

IN THE MATTER OF

ALFRED JOHNSON SMITH, PAUL SMITH AND ARTHUR SMITH, DOING BUSINESS AS JOHNSON-SMITH AND COMPANY

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

Docket 3647. Complaint, Nov. 7, 1938—Decision, Mar. 1, 1939

Where partners engaged in sale of a large number of articles of various sorts and kinds, including books of instruction in various arts and in other subjects, musical instruments, cutlery, watches, clocks, radio receiving sets, seeds for flowers, vegetables and medicinal plants, push cards, and others, to purchasers in other States and in the District of Columbia, in substantial competition with others likewise engaged in sale and distribution of like and similar books, articles, and devices in commerce among the various States and in said District—

- (a) Represented, in catalogs descriptive of their wares distributed as aforesaid and in advertisements thereof in magazines and periodicals circulating through the various States, that purchasers of their "The Famous 5-Minute Courses" of books of instruction could, with the aid thereof and without taking lessons and with no knowledge of music necessary, learn to play, from the 15 different courses there offered, violin, guitar, saxophone, and the various others there enumerated, and that through said courses also, as the case might be, under such captions as "Crystal Gazing," "Polish Self Taught," and "Secrets of Cleopatra's Beauty Revealed," purchaser could, in effect, learn to foretell future events, rapidly acquire proficiency in the Polish language, and acquire a truly amazing beauty, facts being it is impossible, by mastering their said books, to gain the ability to play, in the generally accepted sense of the words, instruments to which they related, although it is possible to learn therefrom certain harmonic combinations or chords which may be mechanically repeated on the piano, guitar, etc., and it is also impossible therefrom rapidly to acquire proficiency in Polish, or to acquire beauty of eyes, complexion, hand, arm, or figure, and array of importunate suitors;
- (b) Represented, as aforesaid, in connection with description and offer of, and invitation to, "Play This Jazzy Saxophone Without Practice! No need to spend \$85 when you can own a Jazzy Sax," that said instrument was comparable in material, appearance, or performance to those costing said amount; and
- (c) Represented, as aforesaid, that close inspection showed that their "G-Man Pocket Knife" had "Blades of finest quality steel," and that their "Atlas Calendar Watch As an ordinary time-keeper" was "a watch of highest quality * * *," and that their "King Tut Lucky Ring" was "Made of green gold, antique finish," and referred to their "No. 8209—1 kt. Egyptian Diamond * * * Five-Year Guarantee," and represented that their "Genuine Diamond Ring for only \$3.25" was "A real genuine Diamond";

Facts being their said "Jazzy Sax" was not, as thus represented, comparable in material, appearance, or performance to saxophones selling at \$85, blades

of said knives were not of finest steel, nor were said watches of highest quality, nor settings of said rings of gold, nor said rings last referred to set with diamonds, and, while so-called "Genuine Diamond" ring was set with diamond "chip," neither it nor ring preceding were set with genuine diamonds;

- (d) Represented, as aforesaid, their "Elephant Ring" as "The lucky elephant that brings you luck," and set forth that their "World-Wide All-Wave Receivers * * * bring in Short Wave Stations in all parts of the world * * * as well as regular broadcast and ship stations on long waves," etc., and that their "Distributor Intensifier" "Gives your car added Power and Pep * * * with less gas," facts being their said ring last referred to would not cause purchaser or wearer to be more favored by fortune than otherwise, their said radio receiving set does not give satisfactory reception for ordinary long wave or commercial programs, and use of their said "Distributor Intensifier" would not accomplish results claimed in operation of an automobile;
- (e) Represented in false advertisements disseminated by them in commerce with respect to the properties and therapeutic values of various drugs and devices, that their "Professor Wingren's Voltaic Electric Insoles" would relieve aching and sweaty feet and rheumatism and pains in the hips, and that use of their "Home Medical Battery" would cure a large number and variety of diseases and ailments, including ulcers, cancers, and other malignant growths, enlarged tonsils, rheumatism, etc., and that their distemper preparation would cure distemper in dogs, and their "Corn Remover" eradicate corns, facts being said insoles are entirely lacking in therapeutic value, use of said battery does not constitute adequate or competent treatment for diseases and ailments for which recommended, there is no orally administered remedy for canine distemper which will in all cases, or even in many, result in cure of such malady, and corn remover would not eradicate corns;
- (f) Represented, through such statements as "Big Money Growing Medical Plants. Ginseng. Golden Seal. Two Big Money-Makers. A little space in your back yard will make you independent," etc., and "On one acre of land Elias Kettle succeeded in producing a crop of Ginseng which he has contracted to sell for \$50,000.00," that large earnings could be made by the culture of said plants, and that such culture was easy, and that any good well-drained soil was suitable for culture of latter, facts being profitable culture was dependent upon climatic and soil conditions found principally in northern portion of the United States, certain amount of shade for plants is necessary, and, raised from seed, approximately 7 years growth for Ginseng and 4 for Golden Seal are necessary before plants are of commercial value and profits can be realized therefrom; and
- (g) Represented, through such statements as "We Sell You a Regular Income! Big Profits in Peanut Vending Machines" and "These vendors pay for themselves in 30 days * * * In as short a time as one year you can build up a route of a hundred machines and have an independent income," that purchase of such a machine was a purchase of a regular income, and that such machines would in all cases repay their cost in 30 days, and that a chain of 100 machines from a small beginning could be built up by purchaser during a year, facts being such various representations were false, and there was no assurance that chains of 100 profitable machines could be developed as aforesaid;

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With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that such false statements, representations, and advertisements were true, and, by reason thereof, into purchase of substantial quantities of their said wares, and of thereby diverting unfairly trade in commerce to them from competitors who truthfully advertise their goods; to the injury of competition in commerce; and

