

IN THE MATTER OF
**THOMAS R. MOSS, INDIVIDUALLY, AND TRADING AS
OKEENA NOVELTY COMPANY AND MANUFACTURERS
SALES COMPANY**

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

Docket 3332. Complaint, Feb. 10, 1938—Decision, Apr. 9, 1938

Where an individual engaged in offer and sale of radios, bridge sets, mixers, dishes, grill sets, and other articles of merchandise to purchasers in the various States and in the District of Columbia—

- (a) Sold and distributed his products through merchandising plan involving distribution of advertising literature, push cards, order blanks, advertisements illustrating his products, and circulars explaining his said plan, under which particular article or articles included, as set forth on cards' explanatory legends, were awarded to player successful in selecting by chance, from feminine names displayed thereon, particular name revealed, after sale of chances, by removal of master seal, at cost to said player of particular chance, as determined by number punched, and card's number price scale, thereon displayed, and under which operators of said cards were compensated by receipt of such merchandise;

With result that purchasing public was thus induced to buy pushes in hope of selecting prize-winning name or number and thereby obtaining article of merchandise of greater value than amount paid, as likewise determined by lot or chance, and many persons, attracted by his aforesaid method and element of chance involved in sale of his said merchandise, as above set forth, were induced to buy and sell same in preference to that offered and sold by said competitors, who do not use same or equivalent methods, and with further result of supplying means of conducting lotteries in sale of his merchandise in furnishing such push cards to operators thereof, in violation of long standing public policy of common law and criminal statutes and that of United States Government, and with effect of unfairly diverting to said individual trade and custom from competitors, including many who are unwilling to adopt and use such or any method involving game or sale of chance to win by chance, or other method contrary to public policy, and refrain therefrom, and with capacity and tendency so to divert; and

- (b) Included word "Manufacturers" in one of trade names employed by him in carrying on a part of his said business, and also used said word and word "Factories" in such phrases as "Associated Factories" and "Manufacturers and Distributors," in conjunction with or separate from trade name, to describe his said business, and in soliciting sales of his said products, and displayed said trade name and aforesaid words and phrases on letterheads, envelopes, catalogs, circulars, and other matter distributed to customers and prospective customers;

Notwithstanding fact that he did not, either independently or in association with others, make products sold by him, and had never done so, and did not own or operate or directly control or have any interest in, any mill or factory wherein such products were made, but filled orders received by him from factories and mills which he neither owned, operated, nor controlled;

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With effect of misleading and deceiving purchasers by causing them to believe that he actually owned and operated, independently or in association with others, or directly controlled, factories or mills in which products sold by him were made, or that he himself made same, and, on account of such belief, of causing purchasers, certain of whom prefer to buy directly from manufacturer by reason of advantages, including price, uniformity and reliability believed to inhere in such purchasing, to buy said products, and of unfairly diverting trade to him from individuals and concerns who actually manufacture their products, or who sell and distribute same between and among various States and in District of Columbia and do not falsely represent themselves to be manufacturers or mill operators:

Held, That such acts and practices were all to the prejudice and injury of the public and competitors and constituted unfair methods of competition.

Mr. Henry C. Lank and Mr. P. C. Kolinski for the Commission.

Mr. C. P. Moss, of Dyersburg, Tenn., 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 Thomas R. Moss, individually, and trading as Okeena Novelty Company, and Manufacturers Sales Company, hereinafter referred to as respondent, has been and is 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 its complaint stating its charges in that respect as follows:

PARAGRAPH 1. The respondent is an individual trading under the names and styles of Okeena Novelty Company and Manufacturers Sales Company, with his principal office and place of business located on West Court Street, in the city of Dyersburg, Tenn. Respondent is now, and for some time last past has been, engaged in offering for sale and selling radios, bridge sets, mixers, dishes, grill sets, and other articles of merchandise, to purchasers thereof located in the various States of the United States and in the District of Columbia. He causes and has caused said merchandise when sold to be shipped or transported from his place of business in the State of Tennessee into and through other States of the United States and the District of Columbia to purchasers thereof at their respective points of location. There is now, and has been for some time last past, a course of trade and commerce by said respondent in such merchandise between and among the various States of the United States and in the District of Columbia. In the course and conduct of his business respondent is in competition with other individuals and with part-

