

IN THE MATTER OF

STEVEN V. GIMINO AND ANTHONY V. GIMINO, TRADING
AND DOING BUSINESS AS ELITE PUBLISHING COM-
PANY¹COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3521. Complaint, July 30, 1938—Decision, May 25, 1939*

Where two individuals engaged in publication and sale of book variously known as "Collection of Successful Business Plans" and "The Elite Collection of Successful Business Plans," to purchasers in other States and in the District of Columbia, in substantial competition with others engaged in publication, sale, and distribution, or in sale and distribution, of similar books and articles in commerce as aforesaid, and including many who do not in any way misrepresent the content of their said books or the earnings which may be derived from the operation of the plans described therein—

- (a) Represented, in advertisements in periodicals of general circulation in various States, that their "free booklet" described "107 plans for making \$20.00-\$100.00 weekly in home or office," and referred in such advertising to "107 plans for operating a successful business of your own," with earnings from \$20 to \$100 a week, starting in spare time at home;

Facts being booklet in question, which was in fact sent free to inquirers, did not describe plans themselves in any practical detail, but was merely suggestive of general nature of each and some of its salient features, and they had no knowledge or information to the effect that the average net earnings or profits consistently made by purchasers of their said books, in following one or more of the said plans in the ordinary and usual course of business, and under ordinary and usual conditions and circumstances, amounted to from \$20 to \$100 as above set forth, and had no reasonable grounds for belief that earnings or profits therefrom amounted to such sums;

- (b) Made such statements, in their said advertising and in letters and circulars sent to prospective purchasers, as "No peddling or house-to-house selling" and "107 plans for starting a business * * * No risk; start the plans which require no investment," and "Statistics prove that the man or woman who starts an independent business, however small, has sixteen times the chance to become a marked success as the man who accepts a position on a salary";

Facts being that all their said plans involved sale of articles or services, many were adapted essentially to peddling or house-to-house sales, and, while methods of sale by mail or through agents or salesmen were suggested in lieu of house-to-house or office-to-office selling by operators of plan and personal direct selling by operator might be avoided by following their proposals, such selling was necessary in many cases, there is no plan for engaging in any independent business which does not involve risk through

¹ Earlier findings, conclusion, and order to cease and desist in this cause, made as of March 15, 1939, were vacated by March 31 order, which also rescinded stipulation approved November 2, 1938.

possibility of loss of either time or money, and they had no knowledge of reliable and authentic statistics to the effect above stated with respect to prospects of persons starting an independent business as compared with person employed on a salary; and

- (c) Made such statements, as aforesaid, as "These plans are different * * * We could point out hundreds of examples of men and women who have started with nothing but a dollar or two and the right plan who are now independently wealthy," and, in connection with "Plan One," set forth that "\$5,000 in one year is the earnings reported by one operator of this unique idea," and set forth that "If you are a hard worker you should find it just as easy to make big money with these plans as to 'hold down' a \$25 a week job for somebody else," and in referring to financial rewards in said free booklet to be gained from operation of a number of their different plans, made such statements, among others, as "Although men and women everywhere are earning literally thousands of dollars a year in this plan, the field is not one-tenth covered," and "If the profits are reinvested the operator can soon be making thousands of dollars yearly," "a sizable business can be built from a 'shoe-string' start," etc., and referred to their plans as "Approved plans for securing additional incomes," and "* * * proved winners. All you have to do is 'follow instructions,'" and "Guaranteed to be practical and legitimate";

Facts being they were without knowledge or information or reasonable grounds for belief that any purchasers of said books had attained independent wealth or earnings of \$5,000 or \$10,000 by following one or more of their plans in ordinary course of business and under normal conditions and circumstances, and were without knowledge or information to effect that average net earnings or profits consistently made, as above set forth, by purchasers in following such various plans as set forth in said "free booklet," amounted to the varying sums represented, and had no reasonable grounds for believing that they did amount thereto, and their said plans were not "approved" by any reliable or independent person or agency or organization qualified to pass judgment on such matters, and, while plans in question outlined in greater or less detail, were projects which might result in profits to some degree, dependent upon industry and capacity of operator, locality and other usual facts involved in such matters, in no case was financial success in particular enterprise assured simply by following directions given, and certain of plans involved were not legitimate in accepted sense of word, nor legal if carried on in interstate commerce in manner proposed;

With capacity and tendency to mislead and deceive substantial portion of purchasing public into erroneous belief that said representations and implications were true, and to cause substantial portion of such public, because of such erroneous belief, to buy their said books, and thus divert trade to them from competitors who have not made use of similar representations concerning their said products:

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

Before *Mr. John J. Keenan*, trial examiner.

Mr. R. W. Branch 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 Steven V. Gimino and Anthony V. Gimino, individuals, trading and doing business under the name and style of Elite Publishing 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 in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. The said respondents, Steven V. Gimino and Anthony V. Gimino, are individuals trading and doing business under the name and style of Elite Publishing Co., with their office and principal place of business at 214 Grand Street, New York City, State of New York.