(h) Furnished various devices and plans for merchandising which involved operation of games of chance, gift enterprises, or lotteries for sale and distribution of their said merchandise to ultimate consumers wholly by lot or chance, and involved distribution to purchasing public of push cards and catalogs depicting such cards and merchandise and explanation of plan of selling same and allotting it as premiums or prizes through such sale of said products by means of said cards, and under a plan or scheme in accordance with his success or failure in selecting from list of feminine receive, the rotary clock or other merchandise being thus disposed of, in accordance with his success or failure in selecting from list of feminine names displayed that one corresponding to name concealed under card's master seal, and thereby supplied to and placed in the hands of others to whom they furnished said cards for use in purchase, sale, and distribution of their said merchandise, means of conducting lotteries in the sale thereof in accordance with aforesaid or similar plan involving game of chance or sale of a chance to procure article of merchandise at price much less than normal retail price thereof, contrary to an established public policy of the Government of the United States and in violation of the criminal laws, and in competition with many who are unwilling to adopt and use said or any method involving game of chance or sale of a chance to win by lot, or other method contrary to public policy, and refrain therefrom;

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

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

Mr. Randolph W. Branch for the Commission.

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 Alfred Johnson Smith, Paul Smith, and Arthur Smith, doing business as copartners under the name of Johnson-Smith & Co., hereinafter referred to as respondents, have violated the provisions of the said act, and it

appearing to the Commission that a proceeding by it would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondents, Alfred Johnson Smith, Paul Smith, and Arthur Smith, as copartners, conduct their business under the name of Johnson-Smith & Co., with a principal place of business at 6615 East Jefferson Avenue, city of Detroit, State of Michigan.

PAR. 2. Respondents are now, and have been for more than 2 years last past, engaged in the business of selling books of instruction in various arts and in other subjects, musical instruments, cutlery, watches, clocks, therapeutic devices and preparations, optical goods, radio receiving sets, devices for attachment to automobiles, master keys, rings, seeds for flowers, vegetables and medicinal plants, push cards, and a large number of other articles of various sorts and kinds.

Respondents cause, and have caused, the said books and articles when sold to be transported from the place where their business is conducted in the State of Michigan to purchasers thereof located in States of the United States other than the State of Michigan and in the District of Columbia.

PAR. 3. In the course and conduct of their said business, respondents are now, and have been for more than 2 years last past, in substantial competition with other partnerships and with individuals, firms, and corporations engaged in the sale and distribution of like or similar books, articles, and devices in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 4. In the course and conduct of their said business and for the purpose of inducing the purchase of their said books of instruction, respondents have caused their catalogue, containing certain claims with respect thereto and to the proficiency and ability which will be acquired by purchasers who master the contents thereof, to be distributed between and among the various States of the United States and in the District of Columbia, and have caused certain advertisements with respect thereto to be inserted in magazines and periodicals having a circulation through the various States of the United States.

Included among and typical of such claims are the following:

LEARN TO VAMP * * * PLAY THE PIANO WITHOUT
LESSONS

Would you like to play the piano or organ without going through the drudgery of learning the scales and keys, and without tedious practice? The Vamping Tutor is a greatly simplified method which, after a little practice enables you to play the accompaniment to any tune or song written in any "time" in any "key". No knowledge of music is necessary. Once you have mastered the

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system, you will be able to play the accompaniment to songs, ballads, waltzes, the latest hits, etc., entirely by ear without any music.

THE FAMOUS 5-MINUTE COURSES

With the aid of these instruction books you can actually play tunes in a few minutes * * * no knowledge of music necessary. You need not know a note of music. You can learn to play any of the instruments named without taking lessons from a teacher * * * If you would like to be able to play without going through the usual drudgery of learning Scales and Keys and without tedious practicing, send at once for the one you are interested in. You will be agreeably surprised at results.

FIFTEEN DIFFERENT COURSES TO SELECT FROM

Violin Course.	Banjo Course.
Guitar Course.	Hawaiian Guitar Course.
Saxophone Course.	Cornet and Trumpet Course.
Harmonica Course.	Tenor Guitar Course.
Trick Harmonica Methods.	Tiple Course.
Ukelele Course.	Melody Accompaniment on Ukelele,
Tenor Banjo Course.	Banjo Ukelele and Tiple.
Mandolin Course.	Flageolet and Flue Self-Instructor.

LEARN TO HYPNOTIZE

See how easily you can master the secrets of Hypnotism. Master this strange power. Sway others at will. Learn to use this mysterious power to influence the thoughts of others, control their desires and make you master of every situation. Make others love you, strengthen your will-power, banish fear and worry, improve your memory, overcome bad habits, etc. Everything explained in this new book.

VENTRILOQUISM

A thoroughly reliable guide to the art of voice-throwing and vocal mimicry. Complete directions by which you can acquire this amusing art. Only 10¢—a 32-page book giving you full instructions how to become a ventriloquist.

MYSTERIES OF CLAIRVOYANCE

Do you want to know luck numbers in Lotteries; to see your future husband or wife; to detect what complaint troubles yourself or others; to read the inmost thoughts of woman or man; to discover thieves and find out where the plunder is hidden; to "lay on hands" in such a gentle yet powerful way as to cure all nervous complaints and to inspire most friendly feelings toward yourself; to see the issue of all "pools" whether in stocks; in short, to be Master or Mistress—the full controller—of motives and acts of all your friends and acquaintances, then buy this book.

THE GOLDEN ROD AND MARRIAGE GUIDE

A complete guide to health, happiness and wealth.

CRYSTAL GAZING

Learn about your future. Read the lives of those about you. Be able to reveal the facts of future existence. Become successful by developing the powers within you.

POLISH SELF TAUGHT

By this system any person can become proficient in the Polish language in a very short time.

SECRETS OF CLEOPATRA'S BEAUTY REVEALED

It teaches how to so improve the person in loveliness and beauty that you will drive admirers almost to madness * * * If you desire bright, melting eyes, a clear soft, rosy-tinted complexion, beautiful hands and graceful figure, well-developed and perfect, so that the world will seek your acquaintance and try to win you, get this book at once.