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nerships and corporations engaged in the sale and distribution of like and similar articles of merchandise, in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of his business, as described in paragraph 1 hereof, respondent, in soliciting the sale of and in selling and distributing his merchandise, has furnished various devices and plans of merchandising which involve the operation of games of chance, gift enterprises, or lottery schemes, by which said merchandise is distributed to the ultimate consumers thereof wholly by lot or chance. The method and sales plan adopted and used by respondent was, and is, substantially as follows:

Respondent causes and has caused to be distributed to the purchasing public, through the United States mails in interstate commerce, certain advertising literature, including, among other things, push cards, order blanks, advertisements containing illustrations of his merchandise, and circulars explaining respondent's plan of selling said merchandise and of allotting it as premiums or prizes to the operators of the push cards. Said push cards bear a number of feminine names, with a blank space opposite each for writing in the name of the customer. Said push cards have a corresponding number of partially perforated discs, on each of which is printed one of the feminine names printed alphabetically elsewhere on the cards. Concealed within each disc is a number, which is disclosed when the disc is pushed or separated from the card. The push cards have a master seal, concealed within which is one of the feminine names appearing elsewhere on the said cards. The push card bears printed legends or instructions, one of which is as follows:

SELECT YOUR FAVORITE
GIRL'S NAME
AND RECEIVE A
MOSS DELUXE CARD TABLE
WITH "BUILT-IN" COMBINATION
ASHTRAYS and COASTERS

1¢ to 25¢
NO HIGHER

Nos. From 1 to 25
PAY WHAT YOU DRAW
Nos. Over 25
Pay Only 25¢
Write Players Name on Back
Opposite Name Selected

Sales of respondent's products by means of said push cards are made in accordance with the specified legends or instructions. Said articles of merchandise sold and distributed by respondent vary in value, but each of said articles of merchandise is of greater value than the cost of a single push from said push cards. The purchasing public is thus induced and persuaded to purchase pushes from said cards in the hope that they may select a prize-winning name or number and thus obtain an article of merchandise of a greater value than the amount paid. The various articles of merchandise are thus distributed to the purchasing public wholly by lot or chance, and the amount which the customer pays for a chance is also determined wholly by lot or chance. Respondent furnishes his representatives with additional printed instructions or suggestions for using said push cards. One of said printed instructions bears the following legend, to wit:

INSTRUCTIONS: There are 45 mixed numbers in this card, printed from 1 upwards. Numbers under 25 pay what number calls for. All numbers over 25 pay only 25¢. When card is completely sold, open large seal at top, and person selecting name under seal, and person selling this card, each receive a Moss DeLuxe Card Table, with 2 Bilt-In Combination Ash Trays and Coasters. Tables with 4 Bilt-In Combination Ash Trays and Coasters can be had, if desired, for 50¢ extra per table.

TOTAL \$10.00

Respondent furnishes or sells various push cards for use in the sale and distribution of his merchandise by means of a game of chance, gift enterprise or lottery scheme. Said push cards are similar and vary in detail, but the above described plan or method is illustrative of the principle involved.

PAR. 3. The persons to whom respondent furnishes the said push cards use the same in purchasing, selling, and distributing respondent's merchandise in accordance with the aforesaid sales plan. Respondent thus supplies to and places in the hands of others the means of conducting lotteries in the sale of his merchandise in accordance with the sales plan hereinabove set forth. The use by respondent of said method in the sale of his merchandise, and the sale of such merchandise by and through the use thereof and by the aid of said method, is a practice of the sort which the common law and criminal statutes have long deemed contrary to public policy and is contrary to an established public policy of the Government of the United States.

