged in selling and offering for sale in interstate commerce flavoring compounds, food-stuffs, toilet articles, and household novelties of various kinds.

PAR. 2. In the course and conduct of their respective businesses, as described in paragraph 1 hereof, respondent Maid-O-Best, Inc., acting through and under the direction of G. M. Moses and Morris Averbach, trading under the name The Muriel Company, have offered their products for sale and have sold and transported or caused the same to be transported in commerce among the several States of the United States, direct to consumers, through the medium of traveling salesmen, agents, and solicitors. Said goods are and were shipped in response to orders taken by such traveling salesmen, agents, and solicitors and transported or caused to be transported in commerce among the several States of the United States. As a means of obtaining the services of such salesmen, agents, and solicitors, said Maid-O-Best, Inc., and Morris Averbach cause and have caused advertisements to appear in periodicals having general circulation, and in addition distribute and have distributed circulars containing sales talks and instructions.

In the course and conduct of their said businesses, as hereinafter related, respondents, Maid-O-Best, Inc., and Morris Averbach, have caused various false, deceptive, and misleading statements to be inserted and to appear in said advertising circulars and bulletins so distributed by them. The statements contained in said bulletins and circulars are addressed to and are and have been distributed among salesmen or prospective salesmen, and are intended to be and constitute instructions to them in connection with sales talks to be made to housewives, customers, and consumers throughout the various States of the United States. In this manner the said various false and misleading statements and representations inserted in advertising bulletins and circulars by respondents Maid-O-Best, Inc., and Morris Averbach, trading under the name The Muriel Company, are and have been passed on to the ultimate consumer by respondents' salesmen and representatives and the consuming public have been induced to purchase the goods offered for sale and sold by

Maid-O-Best, Inc., and Morris Averbach trading as The Muriel Company under the erroneous belief that said false and misleading statements and representation were true.

PAR. 3. Respondent Maid-O-Best, Inc., in further connection with the sale and distribution in interstate commerce of the aforementioned products, printed in bulletins and circulars and instructions, a picture of a person supposed to be one J. M. Gebhardt, wherein the alleged Gebhardt was designated as "Director of Sales, Maid-O-Best, Inc.", and he invites prospective salesmen to "join Maid-O-Best's national sales organization without risking one penny", when in truth and in fact the said "J. M. Gebhardt" is a fictitious person so far as Maid-O-Best, Inc., is concerned and the picture printed was instead a picture of G. M. Moses, president and moving spirit of Maid-O-Best, Inc. Said picture and accompanying statements and announcements were and have been used for the manifest purpose of creating the impression upon prospective agents and representatives, who would in turn convey such impression to the consuming public, that Maid-O-Best has and has had a large selling organization, national in scope and character, when such is not the fact.

PAR. 4. In a circular issued by respondent Maid-O-Best, Inc., in furtherance of the sale, in interstate commerce, of Maid-O-Best products the following statements and representations appeared:

(1) Long-established manufacturer makes startling announcement to those who want ready cash; (2) The large manufacturing company back of Maid-O-Best products has made it possible for me to offer you better quality products at much lower resale prices. And of great importance to you is the fact that your margin of profit is a generous one. Every sale repays you handsomely for your efforts; (3) We are large manufacturers of food flavorings. We purchase our ingredients in tremendous quantities.

Said Maid-O-Best, Inc., further caused to appear in advertising matter distributed in interstate commerce the words:

Manufactured only by Maid-O-Best, Inc., St. Paul, Minn., U. S. A.

When in truth and in fact the said Maid-O-Best, Inc., did not and does not own, operate, or control any mills, factory or laboratory wherein the products which it sells or sold and distributes or distributed in interstate commerce are and were manufactured or compounded, said products on the contrary, having been manufactured or packed by Morris Averbach, trading as The Muriel Company. Maid-O-Best, Inc., is not a long-established manufacturer, concern, or business, has not had any large manufacturing company back of its products, and has not purchased ingredients in tremendous quantities, nor packed the products distributed by it in interstate commerce; said Maid-O-Best, Inc., on the contrary, merely furnishing

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bottles and labels to Morris Averbach, who, as stated, prepares and has prepared certain quantities of the products which respondent Maid-O-Best has advertised and sold under the name "Maid-O-Best".