By the said statements, and others of like import and effect, in their said catalog and advertisements, respondents, directly and by implication, represent that by the purchase and mastery of the contents of the said books the purchaser can: Acquire the ability to play various musical instruments without personal instruction, tedious practice, or any knowledge of music; easily learn the art of hypnotism and thereby become able to sway, influence the thoughts, and control the desires of others, become master of every situation, cause others to love him, strengthen his will power, banish fear and worry, improve his memory, and overcome bad habits; read the minds and govern the actions of others; foretell future events; acquire health, happiness, and wealth; rapidly acquire proficiency in the Polish and other tongues; and acquire a truly amazing beauty.

PAR. 5. The representations made by respondents, directly and by implication, with respect to the results that may be obtained by a mastery of the contents of the said books are false, misleading, and untrue. In truth and in fact, it is impossible to gain from respondents' books the ability to "play," in the generally accepted sense of the word, the organ and piano, saxophone, trumpet, violin, cornet or flute, or the guitar, ukulele, banjo, or mandolin, although as to the latter instruments certain harmonic combinations or chords may be learned and mechanically repeated. The art of ventriloquism cannot be imparted otherwise than by personal instruction. The art and secrets of hypnotism cannot be learned from respondents' book, nor is the master of that art able to more than temporarily sway others, influence their thoughts, control their desires, or induce their love. The hypnotist is not master of every situation, and the practice of the art will not strengthen his will power, banish fear and worry, improve his memory, nor overcome bad habits. Ability to read the minds and govern the actions of others, heal nervous ailments, foretell future events, and acquire health, happiness, and wealth cannot be acquired by a mastery of respondents' books. Proficiency in foreign languages cannot be rapidly acquired by a mastery of respondents' books of self-instruction. Cleopatra's secrets of beauty,

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if any, are veiled in obscurity and the directions contained in the book in which they purport to be revealed will not, if followed, give to the user the bright and melting eye, the clear and roseate complexion, the beautiful hand and the well-rounded but lissom figure and will not cause her to be besieged by suitors half mad with admiration for her charms.

PAR. 6. In the said course and conduct of their business, for the purpose of inducing the purchase of certain of their wares, respondents have, in the manner aforesaid, made claims with respect to the quality of various of the articles which they sell.

Included among and typical of such claims are the following:

G-MAN POCKET KNIFE

Close inspection shows the G-Man Pocket Knife has blades of finest quality steel * * *

THE ATLAS CALENDAR WATCH

As an ordinary time-keeper, it is a watch of highest quality * * *

PLAY THIS JAZZY SAXOPHONE WITHOUT PRACTICE!

No need to spend \$85 when you can own a Jazzy Sax.

By the said statements, and others of like import and effect, in their said catalog and advertisements, respondents, directly and by implication represent: That the blades of the G-Man Pocket Knife are made of the finest steel; that the Atlas Watch is of the highest quality and that the Jazzy Sax is comparable in quality to saxophones selling for many times its price.

PAR. 7. The representations made by respondents, directly and by implication, with respect to the quality of the articles mentioned in paragraph 6 hereof, are false, misleading, and untrue. In truth and in fact, the blades of the G-Man Pocket Knife are not of finest quality steel; the Atlas Watch is not of the highest quality; and the Jazzy Sax is not comparable in material, appearance, or performance to saxophones selling at \$85.

PAR. 8. In the said course and conduct of their business, for the purpose of inducing the purchase of certain of their wares, respondents have, in the manner aforesaid, made claims with respect to the identity of various of the articles which they sell.

Included among and typical of such claims are the following:

KING TUT LUCKY RING

Made of green gold, antique finish.

No. 8209—1 kt. Egyptian Diamond * * * Five-Year Guarantee

Genuine Diamond Ring for only \$3.25 * * * A real genuine Diamond

By said statements, and others of like import, and effect, in their said catalog and advertisements, respondents, directly and by implication, represent that the King Tut Ring is made of gold, and that the ring cataloged as "No. 8209" and the "Genuine Diamond Ring" are set with genuine diamonds.

PAR. 9. The representations made by respondents, directly and by implication, as to the identity of the said articles mentioned in paragraph 8 hereof, are false, misleading, and untrue. In truth and in fact, the setting of the King Tut Ring is not made of gold; the ring cataloged as "No. 8209" is set with glass; and the diamond set in the "Genuine Diamond Ring" is not what is generally known as a "diamond," but what is generally known as a "diamond chip."

PAR. 10. In the course and conduct of their business, for the purpose of inducing the purchase of certain of their wares, respondents have in the manner aforesaid, made claims with respect to the effectiveness of various of the articles sold by them to accomplish the purposes for which they are recommended by respondents.

Included among and typical of such claims are the following:

NO. 8258—ELEPHANT RING

The lucky elephant that brings you luck

5 MASTER KEYS

They will open padlocks, night latches, door locks—in fact, practically all ordinary locks.

DISTRIBUTOR INTENSIFIER

Saves gas * * * Gives your car added Power and Pep. The "Sparkmaster" is a distributor intensifier that will give you more speed and power with less gas.

FIELD GLASSES—49¢

Real genuine field glasses, with six-power magnification—.

NEW POWERFUL LONG-DISTANCE FIELD GLASSES

It is not a cheap toy but a powerful field glass which brings objects miles away as though but a few feet distant.

WORLD-WIDE ALL-WAVE RECEIVERS

All wave * * * 15 to 600 meters, these modern receivers bring in Short Wave Stations in all parts of the world * * * as well as regular broadcast and ship stations on long waves. Ace receivers are ideal all-purpose sets.

