

Order

27 F. T. C.

IN THE MATTER OF

MIDWEST PUBLISHING COMPANY, AND WALTER H. GORHAM, INDIVIDUALLY AND AS PRESIDENT OF MIDWEST PUBLISHING COMPANY

MODIFYING CEASE AND DESIST ORDER

Docket 2893. Order, July 26, 1938

Order modifying cease and desist order entered against aforesaid respondents in Docket 2893, on March 18, 1938, 26 F. T. C. 939, prohibiting certain misrepresentations by said respondents, their officers, etc., in connection with offer, sale, and distribution of books known as and sold under name "Modern American Encyclopedia," and extension service sold in connection therewith, and other books, as hereinbelow set forth.

Before *Mr. John W. Norwood*, trial examiner.

Mr. Wm. T. Chantland for the commission.

MODIFIED ORDER TO CEASE AND DESIST

This matter having been heard by the Federal Trade Commission upon the motion of W. T. Kelley, chief counsel for the Commission, to modify the order to cease and desist issued in this proceeding on March 18, 1938, and the Commission having considered said motion and the record, and being now fully advised in the premises.

It is ordered, That the order to cease and desist issued herein on March 18, 1938, be modified so as to read as follows:

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission (no answer having been filed by respondents), testimony and other evidence taken before John W. Norwood, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, and brief by counsel for the Commission, and the Commission having made its findings as to the facts and its conclusion that said respondents have 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 ordered, That the respondents, Midwest Publishing Co., a corporation, and its officers, and Walter H. Gorham, individually, and their respective representatives, agents, and employees, in connection with the offering for sale, sale, and distribution of books, now known as and sold under the name, "Modern American Encyclopedia" and the extension service sold in connection therewith,

and of other books, in interstate commerce or in the District of Columbia, do cease and desist from representing, directly or indirectly, or through any corporate or other device:

1. Through the use of the word "Modern" or any other word or words of similar import and meaning, in the title of said books, or in the corporate or trade name used in connection with the sale thereof, or in any other manner, that said books are a new, modern, up-to-date encyclopedia or reference work, or that they have been, and are, kept up-to-date, when such are not the facts.

2. That any person or persons, especially those prominent in particular fields of learning, have contributed substantially or at all to any revision of said so-called "Modern American Encyclopedia," when such is not the fact.

3. That respondents furnish any extension service of a kind or character that will keep said "Modern American Encyclopedia" up-to-date, unless and until they furnish such service.

4. That the regular price for which respondents will furnish to the purchaser of said "Modern American Encyclopedia" an annual extension service is greater than the price at which said extension service is actually and usually sold.

5. That respondents furnish any specified character of extension service for any specified term of years, when such is not the fact.

6. That the regular prices at which said so-called "Modern American Encyclopedia" and services are habitually and generally offered are special prices or reduced prices offered only to a selected list of persons, for special reasons.

7. That other allegedly valuable books offered in connection with said "Modern American Encyclopedia" are given free or as a gratuity when in fact the price named includes payment at a profit for all of the books so offered and delivered.

8. That any price that a purchaser will be required to pay for the books and services offered and sold is different from the total price which respondents actually collect or attempt to collect.

9. That any prospect has been recommended to receive a set of said so-called "Modern American Encyclopedia" or other books and services in connection therewith at a special price, or as a free gift, or in return for a testimonial letter, when any of said representations are untrue.

It is further ordered. That the respondents shall, within 60 days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF
NATIONAL SILVER COMPANY

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

Docket 2111. Complaint, Sept. 29, 1933¹—Decision, July 29, 1938

Where a corporation, engaged in sale and distribution of knives and other cutlery and tableware to jobbers, wholesale and retail dealers in cutlery, chain stores, hardware stores, department stores, and house-furnishing stores, with branch sales offices in Chicago and Los Angeles; in competition with others who made and sold similar products and used word "stainless" only as a mark, brand, or stamp for, or in advertising such products made of the chrome-iron alloy, stainless steel, and truthfully used words or terms "chromium plate" or "chromium plated" to indicate a carbon steel product plated with chromium, and did not employ such word as "stainpruf" as a stamp, brand, or mark for, or in advertising such chromium-plated articles that were not in fact stainproof and corrosion resistant;

(a) Stamped its aforesaid products, regardless of whether made from carbon steel or chromium-alloyed steel, with word "stainless," in utter disregard of well established trade custom among cutlery manufacturers, silversmiths and trade generally, of using said word to designate cutlery made from chromium-alloyed steel, and failed to inform purchasers as to whether or not its said products were chromium plated, or were in fact made of the said more costly solid stainless steel, as long understood by trade and ultimate purchasers from word "stainless," as meaning, as applied to knives, cutlery, and tableware, said high-grade type of chromium steel alloy, with its high degree of resistance to oxidation and corrosion against most media, and as used by manufacturers and distributors in their catalogs and advertising materials to designate only those products made of stainless steel, as aforesaid;

With result that purchasers, in view of the almost identically similar appearance of the two kinds of products, purchased its chromium-plated knives and other flat tableware of inferior quality as and for products, metallic parts of which were made of solid alloyed or stainless steel, and were not the cheaper carbon steel articles, with utterly thin and inadequate chromium plating, and notorious amenability to corrosive influence and quality of rusting rapidly in presence of water, dampness, acids or similar agents; and

(b) Sold and distributed carbon steel, chromium-plated knives, marked "stainpruf," made of carbon steel, plated as above set forth, notwithstanding fact that said products were extremely susceptible to corrosion, and were not in fact stainless in any sense, and were further subject to corrosion by reason of tendency of plating to break through sharpening or other abrasive action, etc., and in its advertising of its said "Stainpruf" products as guaranteed against staining by acids contained in vegetables, fruits,

¹ Amended and supplemental.