PAR. 5. In the further course and conduct of its business Maid-O-Best, Inc., caused advertisements to appear in periodicals and advertising folders having a wide interstate circulation, as follows:

A \$3.70 VALUE 47 CENTS

	<i>Value</i>
One 8-ounce bottle Imitation Vanilla Extract.....	\$1.00
One 4-ounce bottle Lemon Flavor.....	.60
One 4-ounce bottle Almond Flavor.....	.60
One 2-ounce bottle Orange Flavor.....	.50
One 2-ounce bottle Maple Flavor.....	.50
One 1-pound can Choc-o-Toddy <i>free</i>	.50

 3.70

YOU SELL IT COMPLETE FOR 97 CENTS

5 BIG BOTTLES 47 CENTS

SELLS AT SIGHT FOR 97 CENTS

 WITH CAN OF CHOCOLATE TODDY
 FREE!

When in truth and in fact the "regular retail prices" as set forth in such advertisements and advertising matter for its flavoring products were and are fictitious and greatly in excess of the prices at which such products were and are sold, or were ever intended or contemplated to be sold in the usual course of trade.

PAR. 6. And said respondent Maid-O-Best, Inc., in its advertising matter and price lists distributed in interstate commerce has used the term "Vanilla Extract" to describe an imitation vanilla flavor, when in truth and in fact such preparation is not a true extract but a cheap flavoring compound, lacking the alcohol content that would be required as a vehicle to carrying the genuine flavoring extract.

And said Maid-O-Best, Inc., in its advertising matter further has stated that "we are particular about the quality of such products as Vanilla beans, Vanillin, Coumarin, Glycerin, Lemon, Maple, Orange, and other commodities that go into the making of our flavorings", and "You cannot tell how good imitation Vanilla extract is until you try it. Please assure your customers that Maid-O-Best Vanilla Extract has no equal for quality. It is the finest available at any price. Maid-O-Best Vanilla Extract is composed of Vanillin, Coumarin, Caramel color and a liberal quantity of

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pure vanilla made from the choicest vanilla beans", when in truth and in fact said respondent Maid-O-Best, Inc., has not used "liberal quantities" of "pure vanilla" in the preparation of said alleged "extract", nor vanillin made from vanilla beans, and its flavoring compounds designated as "orange", "lemon", "maple", and "almond" are composed largely of cheap, inferior ingredients, including synthetic chemical substitutes, suspended largely in cheap oils or gum emulsions, instead of ethyl alcohol, recognized as the most valuable and desirable vehicle that can be used in dissolving and preserving food flavorings, and said Maid-O-Best, Inc., flavorings in no manner equal or approach the quality and excellence claimed for them in said respondent's advertising matter.

PAR. 7. Said Maid-O-Best, Inc., further has distributed among its agents and prospective agents in various States advertising circulars announcing various combination "Deals" and containing what purported to be regular retail prices for its products compared with its suggested selling price, such as the following:

Maid-O-Best's Deal No. 2 Housewives' Delight

	Regular retail price	Suggested selling price
8-ounce bottle Vanilla.....	\$1.00	\$0.49
8-ounce bottle Pure Lemon Flavor.....	1.00	.49
2-ounce can Black Pepper.....	.10	.08½
2-ounce can Cinnamon.....	.10	.08½
2-ounce can Mustard.....	.10	.08½
2-ounce can Allspice.....	.10	.08½
	2.40	1.31½

A \$2.40 value

You can sell it for 99 cents

Your profit 50 cents

Maid-O-Best's Deal No. 3. In Demand Everywhere!

	Regular retail price	Suggested selling price
8-ounce bottle Vanilla.....	\$1.00	\$0.49
8-ounce bottle Pure Lemon Flavor.....	1.00	.49
Box Raspberry Gelatin.....	.10	.08½
Box Strawberry Gelatin.....	.10	.08½
Box Cherry Gelatin.....	.10	.08½
Box Lemon Gelatin.....	.10	.08½
	2.40	1.31½

A \$2.40 value

Sells and repeats for 99 cents

Your profit 50 cents

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DEAL No. 4

This extraordinary combination deal has proven itself to be a tremendously fast seller. And why not? The deal includes one 12-ounce bottle of Maid-O-Best pure imitation Vanilla Extract selling regularly at \$1.25 and 10 cakes of extra fine quality Fountain of Youth Soap. Sell the combination for 99 cents. You pay Maid-O-Best 49 cents for the complete deal and you pocket 50 cents in clear profit for yourself.