PAR. 4. The sale of merchandise to the purchasing public in the manner above alleged involves a game of chance or the sale of a chance to procure an article of merchandise at a price much less than

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the normal retail price thereof. Many persons, firms, and corporations who sell or distribute merchandise in competition with the respondent, as above alleged, are unwilling to adopt and use said method or any method involving a game of chance or the sale of a chance to win something by chance, or any other method that is contrary to public policy, and such competitors refrain therefrom. Many persons are attracted by respondent's said method and by the element of chance involved in the sale thereof, in the manner above described, and are thereby induced to buy and sell respondent's merchandise in preference to merchandise offered for sale and sold by said competitors of respondent who do not use the same or an equivalent method. The use of said method by respondent, because of said game of chance, has the tendency and capacity to, and does, divert trade and custom to respondent from his said competitors who do not use the same or an equivalent method.

PAR. 5. In the course and conduct of his business, as hereinabove described, respondent has included within one of his trade names, Manufacturers Sales Company, under which to carry on a part of his business, the word "Manufacturers." Respondent has also used and is using the word "factories" within the phrase "associated factories," and the word "manufacturers" within the phrase "manufacturers and distributors," in conjunction with, or separate from, his said trade names, with which to describe his said business. Respondent has used continuously for some time last past, and is now using, said trade name containing the word "Manufacturers," and has likewise used the words "associated factories" and "manufacturers and distributors," in soliciting the sale of and selling his products in commerce as hereinabove described. Respondent has caused his said trade name, Manufacturers Sales Company, and the words "associated factories" and "manufacturers and distributors" to appear on his letterheads, envelopes, catalogs, circulars, and other matter. All of said printed matter has been, and is, distributed in and among the various States to customers and prospective customers of the respondent. Such statements and designations serve as representations that respondent owns, operates, or controls the factory or mill wherein the products which he sells are manufactured, and that the respondent is associated with others in the manufacture of his said products.

In truth and in fact, said respondent does not, either independently or in association with others, make or manufacture the products sold by him, nor has he ever made or manufactured said products, either independently or in association with others. Respondent does not own or operate, or directly and absolutely control, or have any interest in any mill or factory wherein the products sold by him

are made or manufactured. Respondent has, at all times referred to herein, filled, and now fills, orders received by him with products made or manufactured in factories or mills which he does not own, operate, or control.

PAR. 6. There is a preference on the part of certain purchasers or prospective purchasers located in different States of the United States and in the District of Columbia for buying said products and like or similar products directly from the manufacturer or mill producing the same. There is an impression and belief existing among certain of said purchasers or prospective purchasers of said products that a saving of the middleman's profit may be obtained, that a more uniform line of goods may be purchased, and that an advantage is obtained by purchasing goods directly from a manufacturer or a mill operator. Said purchasers or prospective purchasers also believe that more reliance can be placed on a manufacturer or mill operator with regard to carrying out of contracts than can be placed upon one not a manufacturer or mill operator, and that dealing with a manufacturer or mill operator is preferable and more advantageous to the purchaser than is dealing with one not a manufacturer or mill operator. The use by the respondent of the words "manufacturers," "manufacturers and distributors," and "associated factories," as described hereinabove, has a tendency and capacity to mislead and deceive purchasers by causing them to believe that the respondent, independently or in association with others, actually owns and operates, or directly and absolutely controls, the factories or mills in which the products sold by respondent are made or manufactured, or that respondent himself makes or manufactures his products, and to purchase respondent's products on account of such beliefs. The aforesaid representations by respondent have a tendency and capacity to, and do, unfairly divert trade to respondent from individuals, partnerships and corporations who are actually manufacturing products like or similar to the products of respondent, or who sell and distribute like or similar products, both of which classes sell their respective products in commerce among and between the various States of the United States and in the District of Columbia, and who do not represent themselves to be manufacturers or mill operators when they are not such in fact.

PAR. 7. The aforesaid acts and practices of respondent are all to the injury and prejudice of the public and of respondent's competitors and constitute unfair methods of competition in commerce within the intent and meaning 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."