By said statements, and others of like import, and effect, in their said catalog and advertisements, respondents, directly and by implication, represent: That good fortune will attend the purchaser of the Elephant Ring; that the 5 Master Keys will open practically all

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ordinary locks; that the use of the Distributor Intensifier on an automobile will save gasoline and give additional speed, power, and life; that the 49-cent field glasses have six-power magnification; that the long-distance field glasses will render objects miles distant as clearly visible as though they were but a few feet from the user and that the World-Wide All-Wave Receiver will give satisfactory reception of all radio broadcasts, whether short wave or long wave.

PAR. 11. The representations made by the respondents, directly and by implication, as to the results which may be obtained by the use of the articles mentioned in paragraph 10 hereof, are false, misleading, and untrue. In truth and in fact, the Elephant Ring will not render the wearer more fortunate than would otherwise be the case; the master keys are effective only upon locks of the simplest and cheapest construction; the attachment of the distributor intensifier will not result in any saving of gas in the operation of an automobile, nor will it impart additional speed, power, and life; the 49-cent field glass is not a six-power glass; the long distance field glass will not render objects miles distant as clearly visible as they are at a few feet and the all-wave receiving set does not give satisfactory reception for ordinary or long-wave commercial programs.

PAR. 12. In the course and conduct of their business, for the purpose of inducing the purchase of certain of their wares, respondents have, in the manner aforesaid, caused false advertisements, containing representations and claims with respect to the properties and therapeutic value of various medicinal preparations and devices designed and intended for, and used, in the treatment of the ailments and conditions of the human and canine bodies, and the results which may be expected from the use thereof, to be disseminated in commerce, as defined in the Federal Trade Commission Act.

Included among and typical of such representations and claims are the following:

PROFESSOR WINGREN'S VOLTAIC ELECTRIC INSOLES

Aching Feet

? Rheumatism ?

Sweaty Feet

Try these electric insoles * * * today! If you suffer from cold, tired or sweaty feet, or if you have rheumatism and kindred ailments, you, too, should give them a trial.

HOME MEDICAL BATTERY

Get relief without drugs—in most diseases—its effect is almost certain to be beneficial—. A mild current may be used in cases of scrofula, ulcers, cancers, and other malignant growths, enlarged tonsils, granulated eyelids, swollen

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glands and similar complaints. A stronger current is necessary for treating nervous and inflammatory diseases such as, neuralgia, rheumatism, apoplexy, asthma, cramp, catarrh, deafness, dyspepsia, earache, headache, hysteria, insomnia, kidney and liver troubles, obesity, paralysis, brain fag, and "that tired feeling."

A DOG'S LIFE

Kit contains * * * distemper cures—

CORN REMOVER

Set consists of bottle corn remover—

By said statements, and others of like import and effect, in their said catalog and advertisements, respondents represent, directly and by implication: That Professor Wingren's Voltaic Electric Insoles will relieve aching and sweaty feet, rheumatism, and pains in the hips; that the use of the Home Medical Battery will cure a large number and variety of diseases and ailments; that the distemper cure will cure distemper in dogs; and that the corn remover will eradicate corns.

PAR. 13. The representations made by respondents, directly and by implication, used and disseminated by respondents in the manner described, with respect to the articles mentioned in paragraph 12 hereof, are exaggerated, misleading, and untrue and constitute false advertising. In truth and in fact, Professor Wingren's Voltaic Electric Insoles are entirely lacking in therapeutic value; the use of the Home Medical Battery does not constitute an adequate or competent treatment for the diseases and ailments for which it is recommended by respondents; there is no orally administered remedy for canine distemper, which will in all, or even in many, cases result in a cure of the malady; the corn remover will not eradicate corns.

PAR. 14. The use of the aforesaid false advertisements disseminated in the manner described induces, or is likely to induce, the purchase of a drug or device.

PAR. 15. In the course and conduct of their business, for the purpose of inducing the purchase of certain of their wares, respondents have, in the manner aforesaid, made claims relative to the purported profits or earnings of those who purchase certain of their articles for resale, for use for profit or for development or culture.

Included among and typical of such claims are the following:

BIG MONEY GROWING MEDICAL PLANTS

Ginseng

Golden Seal

Two Big Money-Makers

A little space in your back yard will make you independent. Golden Seal roots are easy to grow. Any good well-drained soil is suitable for the growth

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of Golden Seal. At this rate an acre (of Golden Seal) would be worth \$12,060.00. Ginseng is another money-maker. On one acre of land Elias Kettle succeeded in producing a crop of Ginseng which he has contracted to sell for \$50,000.00.

**WE SELL YOU A REGULAR INCOME! BIG PROFITS IN PEANUT
VENDING MACHINES**

These vendors pay for themselves in 30 days * * * all the money you make after that is profit for you!—In as short a time as one year you can build up a route of a hundred machines and have an independent income.

By said statements, and others of like import and effect, in their catalog and advertisements, respondents, directly and by implication, represent: That large earnings can be made by the culture of Ginseng and Golden Seal on small tracts of land; that their culture is easy; and that any good, well-drained soil is suitable for the culture of Golden Seal; that the purchase of a peanut-vending machine is the purchase of a regular income; that such machines will, in all cases, return profits equal to their cost in 30 days and that from a small beginning the purchaser can during a year, build up a chain of 100 machines.

PAR. 16. The representations made by respondents, directly and by implication, with respect to the advantages to be gained from the purchase of the articles mentioned in paragraph 15 hereof, are misleading. In truth and in fact, the profitable culture of Ginseng and Golden Seal is dependent upon climatic and soil conditions which are found principally in the northern portion of the United States. A certain amount of shade for the plants is necessary. When raised from seed it requires approximately 7 years' growth for Ginseng and 4 years for Golden Seal before the plants are of commercial value and profits can be realized. The purchase of a peanut-vending machine is not the purchase of a regular income. Machines will not in all cases pay for themselves in 30 days or a few weeks, and there is no assurance that chains of 100 profitable machines can be developed from small beginnings within a year.