When in truth and in fact the regular retail prices set forth in such advertisements and advertising matter for the products sold by the company in interstate commerce were and are fictitious and greatly in excess of the prices at which such products are sold or were ever intended or contemplated to be sold in the usual course of trade.

PAR. 8. Said Maid-O-Best, Inc., further, in a circular marked "New Big Free Deal * * *", caused the following statements to appear:

Maid-O-Best products are exceptionally fine quality. They are made of purest ingredients—they are guaranteed to you and to your customers—guaranteed that they will give complete satisfaction, otherwise every penny involved in the purchase price of any of the products is cheerfully refunded. This guarantee is backed by \$3,000 of this company's money which has been deposited in a special account in a big banking institution for this purpose. The guarantee is bona-fide, iron clad—it is your protection for those to whom you sell Maid-O-Best products.

Guaranteed quality. Lower prices to you. Lower prices for your customers. \$3,000 guarantee of quality. This is your assurance of success with Maid-O-Best.

Maid-O-Best, Inc., has deposited in a leading banking institution \$3,000 to back up its iron-clad guarantee of customer-satisfaction or money back. If any question as to quality arises in the minds of your customers don't hesitate to give them the Maid-O-Best guarantee. Don't hesitate to mention that the guarantee is backed by money set aside in the bank.

\$3,000 MONEY BACK GUARANTEE

RAMSEY COUNTY }
THE STATE OF MINNESOTA } SS.

Personally appeared before me G. M. Moses, president of Maid-O-Best, Inc., of St. Paul, Minn., who being duly sworn, deposes and says that he has deposited \$3,000 as a guarantee fund to refund money for the following purposes, viz:

I guarantee all our flavors and extracts to be the same pure, strong, and delicious food flavors that we have sold for many years. Made from the finest of ingredients and will not freeze out or bake out. I guarantee all flavors and extracts to give equal or greater satisfaction than other makes, regardless of the brand or price. I further guarantee all products in the Maid-O-Best line to give satisfaction the customer has a right to expect. Otherwise, we will cheerfully refund purchase price upon return of goods. We have deposited \$3,000.00 in the Western State Bank of St. Paul, Minn., to back up this guarantee.

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The president, being duly sworn, on oath says he is fully acquainted with the facts stated in the foregoing instrument and fully understands the same and acknowledges the signing thereof to be his own true, voluntary act and deed.

Signed at St. Paul, Minn., County of Ramsey, by the president this first day of October, 1932.

(Signed) G. M. MOSES, *President*
MAID-O-BEST, INC.

In testimony whereof, I hereunto affix my signature and Notarial Seal at St. Paul, Minn., this first day of October, 1932.

(Signed) MARIE H. RYAN.
MARIE H. RYAN, *Notary Public*.

[SEAL]

My Commission Expires March 13, 1936.

THIS GUARANTEE IS LEGAL AND BINDING AND IS YOUR PROTECTION

Read our \$3,000 Money Back Guarantee presented to you and to your customers in an affidavit sworn before a commissioned notary public. This guarantee appears on every sales kit. It is your protection and guarantees your customers greater values for their money.

On the outside of the case is imprinted our money back guarantee. This alone will prove highly effective in making sales.

Whereas, in truth and in fact, respondent Maid-O-Best, Inc., has not retained in the Western State Bank of St. Paul, Minn., in a special account or otherwise, as a fund to guarantee Maid-O-Best products and to refund purchase price of the same upon the return of the goods purchased, the said sum of \$3,000 or any other sum, but on the contrary, said Maid-O-Best, Inc., withdrew said cash deposit shortly after it was made, substituted bonds therefor and then withdrew said bonds. Said representations in connection with said guarantee fund are and were further false and misleading in fact in that the flavoring products manufactured by Maid-O-Best, Inc., are not and have not been made from the purest ingredients, and are not and never were pure, strong and delicious.