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on February 10, 1938, issued, and thereafter served, its complaint in this proceeding upon the respondent Thomas R. Moss, individually, and trading as Okeena Novelty Company and Manufacturers' Sales Company, charging him with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer, the Commission, by order entered herein, granted respondent's request for permission to withdraw said answer and substitute therefor a substitute answer admitting all the material allegations of the complaint to be true and waiving the taking of further evidence and all other intervening procedure, which substitute answer was duly filed in the office of the Commission. Thereafter this proceeding regularly came on for final hearing before the Commission on the said complaint and the substitute answer, and the Commission, having duly considered the matter and being now 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 its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent is an individual trading under the names and styles of Okeena Novelty Company and Manufacturers' Sales Company, with his principal office and place of business located on West Court Street, in the city of Dyersburg, Tenn. Respondent is now, and for some time last past has been, engaged in offering for sale and selling radios, bridge sets, mixers, dishes, grill sets, and other articles of merchandise, to purchasers thereof located in the various States of the United States and in the District of Columbia. He causes and has caused said merchandise when sold to be shipped or transported from his place of business in the State of Tennessee into and through the various States of the United States and the District of Columbia to purchasers thereof at their respective points of location. There is now, and has been for some time last past, a course of trade and commerce by said respondent in such merchandise between and among the various States of the United States and in the District of Columbia. In the course and conduct of his business, respondent is in competition with other individuals and with partnerships and corporations engaged in the sale and distribution of like and similar articles of merchandise, in commerce between and among the various States of the United States and in the District of Columbia.

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PAR. 2. In the course and conduct of his business, as described in paragraph 1 hereof, respondent, in soliciting the sale of and in selling and distributing his merchandise through interstate commerce, has furnished various devices and plans of merchandising which involve the operation of games of chance, gift enterprises or lottery schemes, by which said merchandise is distributed to the ultimate consumers thereof wholly by lot or chance. The method and sales plan adopted and used by respondent was, and is, substantially as follows:

Respondent causes and has caused to be distributed to the purchasing public, through the United States mails in interstate commerce, certain advertising literature, including, among other things, push cards, order blanks, advertisements containing illustrations of his merchandise, and circulars explaining respondent's plan of selling said merchandise and of allotting it as premiums or prizes to the operators of the push cards. Said push cards bear a number of feminine names, with a blank space opposite each for writing in the name of the customer. Said push cards have a corresponding number of partially perforated discs, on each of which is printed one of the feminine names printed alphabetically elsewhere on the cards. Concealed within each disc is a number, which is disclosed when the disc is pushed or separated from the card. The push cards have a master seal, concealed within which is one of the feminine names appearing elsewhere on the said cards. The push cards bear printed legends or instructions, one of which is as follows:

SELECT YOUR FAVORITE
GIRL'S NAME
AND RECEIVE A
MOSS DELUXE CARD TABLE
WITH "BILT-IN" COMBINATION
ASHTRAYS and COASTERS

1¢ to 25¢
NO HIGHER

Nos. From 1 to 25
PAY WHAT YOU DRAW
Nos. Over 25
Pay Only 25¢
Write Players Name on Back
Opposite Name Selected

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Sales of respondent's products by means of said push cards are made in accordance with the specified legends or instructions. Said articles of merchandise sold and distributed by respondent vary in value, but each of said articles of merchandise is of greater value than the cost of a single push from said push cards. The purchasing public is thus induced and persuaded to purchase pushes from said cards in the hope that they may select a prize-winning name or number and thus obtain an article of merchandise of a greater value than the amount paid. The various articles of merchandise are thus distributed to the purchasing public wholly by lot or chance, and the amount which the customer pays for a chance is also determined wholly by lot or chance. Respondent furnishes his representatives with additional printed instructions or suggestions for using said push cards. One of said printed instructions bears the following legend, to wit:

INSTRUCTIONS: There are 45 mixed numbers in this card, printed from 1 upwards. Numbers under 25 pay what numbers call for. All numbers over 25 pay only 25¢. When card is completely sold, open large seal at top, and person selecting name under seal, and person selling this card, each receive a Moss DeLuxe Card Table, with 2 Bilt-In Combination Ash Trays and Coasters. Tables with 4 Bilt-In Combination Ash Trays and Coasters can be had, if desired, for 50¢ extra per table.

TOTAL \$10.00

Respondent furnishes or sells various push cards for use in the sale and distribution of his merchandise by means of a game of chance, gift enterprise or lottery scheme. Said push cards are similar, varying only in detail, and the above described plan or method is illustrative of the principle involved.