PAR. 17. The use by respondents of the foregoing false, deceptive, and misleading statements, representations, and advertisements, with respect to their books of instruction, the proficiency and ability which will be acquired by purchasers who master the contents thereof and the quality, identity, effectiveness in use, curative and therapeutic value, and financial advantage, to be gained from the purchase of certain of its wares, has had, and now has, the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such false state-

ments, representations, and advertisements are true and, because of said erroneous and mistaken belief, to purchase substantial quantities of respondents' said wares.

As a result, trade has been diverted unfairly to the respondents from their competitors in said commerce who truthfully advertise their wares. In consequence thereof, injury has been, and is now being, done by respondents to competition in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 18. In the course and conduct of their business, as hereinbefore described, respondents, in soliciting the sale of and in selling and distributing certain of their merchandise in commerce, furnish and have furnished various devices and plans for merchandising which involve the operation of games of chance, gift enterprises, or lottery schemes, by which said merchandise is sold and distributed to the ultimate consumers thereof wholly by lot or chance. The method or sales plan adopted and used by respondents was and is substantially as follows:

Respondents distribute and have distributed to the purchasing public in commerce, both push cards and their catalog containing illustrations of the said push cards and merchandise and an explanation of respondents' plan of selling merchandise and of allotting it as premiums or prizes. One of respondents' push cards has 100 small, partially perforated disks on the left side, and on the face of each of said disks is printed a feminine name. On the right side of the card the same feminine names are set forth in ruled columns. The customer selects a name, punches out the disk, and inserts his name in the ruled column opposite the name of his selection. The push card also has a large master seal, within which is one of the feminine names appearing upon the perforated disks and in the ruled column. The push card bears legends or instructions as follows:

(Simulation of a rotary clock)

WIN THIS ROTARY CLOCK

New Distinctive Beautiful Dependable

ONLY 10¢ PER PUNCH

Pay a Dime—Take Home a Clock—If You Win

WINNING NAME UNDER SEAL (SEAL)

Fill in your name opposite the girl's name
you select

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Sales of respondents' products by means of said push cards are made, and the said prizes or premiums are allotted to the customers or purchasers in accordance with the above legends and instructions. The said articles of merchandise are thus distributed to the purchasing public wholly by lot or chance.

Respondents furnish and have furnished various push cards and catalogs for use in the sale and distribution of their merchandise by means of games of chance, gift enterprises, or lottery schemes. The sales plan or method involved in connection with the sale of all of said merchandise by means of the said push cards is the same as that hereinabove described, varying only in detail.

PAR. 19. The persons to whom respondents furnish the said push cards use the same in purchasing, selling, and distributing respondents merchandise in accordance with the aforesaid sales plan. Respondents thus supply to and place in the hands of others the means of conducting lotteries in the sale of their merchandise in accordance with the sales plan hereinabove set forth. The use by respondents of said sales plan or method in the sale of their 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 is in violation of the criminal laws.

PAR. 20. 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 respondents, 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 lot, 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 respondents in the sale and distribution of their merchandise and the element of chance involved therein, and are thereby induced to buy and sell respondents' merchandise in preference to merchandise offered for sale and sold by said competitors of respondents who do not use the same or an equivalent method. The use of said method by respondents because of said element of chance has a tendency and capacity to, and does, unfairly divert trade to respondents from their 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 respondents to competition in commerce between and

among the various States of the United States and in the District of Columbia.

PAR. 21. The aforesaid acts and practices of respondents as herein alleged, are all to the prejudice and injury of the public and of respondents' competitors and constitute unfair methods of competition 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 November 7, 1938, issued, and on November 9, 1938, served its complaint in this proceeding upon respondents Alfred Johnson Smith, Paul Smith, and Arthur Smith, copartners doing business under the name of Johnson-Smith & Co., charging them 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 December 19, 1938, respondents filed their answer, in which they admitted all the material allegations of fact set forth in the complaint and waived all intervening procedure and further hearing as to the 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. The respondents Alfred Johnson Smith, Paul Smith, and Arthur Smith, as copartners, conduct their business under the name of Johnson-Smith & Co., with a principal place of business at 6615 East Jefferson Avenue, Detroit, Mich.

They are now, and have been for more than 2 years last past, engaged in the business of selling a large number of articles of various sorts and kinds, including books of instruction in various arts and in other subjects, musical instruments, cutlery, watches, clocks, therapeutic devices and preparations, optical goods, radio receiving sets, devices for attachment to automobiles, master keys, rings, seeds for flowers, vegetables and medicinal plants, and push cards, and in transporting and causing said articles to be transported from its place of business in the city of Detroit, State of Michigan, to purchasers thereof located in various States of the United States, other than the State of Michigan and in the District of Columbia.

PAR. 2. In the course and conduct of their business respondents now are, and have been, in substantial competition with other partnerships, and with individuals, firms, and corporations who likewise sell and distribute like or similar books, articles, and devices in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their said business as herein described, and for the purpose of inducing the purchase of their wares, respondents have caused their catalog, descriptive thereof, to be distributed between and among the various States of the United States and in the District of Columbia and have caused certain advertisements of the said wares to be inserted in magazines and periodicals having a circulation through the various States of the United States. In the said catalog and advertisements, disseminated as aforesaid, respondents make various statements and claims relative to the proficiencies and abilities which will be acquired by the persons mastering the contents of respondents' books of instruction, and relative to the quality, identity, and effectiveness in use of the merchandise which respondents sell and distribute as aforesaid.

Typical examples of the statements and claims made as stated above are given below.

(With respect to the claims of the proficiencies and abilities which will be acquired by persons who master the contents of respondents' books of instruction).

THE FAMOUS 5-MINUTE COURSES

With the aid of these instruction books you can actually play tunes in a few minutes * * * no knowledge of music necessary. You need not know a note of music. You can learn to play any of the instruments named without taking lessons from a teacher * * * If you would like to be able to play without going through the usual drudgery of learning Scales and Keys and without tedious practicing, send at once for the one you are interested in. You will be agreeably surprised at results.