PAR. 9. In the course of its dealings with Morris Averbach, trading as The Muriel Company, said respondent Maid-O-Best, Inc., became indebted to Morris Averbach for goods purchased from him. Satisfactory progress not being made by Maid-O-Best, Inc., in its business, nor in the matter of the payment of the debt due Morris Averbach, G. M. Moses resigned as president of Maid-O-Best, Inc., gave up such business, and it was taken over in January 1933 by Morris Averbach. Although Maid-O-Best, Inc., has retained its corporate existence, such respondent company has vacated its former place of business and G. M. Moses, its former president, has moved

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over to the premises of The Muriel Company, where he now has office space and is operating as owner of Superwear Hosiery Company. Said G. M. Moses, upon his removal to the premises of The Muriel Company, which had formerly manufactured the products advertised and sold by Maid-O-Best, Inc., turned over and delivered to said Morris Averbach the mailing lists, advertising matter, including cuts, and other properties of Maid-O-Best, Inc.

Since the early part of the year 1933, Morris Averbach, trading under the name of The Muriel Company, has been manufacturing and selling in interstate commerce flavoring compounds and other products of the same kind and character as those theretofore manufactured for and sold by Maid-O-Best, Inc. All flavoring or other products are now made by Morris Averbach, trading as the said Muriel Company, under the same formulae as when Maid-O-Best, Inc., sold them, and are the same in all respects. The said Morris Averbach, trading as The Muriel Company, now uses in connection with the advertising, sale and offering for sale of its products in interstate commerce, the same cuts and advertising matter, periodical and otherwise, which had been theretofore employed, as herein alleged, by Maid-O-Best, Inc., in connection with the false and misleading advertising and sale of Maid-O-Best products in interstate commerce. Said Morris Averbach, trading as The Muriel Company, further has now, and for more than a year last past, has been using "Maid-O-Best" as a trade mark on products sold by him and in advertising and offering said products for sale.

In the course and conduct of his business, Morris Averbach, trading as The Muriel Company, caused the following statements and representations to be printed and circulated in advertising matter intended for and distributed in interstate circulation:

Amazing way to earn big pay.

Up to \$15 every day is easy.

Here's the best of its kind.

Here's big money for you every day.

Sensational food flavoring extract deals.

DECLARATION OF POLICY

The Muriel Company dedicates this book of super-values to the thrifty housewives of America. * * * All our carefully tested products conform with all State and Federal Pure Food Laws. Nothing but the purest and finest of ingredients are used in the manufacture of our products.

We sell all over the United States in large quantities, therefore our purchasing power is great. Our various raw materials and ingredients are purchased in tremendous quantities, thus effecting greater savings which are passed on to you.

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The bearer of this book is an authorized representative of The Muriel Company, and is prepared to give you at once, service for flavoring extracts, * * * you will notice the 5-bottle deal of extracts illustrated in this book.

HIGH QUALITY FLAVORING EXTRACTS FRESH FROM OUR FACTORY

We present herewith 4 great money-saving combination deals for the purchase of the Maid-O-Best brand of high quality flavorings and extracts.

Only the purest of ingredients are used. * * *

DEAL No. 5

	<i>Value</i>
One 4-ounce bottle Vanilla-----	\$0.60
One 4-ounce bottle Lemon-----	.60
One 2-ounce bottle Almond-----	.35
One 2-ounce bottle Orange-----	.50
One 2-ounce bottle Maple-----	.50
Total value-----	2.55

5 FLAVORS ALL FOR 79 CENTS

DEAL No. 10

	<i>Value</i>
One 8-ounce bottle Vanilla-----	\$1.00
One 4-ounce bottle Lemon-----	.60
One 4-ounce bottle Almond-----	.60
One 2-ounce bottle Orange-----	.50
One 2-ounce bottle Maple-----	.50
One pound Choc-O-Toddy Free-----	.50
Total value-----	3.70

5 FLAVORS AND TODDY FOR 97 CENTS

DEAL No. 15

	<i>Value</i>
One 8-ounce bottle Vanilla-----	\$1.00
One 4-ounce bottle Lemon-----	.60
One 2-ounce bottle Almond-----	.35
One 2-ounce bottle Maple-----	.50
Total value-----	2.45

ALL 4 BOTTLES FOR ONLY 79 CENTS

DEAL No. 20

	<i>Value</i>
One 8-ounce bottle Vanilla-----	\$1.00
One 2-ounce bottle Orange-----	.50
One 2-ounce bottle Maple-----	.50
One 4-ounce bottle Hand Lotion-----	.50
Total value-----	2.50

