

## IN THE MATTER OF

RICHARD ROSEBURY ORGANIZATION, INC., AND  
RICHARD W. ROSEBURYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION  
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914*Docket 3710. Complaint, Feb. 14, 1939—Decision, May 20, 1939*

Where a corporation engaged in soliciting orders for, and in selling, various magazines through solicitors who called upon purchasing public—

- (a) Represented, as aforesaid, to prospective subscribers, that they would receive two or more designated magazines at the price and for the period stated by the solicitor, and exhibited to prospective subscriber, and delivered to him if he subscribed, printed receipt form furnished by said corporation, which acknowledged receipt of amount paid and which, and, while ostensibly naming two or more magazines which subscriber was to receive, through arrangement and prominence given to certain words, and thus appearing to corroborate solicitor's representation, as matter of fact named but one;
- (b) Told subscribers receiving such receipts for "Current Events," and upon which were also displayed, as above indicated, words "International News" and "Good Stories" and statement "Good Stories feature of Current Events and International News adds to its educational value," that such subscribers would receive "Good Stories," "Current Events," and "International News," and thus, or otherwise, led them to believe they would receive such three magazines, facts being magazine "Good Stories" only was ordered from publisher by said corporation and received by subscriber; and
- (c) Failed to forward, in some instances, to publisher of any magazines, subscriptions secured by its representatives from subscribers, who received no periodical whatsoever;

With effect of causing purchasers to buy magazine subscriptions from it and its representatives in erroneous and mistaken belief that in so purchasing they would receive subscriptions to a greater number of magazines than was the case, and of thereby diverting unfairly trade to it from those of its competitors who, in soliciting subscriptions to magazines, truthfully represent identity and number to be received by the subscribers thereto; to the 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. B. G. Wilson* 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 Richard Rosebury Organization, Inc., and Richard W. Rosebury, an individual, herein-

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after referred to as the respondents, have 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, setting forth its charges in that respect as follows:

PARAGRAPH 1. Respondent Richard Rosebury Organization, Inc., is a corporation created by and existing under the laws of the State of New York with its principal office and place of business located at 522 Fifth Avenue, city of New York, State of New York.

Respondent Richard W. Rosebury is an individual and is the directing head and dominating personality of the Richard Rosebury corporation and has his principal office and place of business at 522 Fifth Avenue, city of New York, State of New York. He is now and has been at all times mentioned herein responsible for the development of the policies and direction of the affairs of Richard Rosebury Organization, Inc.

PAR. 2. Respondents are now, and for more than 1 year last past have been, engaged in the business of soliciting orders for and selling various magazines, and cause said magazines, when sold, to be transported from the places of business of the respective publishers thereof, to and into various other States of the United States and the District of Columbia.

Respondents maintain, and at all times mentioned herein have caused to be maintained, a course of trade in said magazines in commerce between and among the various States of the United States and the District of Columbia.

PAR. 3. In the course and conduct of their business respondents are in active and substantial competition with other corporations and with partnerships and individuals engaged in the solicitation of subscriptions for, sale and distribution of, magazines in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 4. Respondents' method of doing business is to send solicitors throughout the country, who call upon the public. When a subscription to a magazine is secured, it is to be forwarded to the publisher thereof, usually pursuant to previous arrangement made by respondents with the publisher.

PAR. 5. In seeking subscriptions from the public, as aforesaid, respondents' solicitors represent to prospective subscribers that they will receive two or more designated magazines at the price and for the period stated by the solicitor; and the solicitor exhibits to the prospective subscriber, and delivers to him if he subscribes, a printed receipt form furnished to the solicitor by respondents, acknowledging receipt of the amount paid by the subscriber and, in fact, naming but

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one magazine which the subscriber is to receive. However, the receipt is in such form, as to prominence given some words on the face thereof, as to make it appear, except upon careful reading, to corroborate the solicitor's representation that the subscriber is to receive two or more magazines. The descriptive words so given prominence actually relate to features of the magazine subscribed for, but appear to be the names of the additional magazines the solicitor has represented the subscriber will receive. Typical and representative of such receipt form is the following:

## READER'S RECEIPT

|                |                    |
|----------------|--------------------|
| No. GM65234    | Date ----- 193--   |
|                | International News |
| CURRENT EVENTS | -----              |
|                | Good Stories       |
| PAY ONLY 50¢   | -----              |
|                | 26 Fine Issues     |

Good Stories feature of Current Events and International News adds to its educational value.

FICTION AND FUN—ILLUSTRATIONS  
SONG AND VERSE—ROMANCE

For the 50 cents you have paid me and for which this is your receipt, you will receive 26 monthly issues of GOOD STORIES. Your name and address has been entered on my order stub.

Signed ----- Repr.