FIFTEEN DIFFERENT COURSES TO SELECT FROM

Violin Course.
Guitar Course.
Saxophone Course.
Harmonica Course.
Trick Harmonica Methods.
Ukelele Course.
Tenor Banjo Course.
Mandolin Course.
Banjo Course

Hawaiian Guitlar Course.
Cornet and Trumpet Course.
Tenor Guitar Course.
Tiple Course.
Melody Accompaniment on
Ukelele, Banjo Ukele and Tiple.
Flageolet and Flute.
Self-Instructor.

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CRYSTAL GAZING

Learn about your future. Read the lives of those about you. Be able to reveal the facts of future existence. Become successful by developing the powers within you.

POLISH SELF TAUGHT

By this system any person can become proficient in the Polish language in a very short time.

SECRETS OF CLEOPATRA'S BEAUTY REVEALED

It teaches how to so improve the person in loveliness and beauty that you will drive admirers almost to madness * * * If you desire bright, melting eyes, a clear soft, rosey-tinted complexion, beautiful hands and graceful figure, well-developed and perfect, so that the world will seek your acquaintance and try to win you, get this book at once.

(With respect to the quality of their merchandise)

G-MAN POCKET KNIFE

Close inspection shows the G-Man Pocket Knife has blades of finest quality steel * * *

THE ATLAS CALENDAR WATCH

As an ordinary time-keeper, it is a watch of highest quality * * *

PLAY THIS JAZZY SAXOPHONE WITHOUT PRACTICE!

No need to spend \$85 when you can own a Jazzy Sax.

(With respect to the identity of its articles.)

KING TUT LUCKY RING

Made of green gold, antique finish.

No. 8209—1 kt. EGYPTIAN DIAMOND * * * FIVE-YEAR

GUARANTEE

GENUINE DIAMOND RING for only \$3.25 * * *

A real genuine Diamond

(With respect to the effectiveness of their merchandise to accomplish the purposes for which they are recommended.)

NO. 8258—ELEPHANT RING

The lucky elephant that brings you luck.

WORLD-WIDE ALL-WAVE RECEIVERS

All wave * * * 15 to 600 meters, these modern receivers bring in Short Wave Stations in all parts of the world * * * as well as regular broadcast and ship stations on long waves. Ace receivers are ideal all-purpose sets.

DISTRIBUTOR INTENSIFIER

Saves gas * * * Gives your car added Power and Pep. The "Sparkmaster" is a distributor intensifier that will give you more speed and power with less gas.

PAR. 4. By said statements and claims respondents, directly and by implication, represent: That by the purchase and mastery of certain of its said books, the purchaser can acquire the ability to play various musical instruments without personal instruction, tedious practice, or any knowledge of music; foretell future events; rapidly acquire proficiency in the Polish language, acquire a truly amazing beauty; that the "G-Man" pocket knife has blades of finest steel; that the "Atlas" watch is of the highest quality; that the "Jazzy Sax" is comparable to saxophones selling at many times its price; that the "King Tut" ring is made of gold; that the ring cataloged as "No. 8209" and the "Genuine Diamond" ring are set with genuine diamonds; that the "Elephant" ring will bring good fortune to the purchaser; that the "World-Wide All-Wave" radio receiver will give satisfactory reception of all radio broadcasts, whether long wave or short wave, and that the use of the "Distributor Intensifier" on an automobile will save gasoline and give additional speed, power, and life.

In truth and in fact, it is impossible by mastering respondents' books to gain the ability to "play," in the generally accepted sense of the word, the instruments to which the said books relate, although it is possible to learn from them certain harmonic combinations or chords which may be mechanically repeated on the piano, guitar, ukelele, banjo, or mandolin. Neither is it possible, from said books, to rapidly acquire proficiency in the Polish tongue or acquire beauty of eye, complexion, hand, arm, or figure, and in addition an array of importunate suitors. The "G-Man" knife blades are not of finest steel, the "Atlas" watch is not of highest quality, nor is the "Jazzy Sax" comparable in material, appearance, or performance to saxophones selling at \$85. The setting of the "King Tut" ring is not made of gold; the rings cataloged as "No. 8209" and "Genuine Diamond" are not set with genuine diamonds, although the latter is set with a diamond "chip." The "Elephant" ring will not cause the purchaser or wearer to be more favored by fortune than would otherwise be the case. The "World-Wide All-Wave" radio receiving set does not give satisfactory reception for ordinary long wave or commercial programs. The use of the "Distributor Intensifier" will not result in any saving of gas in the operation of an automobile, nor will it impart additional speed, power, or life.

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Findings

PAR. 5. In the manner and for the purposes previously described, respondents have caused false advertisements, containing representations and claims with respect to the properties and therapeutic value of various drugs and devices, as the same are defined in the Federal Trade Commission Act, and the results which may be expected from the use thereof, to be disseminated in commerce, as defined in the said act.

Typical of these representations are the following:

PROFESSOR WINGREN'S VOLTAIC ELECTRIC INSOLES

Aching Feet

? Rheumatism ?

Sweaty Feet

Try these electric insoles * * * today! If you suffer from cold, tired or sweaty feet, or if you have rheumatism and kindred ailments, you, too, should give them a trial.

HOME MEDICAL BATTERY

Get relief without drugs—in most diseases—its effect is almost certain to be beneficial—. A mild current may be used in cases of scrofula, ulcers, cancers and other malignant growths, enlarged tonsils, granulated eyelids, swollen glands and similar complaints. A stronger current is necessary for treating nervous and inflammatory diseases such as, neuralgia, rheumatism, apoplexy, asthma, cramp, catarrh, deafness, dyspepsia, earache, headache, hysteria, insomnia, kidney and liver troubles, obesity, paralysis, brain fag, and "that tired feeling".