4 BOTTLES FOR ONLY 79 CENTS

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Any 2-ounce size in any of the extract flavoring deals can be replaced

* * *

Extracts—Food flavors	Regular value	Suggested retail	Extracts—Food flavors	Regular value	Suggested retail
		<i>Cents</i>			<i>Cents</i>
Vanilla (12-oz.)-----	\$1. 25	69	Almond (4-oz.)-----	\$0. 60	40
Vanilla (8-oz.)-----	1. 00	48	Almond (2-oz.)-----	. 35	30
Vanilla (4-oz.)-----	. 60	40	Orange (2-oz.)-----	. 40	30
Lemon (8-oz.)-----	1. 00	49	Maple (2-oz.)-----	. 40	30
Lemon (4-oz.)-----	. 60	40			

Choc-O-Toddy manufactured by The Muriel Company is a scientific food concentrate of selected cocoa, skimmed milk, sugar, flavoring, and barley malt extract, ready prepared for a delicious and nourishing chocolate flavored food drink.

When in truth and in fact said statements and representations made by the said Morris Averbach were and are false, deceptive, and misleading in the following, among other particulars:

(1) It is not "easy" nor in fact hardly possible for an agent or representative to "earn up to \$15 every day" nor any day in selling Muriel Company products;

(2) Respondent's food flavors were not and are not "extracts," dissolved and carried in alcoholic solution, but were and are, on the contrary, made and composed of cheap flavoring materials, largely imitation and synthetic, dissolved and carried in cheap emulsions and oils;

(3) The ingredients contained in respondent's flavoring preparations were and are not "high quality" or the "purest and finest";

(4) Respondent's business is a relatively small one and does not and cannot buy the various raw materials in "tremendous quantities" and thereby effect "greater savings which are passed on" to housewives of America;

(5) The "selling prices" or "values" published in connection with so-called "deals" on flavoring compounds numbered 5, 10, 15, 20, and the "regular values" advertised in order blanks for flavoring compounds were and are fictitious and greatly in excess of the prices at which such flavoring compounds were and are sold or were ever intended or contemplated to be sold;

(6) The said product advertised and designated in advertising matter as "Choc-O-Toddy" and as "manufactured by The Muriel Company" is not and never has been manufactured by The Muriel Company;

PAR. 10. Respondents by such false and misleading advertising in interstate commerce have thereby falsely represented to pros-

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pective agents that certain of their products were worth and could be sold for a certain retail price, when in truth and in fact, the said products are not, never have been and never were intended to be sold at any such price or prices, have falsely represented in advertising matter the character, contents and value of flavoring preparations, and said Maid-O-Best, Inc., and G. M. Moses have further made false and misleading statements and representations concerning the aforementioned guarantee fund of \$3,000.

By the use of these false and misleading representations appearing in respondents' circulars and other advertising matter, which representations are passed on to the purchasing public by agents and representatives of respondents, the public are thereby deceived concerning the character, quality and value of respondents' products and thereby induced to purchase such products under the erroneous belief that the same are and were of high-grade quality, containing only ingredients of the purity and excellence claimed for them, and of exceptional value, entitled to be quoted at the fancy prices claimed for them, when such were not the facts. In addition, such false and misleading representations divert trade from and otherwise injure competitors of respondents. The aforesaid practices are further to the detriment and injury of manufacturers and/or sellers of products similar to those sold by respondents, and have and have had the capacity and tendency to divert to respondents the trade of competitors engaged in selling in interstate commerce products of the nature of those sold by respondents. The aforesaid practices of respondents further are detrimental to and tend to demoralize the entire market developed and existing in connection with the business of manufacturing and selling flavoring preparations, are destructive of and create confusion as to proper and honest standards of value, and result in great injury to the business of competitors.

PAR. 11. The above alleged acts and practices done by said respondents, as aforesaid, are all to the prejudice of the public and respondent's competitors, and constitute unfair methods of competition in commerce within the meaning of Section 5 of an Act of Congress to create the Federal Trade Commission, to define its powers and duties, and for other purposes, approved September 26, 1914.

