

Synopsis
IN THE MATTER OF

HARRY J. SNYDERMAN TRADING AS ACE PREMIUM
COMPANY

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

Docket 3581. Complaint, Sept. 12, 1933—Decision, Jan. 25, 1939

Where an individual engaged in sale and distribution of electric razors, toys, cigarettes, and cigarette cases and lighters, leather goods, blankets, and a variety of other articles of merchandise, in commerce among the various States and in the District of Columbia, and in selling, as thus engaged, certain assortments of his said merchandise, so packed and assembled as to involve use of a game of chance, gift enterprise, or lottery scheme when sold and distributed to the consumers thereof, and which were composed of (a) electric razor and number of packages of cigarettes, together with 20-section punchboard, for sale under a plan, and in accordance with board's explanatory legend, pursuant to which purchaser of punch received, for 5 cents paid, said razor, in accordance with success or failure in punching number concealed under board's master seal, and purchaser of last punch in each section received 20 cigarettes, and purchaser who did not qualify as aforesaid received nothing for his money, and of (b) other assortments of his said products, together with punchboards and push cards for use in sale and distribution thereof through means of game of chance, gift enterprise, or lottery scheme similar to one hereinabove described, and varying therefrom in detail only—

Sold to dealers, for display and resale to purchasing public in accordance with aforesaid sales plan, such assortments and thereby supplied to and placed in the hands of others means of conducting lotteries in the sale of his products in accordance with such sales plan, involving game of chance or sale of a chance to procure an article of merchandise at a price much lower than normal retail price thereof, contrary to an established public policy of the United States Government, and in violation of the criminal laws, and in competition with many who sell and distribute merchandise and are unwilling to adopt and use said or any method involving game of chance or sale of a chance to win by chance, or any other method contrary to public policy, and refrain therefrom;

With result that many persons were attracted by said sales plan or method employed by him in sale and distribution of his goods, and element of chance involved therein, and were thereby induced to buy and sell his said merchandise in preference to that offered and sold by said competitors who do not use same or equivalent methods, and of unfairly diverting trade to him from his competitors who do not, as aforesaid, use such or equivalent methods; to the substantial injury of competition in commerce;

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

Mr. D. C. Daniel for the Commission.

Complaint

28 F. T. C.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that Harry J. Snyderman, individually and trading as Ace Premium Co., hereinafter referred to as respondent, has violated the provisions of said act and it appearing to the 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. Respondent Harry J. Snyderman is an individual doing business under the name of Ace Premium Co. with his principal office and place of business located at 423 S. Fifth St., Minneapolis, Minn. Respondent is now and for some time last past has been engaged in the sale and distribution of electric razors, toys, cigarettes, cigarette cases, cigarette lighters, pipes, leather goods, fitted cases, blankets, lamps, cocktail shakers, telescopes, opera glasses, knives, pen and pencil sets, tie sets, watches, clocks, cameras, flashlights, compacts, footballs, and other articles of merchandise in commerce between and among the various States of the United States and in the District of Columbia. Respondent causes and has caused said products when sold to be shipped or transported from his aforesaid place of business in the State of Minnesota to purchasers thereof in the various other States of the United States and in the District of Columbia at their respective points of location.

There is now and for some time last past has been a course of trade by said respondent in such merchandise in commerce between and among the various States of the United States and in the District of Columbia. In the course and conduct of said business respondent is and has been in competition with other individuals and with partnerships and corporations engaged in the sale and distribution of like or 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 sells and has sold to dealers certain assortments of said merchandise so packed and assembled as to involve the use of a game of chance, gift enterprise, or lottery scheme when sold and distributed to the consumers thereof. One of respondent's assortments was and is sold and distributed to the purchasing public in the following manner:

This assortment consists of an electric razor and a number of packages of cigarettes together with a device commonly called a punch-

board. The punchboard is divided into 20 sections. Sales are 5 cents and each purchaser is entitled to one punch from said board. When a punch is made from said board a number is disclosed. The board also contains a master seal under which is concealed a number corresponding to one of the numbers on said board. The board bears statements or legends informing purchasers and prospective purchasers that the number under the master seal entitles the purchaser thereof to said electric razor and that the purchaser of the last punch in each section receives 20 cigarettes. The numbers on said board are effectively concealed from purchasers and prospective purchasers until a punch has been made and the particular punch separated from the board. The number under the master seal is effectively concealed from purchasers and prospective purchasers until all of the said numbers have been punched from the board. Purchasers who do not qualify by securing the number corresponding to the number under the master seal or by securing the last punch in one of said sections receives nothing for their money other than the privilege of punching a number from said board. The said razor is thus distributed to the purchasing public wholly by lot or chance.