A DOG'S LIFE

Kit contains * * * distemper cures—

CORN REMOVER

Set consists of bottle corn remover —

PAR. 6. By such statements and claims respondents represent, directly and by implication: That Professor Wingren's Voltaic Electric Insoles will relieve aching and sweaty feet, rheumatism, and pains in the hips; that the use of the Home Medical Battery will cure a large number and variety of diseases and ailments; that the distemper cure will cure distemper in dogs; and that the corn remover will eradicate corns.

The representations made by respondents, directly and by implication, used and disseminated by respondents in the manner described, with respect to the articles mentioned in paragraph 5 hereof, are exaggerated, misleading, and untrue and constitute false advertising.

In truth and in fact, Professor Wingren's Voltaic Electric Insoles are entirely lacking in therapeutic value; the use of the Home Medical Battery does not constitute an adequate or competent treatment for the diseases and ailments for which it is recommended by respondents; there is no orally administered remedy for canine distemper, which will in all, or even in many, cases result in a cure of the malady; the corn remover will not eradicate corns.

PAR. 7. In the manner and for the purposes aforesaid respondents have made claims with respect to the purported profits of those who purchase certain of their wares for resale, for use for profit, or for development or culture, and representations as to the factors necessary for the successful culture of certain of its seeds.

Typical of these claims and representations are the following:

BIG MONEY GROWING MEDICAL PLANTS

Ginseng

Golden Seal

Two Big Money-Makers

A little space in your back yard will make you independent. Golden Seal roots are easy to grow. Any good well-drained soil is suitable for the growth of Golden Seal. At this rate an acre (of Golden Seal) would be worth \$12,960.00. Ginseng is another money-maker. On one acre of land Elias Kettle succeeded in producing a crop of Ginseng which he has contracted to sell for \$50,000.00.

WE SELL YOU A REGULAR INCOME! BIG PROFITS IN PEANUT VENDING MACHINES

These vendors pay for themselves in 30 days * * * all the money you make after that is profit for you!—In as short a time as one year you can build up a route of a hundred machines and have an independent income.

By said statements, and others of like import and effect, in their catalog and advertisements, respondents, directly and by implication, represent: That large earnings can be made by the culture of Ginseng and Golden Seal on small tracts of lands; that their culture is easy; and that any good, well-drained soil is suitable for the culture of Golden Seal; that the purchase of a peanut-vending machine is the purchase of a regular income; that such machines will, in all cases, return profits equal to their cost in 30 days and that from a small beginning the purchaser can during a year, build up a chain of 100 machines.

The representations made by respondents, directly and by implication, with respect to the advantages to be gained from the purchase of the articles mentioned in paragraph 7 hereof, are misleading. In truth and in fact, the profitable culture of Ginseng and Golden Seal is dependent upon climatic and soil conditions which are found prin-

cipally in the northern portion of the United States. A certain amount of shade for the plants is necessary. When raised from seed it requires approximately 7 years' growth for Ginseng and 4 years for Golden Seal before the plants are of commercial value and profits can be realized. The purchase of a peanut-vending machine is not the purchase of a regular income. Machines will not in all cases pay for themselves in 30 days or a few weeks, and there is no assurance that chains of 100 profitable machines can be developed from small beginnings within a year.

PAR. 8. The use by respondents of the foregoing false, deceptive, and misleading statements, representations, and advertisements, with respect to their books of instruction, the proficiency and ability which will be acquired by purchasers who master the contents thereof and the quality, identity, effectiveness in use, curative and therapeutic value, and financial advantage, to be gained from the purchase of certain of its wares, has had, and now has, the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such false statements, representations, and advertisements are true and, because of said erroneous and mistaken belief, to purchase substantial quantities of respondents' said wares.

As a result, trade has been diverted unfairly to the respondents from their competitors in said commerce who truthfully advertise their wares. In consequence thereof, injury has been, and is now being, done by respondents to competition in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 9. In the course and conduct of their business, as hereinbefore described, respondents, in soliciting the sale of and in selling and distributing certain of their merchandise in commerce, furnish and have furnished various devices and plans for merchandising which involve the operation of games of chance, gift enterprises, or lottery schemes, by which said merchandise is sold and distributed to the ultimate consumers thereof wholly by lot or chance. The method or sales plan adopted and used by respondents was and is substantially as follows:

Respondents distribute and have distributed to the purchasing public in commerce, both push cards and their catalog containing illustrations of the said push cards and merchandise and an explanation of respondents' plan of selling merchandise and of allotting it as premiums or prizes. One of respondents' push cards has 100 small, partially perforated discs on the left side, and on the face of each of said discs is printed a feminine name. On the right side

of the card the same feminine names are set forth in ruled columns. The customer selects a name, punches out the disc, and inserts his name in the ruled column opposite the name of his selection. The push card also has a large master seal, within which is one of the feminine names appearing upon the perforated discs and in the ruled column. The push card bears legends or instructions as follows:

(Simulation of a rotary clock.)

WIN THIS ROTARY CLOCK

New Distinctive Beautiful Dependable

ONLY 10¢ PER PUNCH

Pay a Dime—Take Home a Clock—If You Win

WINNING NAME UNDER SEAL (SEAL)

Fill in your name opposite the girl's name you select

Sales of respondents' products by means of said push cards are made, and the said prizes or premiums are allotted to the customers or purchasers in accordance with the above legends and instructions. The said articles of merchandise are thus distributed to the purchasing public wholly by lot or chance.

Respondents furnish and have furnished various push cards and catalogs for use in the sale and distribution of their merchandise by means of games of chance, gift enterprises, or lottery schemes. The sales plan or method involved in connection with the sale of all of said merchandise by means of the said push cards is the same as that hereinabove described, varying only in detail.