ORDER TO CEASE AND DESIST

Pursuant to the provisions of an Act of Congress approved September 26, 1914 (38 Stat. 717), the Federal Trade Commission, on the 9th day of April, 1934, issued and thereafter served a complaint upon the respondents Maid-O-Best, Inc., a corporation, G. M. Moses, an individual, and Morris Averbach, an individual trading

under the name of The Muriel Company, charging them with the use of unfair methods of competition in interstate commerce in violation of the provisions of said act. With the complaint was served upon respondents a copy of the Commission's Rules of Practice. Said Rules of Practice with respect to answers provide, among other things, as follows:

III. ANSWERS

(2) In case respondent desires to waive hearing on the charges set forth in the complaint and not to contest the proceeding, the answer may consist of a statement that respondent refrains from contesting the proceeding or that the respondent consents that the Commission may make, enter, and serve upon respondent an order to cease and desist from violations of the law alleged in the complaint, or that the respondent admits all the allegations of the complaint to be true. Any such answer shall be deemed to be an admission of all the allegations in the complaint, to waive a hearing thereon, and to authorize the Commission, without trial, without evidence, and without findings as to the facts or other intervening procedure, to make, enter, issue and serve upon respondent:

(a) In cases arising under Section 5 of the Act of Congress approved September 26, 1914, * * * an order to cease and desist from the violation of law charged in the complaint.

Whereupon on May 14, 1934, the respondents entered their appearance and filed answers to the Commission's complaint of April 9, 1934, admitting certain allegations of said complaint and denying certain others, and thereafter on the 27th day of August 1934 having filed amended answers in which they request permission to withdraw their said original answers theretofore filed on May 14, 1934, and to substitute therefor amended answers to the Commission's complaint herein entered on the 9th day of April 1934 as aforesaid, and in which amended answers they consent that, under paragraph 2 of Rule III of the Commission's Rules of Practice, the Commission may make, enter and serve upon them, and each of them, an order to cease and desist from the methods of competition alleged in said complaint.

Pursuant to its Rules of Practice, the Commission finds that such amended answers are admissions of all the allegations of the complaint, and a waiver of hearing thereon, and authorize the Commission, without trial, without evidence, and without findings as to facts, or other intervening procedure, to make, enter, issue and serve upon respondents an order to cease and desist from the violations of law alleged in the complaint.

The Commission having duly considered the said amended answers and being fully advised in the premises:

Now, therefore, it is hereby ordered, That the said requests to withdraw the said original answers and substitute therefor the said

amended answers be and the same are hereby granted and that the said amended answers be and same are hereby filed in substitution therefor.

And it is further ordered, That the respondent Maid-O-Best, Inc., a corporation, its officers, agents, servants, and employees and respondent G. M. Moses individually and his agents, servants, and employees, in connection with the advertising, offering for sale and sale in interstate commerce and in the District of Columbia, of flavoring compounds, foodstuffs, toilet articles, household goods and novelties forthwith cease and desist from:

1. Representing by photographs or in any other way that J. M. Gebhardt, a fictitious person, or any other fictitious person is a director of sales of Maid-O-Best, Inc.

2. Representing that Maid-O-Best, Inc., has a national sales organization until and unless said Maid-O-Best, Inc., actually has and maintains a selling organization through and by which sales are made by said Maid-O-Best, Inc., generally throughout the United States.

3. Representing that said Maid-O-Best, Inc., is the manufacturer of the products which it sells until and unless said Maid-O-Best, Inc., operates, owns, or controls a factory or factories in which are made the products in which it deals.

4. Using in their advertising matter the words "Manufactured only by Maid-O-Best, Inc., St. Paul, Minnesota, U. S. A." or any other word or words of similar import until and unless said Maid-O-Best, Inc., manufactures the products in which it deals, or owns, operates or controls a factory or factories in which said products are made.

5. Using the term "vanilla extract" to describe a flavoring product unless prepared with a vehicle of ethyl alcohol and containing a flavoring content at least fifty per cent of which shall consist of true vanilla made from the vanilla bean.

6. Representing that respondents' so-called vanilla extract has no equal for quality or that it is the finest available at any price or that it is composed of vanillin, coumarin, caramel color and a liberal quantity of pure vanilla made from the choicest vanilla beans unless and until a liberal quantity of pure vanilla, made from vanilla beans, is actually used in the preparation of said alleged extract, the whole suspended or carried in a vehicle of ethyl alcohol.