Respondent sells and distributes various assortments of his products and furnishes various punchboards and push cards for use in the sale and distribution of such products by means of a game of chance, gift enterprise, or lottery scheme, but such punchboards and push cards are similar to the one hereinabove described and vary only in detail.

PAR. 3. Retail dealers who purchase respondent's said products directly or indirectly expose and sell the same to the purchasing public in accordance with the aforesaid sales plan. Respondent thus supplies to and places in the hands of others a means of conducting lotteries in the sale of his products in accordance with the sales plan hereinabove set forth. The use by respondent of said sales plan or method in the sale of his merchandise and the sale of said merchandise by and through the use thereof and by the aid of said sales plan or method is a practice of a sort which is contrary to an established public policy of the Government of the United States and in violation of the criminal laws.

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 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 a chance or any other method that is contrary to public policy and such competitors refrain therefrom. Many persons are attracted by said sales plan or method employed by respondent in the sale and distribution of his merchandise and the element of chance involved therein 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 a tendency and capacity to, and does, unfairly divert trade to respondent from his said competitors who do not use the same or an equivalent method and as a result thereof substantial injury is being, and has been, done by respondent to competition in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 5. The aforesaid acts and practices of respondent as herein alleged are all to the prejudice of the public and of respondent's competitors and constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on the 12th day of September 1938, issued, and subsequently served, its complaint in this proceeding upon respondent, Harry J. Snyderman, individually and trading as Ace Premium Co., charging him with the use of unfair methods of competition and unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On the 18th day of October 1938, the respondent filed his answer, in which answer he admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearing as to said facts. Thereafter the proceeding regularly came on for final hearing before the Commission on the said complaint and the answer thereto, 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. Respondent Harry J. Snyderman is an individual doing business under the name of Ace Premium Co. with his principal office and place of business located at 423 S. Fifth Street, Minneapolis, Minn. Respondent is now and for some time last past has

been engaged in the sale and distribution of electric razors, toys, cigarettes, cigarette cases, cigarette lighters, pipes, leather goods, fitted cases, blankets, lamps, cocktail shakers, telescopes, opera glasses, knives, pen and pencil sets, tie sets, watches, clocks, cameras, flashlights, compacts, footballs, and other articles of merchandise in commerce between and among the various States of the United States and in the District of Columbia. Respondent causes and has caused said products, when sold by him, to be transported from his aforesaid place of business in the State of Minnesota to the purchasers thereof at their respective points of location in various States of the United States, other than the State of Minnesota, and in the District of Columbia.

There is now and for some time last past has been a course of trade by said respondent in such merchandise in commerce between and among the various States of the United States and in the District of Columbia. In the course and conduct of said business respondent is and has been in competition with other individuals and with partnerships and corporations engaged in the sale and distribution of like or 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 sells and has sold to dealers certain assortments of said merchandise so packed and assembled as to involve the use of a game of chance, gift enterprise, or lottery scheme when sold and distributed to the consumers thereof. One of respondent's assortments was and is sold and distributed to the purchasing public in the following manner:

This assortment consists of an electric razor and a number of packages of cigarettes together with a device commonly called a punchboard. The punchboard is divided into 20 sections. Sales are 5 cents and each purchaser is entitled to one punch from said board. When a punch is made from said board a number is disclosed. The board also contains a master seal under which is concealed a number corresponding to one of the numbers on said board. The board bears statements or legends informing purchasers and prospective purchasers that the number under the master seal entitles the purchaser thereof to said electric razor and that the purchaser of the last punch in each section receives 20 cigarettes. The numbers on said board are effectively concealed from purchasers and prospective purchasers until a punch has been made and the particular punch separated from the board. The number under the master seal is effectively concealed from purchasers and prospective purchasers until all of the said

numbers have been punched from the board. Purchasers who do not qualify by securing the number corresponding to the number under the master seal or by securing the last punch in one of said sections receive nothing for their money. The said razor is thus distributed to the purchasing public wholly by lot or chance.