PAR. 3. The persons to whom respondent furnishes the said push cards use the same in purchasing, selling, and distributing respondent's merchandise in accordance with the aforesaid sales plan. Respondent thus supplies to and places in the hands of others the means of conducting lotteries in the sale of his merchandise in accordance with the sales plan hereinabove set forth. The use by respondent of said method in the sale of his merchandise, and the sale of such merchandise by and through the use thereof and by the aid of said method, is a practice of the sort which the common law and criminal statutes have long deemed contrary to public policy and is contrary to an established public policy of the Government of the United States.

PAR. 4. The sale of merchandise to the purchasing public in the manner above found involves a game of chance or the sale of a chance to procure an article of merchandise at a price much less than the

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normal retail price thereof. Many persons, firms, and corporations who sell or distribute merchandise in competition with the respondent, as above found, are unwilling to adopt and use said method or any method involving a game of chance or the sale of a chance to win something by chance, or any other method that is contrary to public policy, and such competitors refrain therefrom. Many persons are attracted by respondent's said method and by the element of chance involved in the sale thereof, in the manner above found, and are thereby induced to buy and sell respondent's merchandise in preference to merchandise offered for sale and sold by said competitors of respondent who do not use the same or an equivalent method. The use of said method by respondent, because of said game of chance, has the tendency and capacity to, and does, unfairly divert trade and custom to respondent from his said competitors who do not use the same or an equivalent method.

PAR. 5. In the course and conduct of his business, as hereinabove described, respondent has included within one of his trade names, Manufacturers' Sales Company, under which to carry on a part of his business, the word "Manufacturers'." Respondent has also used and is using the word "factories" within the phrase "associated factories," and the word "manufacturers" within the phrase "manufacturers and distributors," in conjunction with, or separate from, his said trade names, with which to describe his said business. Respondent has used continuously for some time last past, and is now using, said trade name containing the word "Manufacturers'," and has likewise used, and is now using, the words "associated factories" and "manufacturers and distributors," in soliciting the sale of and selling his products in commerce as hereinabove found. Respondent has caused his said trade name, Manufacturers' Sales Company, and the words "associated factories" and "manufacturers and distributors" to appear on his letterheads, envelopes, catalogs, circulars, and other matter. All of said printed matter has been, and is, distributed in and among the various States of the United States to customers and prospective customers of the respondent. Such statements and designations serve as representations that respondent owns, operates, or controls the factory or mill wherein the products which he sells are manufactured, and that the respondent is associated with others in the manufacture of his said products.

In truth and in fact, said respondent does not, either independently or in association with others, make or manufacture the products sold by him, nor has he ever made or manufactured said products, either independently or in association with others. Respondent does not own or operate, or directly and absolutely control, or have any inter-

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est in any mill or factory wherein the products sold by him are made or manufactured. Respondent has, at all times found herein, filled, and now fills, orders received by him with products made or manufactured in factories or mills which he does not own, operate, or control.

PAR. 6. There is a preference on the part of certain purchasers and prospective purchasers located in the various States of the United States and in the District of Columbia for buying said products and like or similar products directly from the manufacturer or mill producing the same. There is an impression and belief existing among certain of said purchasers and prospective purchasers of said products that a saving of the middleman's profit may be obtained, that a more uniform line of goods may be purchased, and that an advantage is obtained by purchasing goods directly from a manufacturer or mill operator. Said purchasers and prospective purchasers also believe that more reliance can be placed on a manufacturer or mill operator with regard to carrying out of contracts than can be placed upon one not a manufacturer or mill operator, and that dealing with a manufacturer or mill operator is preferable and more advantageous to the purchaser than is dealing with one not a manufacturer or mill operator. The use by the respondent of the words "manufacturers," "manufacturers and distributors," and "associated factories," as found hereinabove, has a tendency and capacity to mislead and deceive, and has misled and deceived, purchasers by causing them to believe that the respondent, independently or in association with others, actually owns and operates, or directly and absolutely controls, the factories or mills in which the products sold by respondent are made or manufactured, or that respondent himself makes or manufactures his products, and to purchase respondent's products on account of such beliefs. The aforesaid representations by respondent have a tendency and capacity to, and do, unfairly divert trade to respondent from individuals, partnerships, and corporations who are actually manufacturing products like or similar to the products of respondent, or who sell and distribute like or similar products, both of which classes sell their respective products in commerce between and among the various States of the United States and in the District of Columbia, and who do not represent themselves to be manufacturers or mill operators when they are not such in fact.