NOTE.—If you write about this order, USE a POST CARD, mention date, amount paid, order number, and serial letters and representative's name. We make no refunds.

THE RICHARD ROSEBURY ORGANIZATION  
Incorporated

469 — 5th Avenue

New York City

The subscribers receiving receipts such as above set out have been and are told by respondents' representatives, or otherwise led to believe, that they will receive three magazines, to wit, Good Stories, Current Events, and International News, while in truth and in fact the respondents order from the publisher and the subscribers receive the magazine Good Stories only. In some instances, subscriptions secured by respondents' representatives are not forwarded to the publisher of any magazine and the subscribers receive no magazine whatsoever.

PAR. 6. There are among respondents' competitors many who do not misrepresent the number or identity of the magazines which subscribers are to receive for the subscription price paid.

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## Findings

PAR. 7. The use of the above-described false and misleading representations and methods on the part of respondents has the capacity and tendency to cause, and does cause, purchasers to buy magazine subscriptions from respondents and their representatives in the erroneous and mistaken belief that in so purchasing they will receive subscriptions to a greater number of magazines than they actually will receive. As a result trade has been diverted unfairly to respondents from those of their competitors who, in soliciting subscriptions to magazines, truthfully represent the identity and number of magazines to be received by the subscribers thereto. In consequence thereof, injury has been, and is being, done by respondents to competition in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 8. 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 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 February 14, 1939, issued and on February 15, 1939, served its complaint in this proceeding upon respondents Richard Rosebury Organization, Inc., and Richard W. Rosebury, an individual, charging them with the use of unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent Richard Rosebury Organization's answer, the Commission by order entered herein granted respondent's request for permission to withdraw said answer and to substitute therefor an answer admitting all the material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearing as to the said facts, which substitute answer was duly filed in the office of the Commission. Thereafter this proceeding regularly came on for final hearing before the Commission on the said complaint and substitute answer and the Commission having duly considered the matter and being now fully advised in the premises, finds that this proceeding is in the interest of the public, and makes this its findings as to the facts and its conclusion drawn therefrom.

## FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Richard Rosebury Organization, Inc. is a corporation organized under and by virtue of the laws of the State of New York, with its principal office and place of business located at 522 Fifth Avenue, city of New York, State of New York.

PAR. 2. Respondent Richard Rosebury Organization, Inc. is now, and for more than 1 year last past has been, engaged in the business of soliciting orders for and selling various magazines. It causes said magazines, when sold, to be transported from the places of business of the respective publishers of said magazines to and into various States of the United States other than the State of origin of such shipments and the District of Columbia.

Respondent maintains and at all times mentioned herein has maintained, a course of trade in such magazines in commerce between and among the various States of the United States and the District of Columbia.

PAR. 3. In the course and conduct of its business, respondent is now and has been in active and substantial competition with other corporations and with partnerships and individuals engaged in the solicitation of subscriptions for, and in the sale and distribution of, magazines in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 4. Respondent, in the conduct of its business, sends solicitors throughout the country, who call upon the purchasing public soliciting subscriptions for the various magazines offered by the respondent. When a subscription to a magazine is secured, it is to be forwarded to the publisher thereof, usually pursuant to previous arrangement made by respondent with the publisher.

PAR. 5. In seeking subscriptions from the public, as aforesaid, respondent's solicitors represent to prospective subscribers that they will receive two or more designated magazines at the price and for the period stated by the solicitor; and the solicitor exhibits to the prospective subscriber, and delivers to him if he subscribes, a printed receipt form furnished to the solicitor by respondent, acknowledging receipt of the amount paid by the subscriber and which ostensibly names the two or more magazines which the subscriber is to receive, but which as a matter of fact names but one magazine which the subscriber is to receive. The receipt is in such form, as to prominence given some words on the face thereof, as to make it appear, except upon careful reading, to corroborate the solicitor's representation that the subscriber is to receive two or more magazines. The descriptive words so given prominence actually

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## Findings

relate to features of the magazine subscribed for, but appear to be the names of the additional magazines the solicitor has represented the subscriber will receive. Typical and representative of such receipt form is the following:

## READER'S RECEIPT

Date ----- 193--

No. GM65234

International News

CURRENT EVENTS

Good Stories

PAY ONLY 50c

26 Fine Issues

Good Stories feature of Current Events and International News adds to its educational value

~~FICTION AND FUN—ILLUSTRATIONS—SONG AND VERSE—ROMANCE~~

For the 50 cents you have paid me and for which this is your receipt, you will receive 26 monthly issues of GOOD STORIES. Your name and address has been entered on my order stub.

Signed ----- Repr.

NOTE.—If you write about this order, USE A POST CARD, mention date, amount paid, order number, and serial letters and representative's name. We make no refunds.