Respondent sells and distributes various assortments of his products and furnishes various punchboards and push cards for use in the sale and distribution of such products by means of a game of chance, gift enterprise, or lottery scheme, but such punchboards and push cards are similar to the one hereinabove described and vary only in detail.

PAR. 3. Retail dealers who purchase respondent's said products directly or indirectly expose and sell the same to the purchasing public in accordance with the aforesaid sales plan. Respondent thus supplies to and places in the hands of others a means of conducting lotteries in the sale of his products in accordance with the sales plan hereinabove set forth. The use by respondent of said sales plan or method in the sale of his merchandise and the sale of said merchandise by and through the use thereof and by the aid of said sales plan or method is a practice of a sort which is contrary to an established public policy of the Government of the United States and in violation of the criminal laws.

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 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 a chance or any other method that is contrary to public policy and such competitors refrain therefrom. Many persons are attracted by said sales plan or method employed by respondent in the sale and distribution of his merchandise and the element of chance involved therein 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 a tendency and capacity to, and does, unfairly divert trade in said commerce to respondent from his said competitors who do not use the same or an equivalent method and as a result thereof substantial injury is being, and has been, done by respondent to competition in commerce between and among the various States of the United States and in the District of Columbia.

Order

CONCLUSION

The aforesaid acts and practices of respondent as herein found are all to the prejudice of the public and of respondent's competitors and constitute unfair methods of competition in commerce and unfair and deceptive acts and practices 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 answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint and that he waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Harry J. Snyderman, individually and trading as Ace Premium Co., or trading under any other name, his representatives, agents, and employees, in connection with the offering for sale, sale, and distribution of electric razors, toys, cigarettes, cigarette cases, cigarette lighters, pipes, leather goods, fitted cases, blankets, lamps, cocktail shakers, telescopes, opera glasses, knives, pen and pencil sets, tie sets, watches, clocks, cameras, flashlights, compacts and footballs, or any other 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 punchboards, push or pull cards, or other lottery devices for the purpose of enabling such persons to dispose of or sell any merchandise by the use thereof.

2. Mailing, shipping or transporting to agents or to distributors or members of the public punchboards, push or pull cards or other lottery devices so prepared or printed as to enable said persons to sell or distribute any merchandise by the use thereof.

3. Selling or otherwise disposing of any merchandise by the use of punchboards, push or pull cards or other lottery devices.

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.

Complaint

28 F. T. C.

IN THE MATTER OF

CHARLES M. BREGSTONE DOING BUSINESS AS THE
VELTROLA COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3327. Complaint, Feb. 9, 1938—Decision, Jan. 26, 1939*

Where an individual engaged in sale and distribution of electric razors, wrist watches, silverware sets, and other articles of merchandise; in soliciting and selling his said products—

Distributed to 15,000 persons in the various States along with descriptive and explanatory circular letters and order blanks, push cards for sale, and distribution of his said goods to public under a plan and in accordance with said cards' explanatory legend by which purchasers paid for chances in accordance with particular number punched or secured varying amount or nothing, three of numbers and last sale entitled those securing or making same to Eversharp pencils, and person selecting that 1 of 75 names of girls corresponding to that under card's master seal was entitled to choice of merchandise being thus disposed of, as was operator of card, and thereby conducted lottery and placed in hands of others means of conducting lotteries in sale of his products through game of chance or sale of chance to procure by chance said products; contrary to an established public policy of the United States Government and to the criminal statutes of many of the States, and in competition with those similarly engaged who do not sell their merchandise through use of lotteries or games of chance;

With result that many purchasers of his said products were attracted by element of chance involved in his sales method and thereby induced to purchase his said goods in preference to same or similar merchandise of competitors who did not and do not use such or equivalent methods, and public purchased substantial volume of his said products and trade was unfairly diverted to him from competitors aforesaid:

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

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

Mr. Henry C. Lank and *Mr. D. C. Daniel* for the Commission.

Nash & Donnelly, of Chicago, Ill., 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 Charles M. Bregstone, individually, and trading as The Veltrola Co., hereinafter referred to as respondent, has been and is using unfair methods of competition in