CONCLUSION

The aforesaid acts and practices of respondent, Thomas R. Moss, individually and trading as Okeena Novelty Company, and Manufacturers' Sales Company, are all to the injury and prejudice of the

public and of respondent's competitors and constitute unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the substitute answer of respondent admitting all the material allegations of the complaint to be true and waiving the taking of further evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Thomas R. Moss, individually, and trading as Okeena Novelty Company and Manufacturers' Sales Company, or trading under any other name, his agents, representatives, and employees, in connection with the offering for sale, sale, and distribution of radios, bridge sets, mixers, dishes, grill sets, or any other article of merchandise, in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

1. Supplying to or placing in the hands of others, push or pull cards, punchboards or other lottery devices, for the purpose of enabling such persons to dispose of or sell such or similar products by the use thereof;
2. Mailing, shipping or transporting to his agents or to distributors or to members of the public, push or pull cards, punchboards or other lottery devices so prepared or printed as to enable said persons to sell or distribute such or similar products by the use thereof;
3. Selling or otherwise disposing of such or similar products by the use of push or pull cards, punchboards or other lottery devices;
4. Representing, through the use of the word "manufacturers" in his trade names or in any other printed matter, or through the use of the word "factories" or through the use of any words or terms of similar import and meaning, or through any other means or devices or in any manner, that said respondent is the manufacturer of the products sold by him, unless and until respondent actually owns and operates, or directly and absolutely controls, a manufacturing plant wherein said products are manufactured by him.

It is further ordered, That, within 60 days from the date of the service of this order upon said respondent, he shall file with the Commission a report in writing setting forth in detail the manner and form in which this order has been complied with.

IN THE MATTER OF
JACOB STEIN, TRADING AS CLIMAX RUBBER COMPANY

COMPLAINT, MODIFIED FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914¹

Docket 2303. Complaint, Feb. 20, 1935—Decision, Apr. 13, 1938¹

Where an individual engaged in offer and sale of certain rubber, sanitary, and waterproof specialties, including infant bibs, baby pants, and crib sheets; in describing same in certain advertisements, pamphlets, and booklets—

(a) Represented that they were antiseptic and actually killed bacteria and germs, facts being that while they did have antiseptic properties and combatted growth of germs and bacteria which came in direct contact with them under normal conditions of use, and had power to inhibit to a large extent growth and activity of bacteria brought in such contact, and to kill many such germs and bacteria, they did not actually thus kill all germs and bacteria;

(b) Represented that said products were antiacid and neutralized perspiration and other body wastes and completely deodorized all odors, facts being that while they had property of neutralizing, to a substantial extent, odor of such wastes when brought in close contact with them under normal conditions of use and had deodorant properties in combatting obnoxious odors developing from fermentation or putrefaction of such wastes when brought in such contact as aforesaid, they were not completely effective so as to deodorize and neutralize all such odors;

With tendency and capacity to mislead and deceive purchasing public into erroneous and mistaken beliefs that said products actually killed all germs and bacteria and were completely effective in neutralizing odors as aforesaid, and would completely deodorize all such odors, irrespective of their origin or character, and into purchase of substantial quantities of said products in and on account of such erroneous and mistaken beliefs, induced as aforesaid, and with result of furnishing to dealers in its said products means and instrumentality whereby they might misrepresent true nature and character of same and extent to which they were effective in use, and increase sale thereof to purchasing public thereby, and with tendency and capacity unfairly to divert trade to him from competitors who do not make use of any such misleading statements and representations with respect to nature and effectiveness in use of their respective competitive products:

Held, That such acts and practices were to the prejudice and injury of the public and competitors and constituted unfair methods of competition.

Before *Mr. William C. Reeves*, trial examiner.

Mr. Edw. W. Thomerson for the Commission.

Mr. Nathaniel Phillips, of New York City, for respondent.

¹ See, for original findings and order, 22 F. T. C. 24.