PAR. 10. The persons to whom respondents furnish the said push cards use the same in purchasing, selling, and distributing respondents' merchandise in accordance with the aforesaid sales plan. Respondents thus supply to and place in the hands of others the means of conducting lotteries in the sale of their merchandise in accordance with the sales plan hereinabove set forth. The use by respondents of said sales plan or method in the sale of their 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 is in violation of the criminal laws.

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

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Order

sell or distribute merchandise in competition with the respondents, 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 lot, 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 respondents in the sale and distribution of their merchandise and the element of chance involved therein, and are thereby induced to buy and sell respondents' merchandise in preference to merchandise offered for sale and sold by said competitors of respondents who do not use the same or an equivalent method. The use of said method by respondents because of said element of chance has a tendency and capacity to, and does, unfairly divert trade to respondents from their 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 respondents to competition in commerce between and among the various States of the United States and in the District of Columbia.

CONCLUSION

The aforesaid acts and practices of respondents, as herein found, are all to the prejudice and injury of the public and of respondents' 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 the respondents, in which answer respondents admit all of the material allegations of fact set forth in said complaint, and state that they waive 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 respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, Alfred Johnson Smith, Paul Smith, and Arthur Smith, individually and as copartners trading as Johnson-Smith & Co. or under any other name or names, their representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of their merchandise in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Order

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1. Representing directly or indirectly that persons can acquire proficiency in, or mastery of, any art, science, or language, or any ability, power, or quality, through or by means of any course of instruction, book, or other literature of respondents, when such is not the fact.

2. Representing directly or indirectly that purchasers of respondents' merchandise will obtain, by reason of such purchase, a financial profit or advantage greater than the financial profit or advantage which is in fact obtained by purchasers of such merchandise under normal conditions and circumstances.

3. Representing directly or indirectly that purchases of such merchandise are certain to obtain financial profit or advantage by reason of the purchase of such merchandise.

4. 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.

5. 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.

6. 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 said respondents, Alfred Johnson Smith, Paul Smith, and Arthur Smith, individually and as copartners trading as Johnson-Smith & Co., or under any other name or names, their representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from:

1. Disseminating, or causing to be disseminated, any advertisement by means of the United States mails or in commerce, as commerce is defined in the Federal Trade Commission Act, by any means for the purpose of inducing, or which is likely to induce, directly or indirectly, either the purchase of certain devices now designated by the names of "Professor Wingren's Voltaic Electric Insoles" and "Home Medical Battery" or any other devices of substantially similar composition or construction whether sold under those names, or any other names, or the purchase of certain medicines now designated as distemper cures and corn remover, or any other medicines composed of similar ingredients or possessing substantially similar therapeutic qualities, whether sold under those designations or any other designations, or disseminating, or causing to be disseminated, any advertisement by any means for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce, as commerce is defined in the Federal Trade Commission Act, of said

devices or medicines which advertisements represent directly or through implication: That the said insoles will relieve aching or sweaty feet, rheumatism, or pains in the hips; that the said electric battery constitutes an adequate or competent treatment for scrofula, ulcers, cancers, or other malignant growths, enlarged tonsils, granulated eyelids, swollen glands, and similar complaints, nervous and inflammatory diseases such as neuralgia, rheumatism, apoplexy, asthma, cramp, catarrh, deafness, dyspepsia, earache, headache, hysteria, insomnia, kidney and liver troubles, obesity, paralysis, and brain fag; that the so-called distemper cures will cure distemper in dogs, or that the so-called corn remover will eradicate corns.

It is further ordered, That said 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
**MUTUAL PRINTING COMPANY, IN ITS OWN NAME AND
RIGHT, AND TRADING AS MUTUAL SALES PROMOTION
SERVICE**

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

Docket 3166. Complaint, June 29, 1937—Decision, Mar. 2, 1939

Where a corporation engaged in selling its sales stimulator or sales-promotion plan or trade-promotion cards, which were so designed and arranged that their use constituted lottery scheme or gift enterprise when used by retail merchants in promoting and increasing sales of merchandise of such merchants to consuming public, and which included (1) groups of cards arranged for punching out \$5 in trade, or \$10 in trade, as case might be, and which had enclosed or concealed within their so-called secret panels, for disclosure when total amount provided for on cards had been punched out, legends entitling chance holder of card to amounts ranging, in trade, from 20 cents to \$5 for the \$5 cards, and from 40 cents to \$10 for the \$10 cards, and (2) other groups intended for use by proprietors of service stations in sales of oil and gas aggregating \$17, and providing for awards ranging from 1 quart of oil to 25 quarts thereof, or for equivalent—

Sold to retail customers assortments of such sales promotion or trade cards, together with a variety of display posters and advertising matter for use of such retailer customers in use and distribution of said cards, and together with punch for canceling numbers arranged around the border thereof to indicate amount of sale made in each instance, and with suggestion for use of such cards by its retail merchant customers, who distributed same to their own customers and prospective customers and honored awards shown under secret panels thereof, and thereby knowingly supplied to and placed in the hands of others means of operating lotteries, games of chance, or gift enterprises, contrary to public policy, and in competition with those who are opposed to such methods and refrain therefrom;

With result that many of the consuming public, by reason of lot or chance feature connected with its said cards, were induced to deal with or purchase merchandise from retailers using said cards in preference to purchasing from merchants using sales-booster schemes or plans or devices of competitors which had connected with them no element of lot or chance, and with further result, by reason of such last-mentioned fact, that many of such merchants, who cannot use more than one type of sales-promotion or price-concession card or coupon at the same time, were induced to purchase its said cards in preference to devices or plans of competitors, and trade was thereby diverted from them to it, competitors aforesaid who refrain from use of such methods were put to competitive disadvantage, and sales of competing sales plans or promotion schemes or premium cards or coupons by competitors were injuriously affected; to the prejudice and injury of the public and competitors, and in restraint upon, and to the detriment of, freedom of fair and legitimate competition;