7. Using the words "orange", "lemon", "maple", and "almond" in combination or connection with the word "extract" until and unless the products is composed of genuine ingredients, as distin-

guished from synthetic chemical substitutes, and such ingredients are suspended in ethyl alcohol.

8. Representing in case of food flavoring or other products, sold in combination deals or otherwise, "regular retail prices" which were and are fictitious and greatly in excess of the prices at which such or similar products are usually sold or were intended to be sold, and representing to buyers values greatly in excess of the values of such or similar products.

9. From making any other false, deceptive or misleading representations of the same or similar tenor and import, particularly representations which import or imply that products are sold at prices that do not afford the seller a profit.

10. Representing that a special account of \$3,000 or any other amount represented to be used to cover refunds for returned Maid-O-Best products is deposited in the Western State Bank of St. Paul, Minn., or in any other financial institution until and unless said sum be actually deposited and maintained on deposit in such bank or other financial institution and there kept available in liquid form for the said purpose.

It is hereby further ordered, That the respondent Morris Averbach individually and trading as The Muriel Company, his agents, servants, and employees, in connection with the advertising, offering for sale and sale of flavoring compounds, foodstuffs, toilet articles, household goods and novelties among the several States of the United States and in the District of Columbia forthwith cease and desist from:

1. Representing that it is easy for agents or representatives to "earn up to \$15 every day in selling Muriel Company products."

2. Designating any so-called food flavors as extracts until and unless they are genuine extracts dissolved and carried in alcoholic solution.

3. Representing that cheap, inferior ingredients contained in flavoring preparations are of "high quality" and "purest and finest."

4. Representing that the said respondent buys his raw materials in "tremendous quantities" and from representing that "greater savings" are thereby "passed on" to housewives of America, until and unless said statements are true in fact.

5. Representing that the product "Choc-O-Toddy" or any other product is manufactured by The Muriel Company until and unless said product is manufactured by said respondent in or by a factory owned, operated or controlled by the said respondent.

6. Representing in case of food flavoring or other products sold in combination deals or otherwise selling prices to consumers which

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Order

were and are fictitious and greatly in excess of the prices at which such or similar products are usually sold or were intended to be sold, and representing "retail values" greatly in excess of the values of such or similar products.

7. From making any other false, deceptive or misleading representations of the same or similar tenor and import, particularly representations concerning the value and quality of products and representations which import or imply that products are sold at prices that do not afford the seller a profit.

It is further ordered, That respondents within 60 days from and after the date of service upon them of this order shall file with the Commission a report, or reports, in writing, setting forth in detail the manner and form in which they are complying with the order to cease and desist hereinabove set forth.

Complaint

19 F. T. C.

IN THE MATTER OF

GRIFFIN GROCERY COMPANY, J. T. GRIFFIN, BRYAN
COLE, AND BRYAN MATHESCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2230. Complaint, Sept. 15, 1934—Decision, Nov. 5, 1934*

Where a wholesale grocery corporation engaged in manufacture and sale of a baking powder under the name "Hi-Lo"; and several individuals, its general officers, purported to demonstrate leavening effect of said powder through so-called water glass test, i. e., amount and duration of effervescence following addition thereto of water, and, in order to deceive and mislead purchasing public and disparage competitive products, advised such test thereon, facts being that effervescence resulting as aforesaid constituted no measure of leavening effect of said powders, but was due to inclusion, for said purpose alone, of small proportion of dried white of egg in product in question, the leavening properties of which were not changed thereby; with capacity and tendency to and probable effect of misleading and deceiving purchasing public as to inherent leavening properties and excellence of their said powder and presence of such qualities in products of competitors, certain of whom do not incorporate in their otherwise similarly composed powders the white of egg, and of diverting trade to them from their said competitors, lessening competition between them, and tending to create a monopoly in them in said line of commerce: *Held*, That such practices were to be prejudice of the public and to competitors, and constituted unfair methods of competition.

Mr. Robt. N. McMillen for the Commission.

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 Griffin Grocery Company, a corporation, and J. T. Griffin, Bryan Cole, and Bryan Mathes, as individuals, have been and are using unfair methods of competition in commerce, as "commerce" is defined in said act, and it appearing to said Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Griffin Grocery Company is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Oklahoma. Respondents J. T. Griffin, Bryan Cole, and Bryan Mathes are respectively president, vice president, and secretary of said respondent corporation and as such are able