## THE RICHARD ROSEBURY ORGANIZATION

Incorporated

409—5th Avenue

New York City

The subscribers receiving receipts such as above set out have been and are told by respondent's representatives, or otherwise led to believe, that they will receive three magazines, to wit, Good Stories, Current Events, and International News, while in truth and in fact the respondent orders from the publisher and the subscribers receive the magazine Good Stories only. In some instances, subscriptions secured by respondent's representatives are not forwarded to the publisher of any magazine and the subscribers receive no magazine whatsoever.

PAR. 6. There are among respondent's competitors many who do not misrepresent the number or identity of the magazines which subscribers are to receive for the subscription price paid, and who do not solicit and accept subscriptions for magazines which are not delivered to such subscribers.

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PAR. 7. The use of the above-described false and misleading representations and methods on the part of respondent has the capacity and tendency to cause, and does cause, purchasers to buy magazine subscriptions from respondent and its representatives in the erroneous and mistaken belief that in so purchasing they will receive subscriptions to a greater number of magazines than they actually will receive. As a result trade has been diverted unfairly to respondent from those of its competitors who, in soliciting subscriptions to magazines, truthfully represent the identity and number of magazines to be received by the subscribers thereto. In consequence thereof, injury has been, and is now being, done by respondent to competition in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 8. The respondent Richard W. Rosebury, an individual, died during the pendency of this proceeding.

#### CONCLUSION

The aforesaid acts and practices of respondent as herein found are all to the prejudice and injury 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 Richard Rosebury Organization, Inc., in which answer said respondent admits all of the material allegations of fact set forth in said complaint and states that it 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 respondent Richard Rosebury Organization, Inc., its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of magazines, or subscriptions for magazines, in interstate commerce, do forthwith cease and desist:

(a) From representing, through statements made by its solicitors or statements appearing on receipts or other printed matter exhibited to prospective subscribers for such magazines, that a subscriber is to receive a greater number of magazines than those which are actually

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delivered, or a magazine or magazines other than the magazine or magazines which are actually delivered to said subscriber.

(b) From accepting subscriptions from subscribers for magazines where the magazine or magazines covered by such subscriptions are not thereafter actually delivered to such subscribers.

(c) From misrepresenting in any manner, directly or indirectly, the identity or number of magazines to be received by a subscriber for the subscription price paid or agreed upon.

*It is further ordered*, That this proceeding be closed as to the respondent Richard W. Rosebury.

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

IN THE MATTER OF  
ADOLPH FRIEDMAN, TRADING AS SUPERYARN  
COMPANY

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

*Docket 3753. Complaint, Apr. 1, 1939—Decision, May 20, 1939*

Where an individual engaged in sale and distribution of various grades and types of textile fabrics and knitting yarn; in describing his products in catalogs, price lists, and in advertisements in periodicals, newspapers, and other publications distributed among prospective purchasers of said products in various States and in the District of Columbia—

- (a) Represented that certain product was composed entirely of unweighted silk, through use of words "Silk Boucle" in descriptive matter referring thereto, and other similar statements in various advertising material, price lists, catalogs, and on labels, notwithstanding fact product thus referred to was composed entirely of rayon and was not composed entirely of unweighted silk, product of cocoon of silkworm, as long definitely and specifically understood by purchasing and consuming public generally from said word, and as meaning unweighted product not subjected to process of metallic bath, and products of which have been long held in great public esteem and confidence for their preeminent qualities;
- (b) Made use of such nondisclosing designations as "Special Boucle" on labels and in catalogs, to designate or describe rayon products and yarn which had appearance and feel of silk and were, by purchasing and consuming public, indistinguishable therefrom;
- (c) Represented that certain of his products were of a finer grade and higher quality, or of a different fiber, than was actually the fact, through use of words or phrases indicative to purchasing public of certain fiber, grade, or quality, such as "Cashmere," on labels and in advertising and catalogs, to designate and describe products which did not contain hair of cashmere goat, as long understood from word as applied to such products made therefrom, and well and favorably known to purchasing public and associated by members thereof with word, as thus applied, but were composed of other wool and not hair aforesaid;
- (d) Made use of words, associated in mind of purchasing and consuming public as descriptive of wool exclusively, to designate and describe certain yarn products composed in part thereof only, and in part of other material, through use of such terms as "Zephyr Tweed" and "Tweed Velnette" on labels, advertising material, and in catalogs, to designate yarn product composed in part of wool and in part of rayon, and described latter as composed of "wool mixture and silk nub," notwithstanding fact composition thereof was of wool and rayon entirely, as aforesaid, and said products were not that certain kind of fabric made entirely of wool, as long well and favorably known to substantial portion of purchasing and consuming public from word "tweed"; and