PAR. 2. Respondents are now, and for more than 2 years last past have been, engaged in the business of publishing and selling a certain book, variously known as "Collection of Successful Business Plans" and "The Elite Collection of Successful Business Plans."

Respondents cause the copies of this book, when sold, to be transported from their place of business in the State of New York to purchasers thereof located in States of the United States other than the State of New York 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 firms and partnerships and with individuals and corporations engaged in the publication, sale, and distribution, or in the sale and distribution, of similar books or articles 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 the said books, the respondents have advertised in magazines of interstate circulation. Typical of the advertisements so issued are the following:

Free booklet describes 107 plans for making \$20.00-\$100.00 weekly in home or office, business of your own.

Free booklet describes 87 plans for making \$20.00-\$100.00 weekly in home or office, business of your own.

107 plans for making \$20.00-\$100.00 weekly in home or office business of your own. Descriptive booklet free.

Need Money—Write for free booklet describing 107 plans for operating a successful business of your own. Make from \$20.00-\$100.00 a week starting

1680

Complaint

in spare time at home. No peddling or house-to-house selling. Booklet sent free and without obligation. Write for your copy today.

FREE

BOOK

Write for booklet describing "107 plans for operating a successful business of your own."

PAR. 5. In the course and conduct of their said business, and for the purpose of inducing the purchase of the said books, respondents have caused to be sent by means of the United States mails and otherwise to prospective purchasers, letters and circulars containing statements relative to the said books and plans, of which the following are typical:

107 plans for starting a business * * * No risk; start the plans which require no investment.

Statistics prove that the man or woman who starts an independent business, however small, has sixteen times the chance to become a marked success as the man who accepts a position on a salary.

These plans are different * * * We could point out hundreds of examples of men and women who have started with nothing but dollar or two and the right plan who are now independently wealthy.

Plan One * * * \$5,000 in one year is the earnings reported by one operator of this unique idea.

Q. I want to run a big business; I want the opportunity to make \$10,000 a year or more; can I do it with your plans?

A. Earnings in any business are usually in proportion to the effort given and there are many of our plans which are earning more than the amount you mention for the operators. If you are a hard worker you should find it just as easy to make big money with these plans as to "hold down" a \$25 a week job for somebody else.

The plans are bound together in a handsome leatherette covered book.

Approved plans for securing additional incomes.

Our plans are proved winners. All you have to do is "follow instructions."

The plans are guaranteed to be practical and legitimate.

By the said statements and others of like import and effect in their advertising literature, respondents directly and by inference represent that the "free booklet" describes 87 or 107 plans for making money in the home or office; that no risk is involved in the operation of the said plans; that by following any of the said plans earnings of \$20 to \$100 weekly might be attained; that the chance of one starting an independent business achieving a marked success is sixteen times greater than that of a person on a salary; that independent wealth has been attained by many people by the use of respondents' plans; that earnings of \$5,000 or \$10,000 per year have been made by persons using respondents' plans; that in the execution of the said plans no peddling or house-to-house selling is necessary; that the binding of the book is composed of leather; that the plans have been

Complaint

28 F. T. C.

"approved" by a reputable or independent person or agency or organization qualified to pass judgment on such matters; that the use of the plans is certain to result in financial gain; and that the plans are legitimate in the accepted sense of the word.

PAR. 6. The representations made by the respondents directly or by inference with respect to the said free booklet, to their book variously designated "Collection of Successful Business Plans" and "The Elite Collection of Successful Business Plans," and to the said plans and the results which may reasonably be anticipated to be attained by their use are false, misleading, and untrue. In truth and in fact respondents' "free booklet" does not describe the said 87 or 107 plans, but is merely descriptive of the book which describes the plans, which said book is not in fact free, but is sold for \$3 per copy. It is extremely improbable that the persons by whom respondents' advertisements are read or to whom their books are sold, will in fact realize earnings of \$20 to \$100 per week by carrying out any of the said plans. The chance of one starting an independent business achieving a marked success is not sixteen times greater than that of a person on a salary. Independent wealth has not been attained by many people by the use of respondents' plans. Earnings of \$5,000 or \$10,000 per year have not been realized by a utilization of many of the said plans, and as to the plans pursuant to which such earnings might conceivably be reached, they would be possible only after a substantial investment of time, effort, and money. Many of the plans involve selling or peddling or house-to-house canvassing. The binding of the said book is not composed of leather. The plans have not been "approved" by an independent person or agency or organization of repute qualified to pass judgment on such matters. The plans are not "proved winners." The plans do involve a certain risk of financial loss and are not free from risk. Certain of the plans are neither legitimate in the accepted sense of the word nor legal if carried on in interstate commerce in the manner proposed.

PAR. 7. There are among respondents' competitors many who are engaged in the business of publishing and selling books or articles of a like character, who do not in any way misrepresent the quality and content of their said books or the earnings which may be derived from the operation of the plans described therein.

PAR. 8. Each and all of the false and misleading statements and representations made by respondents as hereinabove set out were and are calculated to, and have had, and now have, a tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that all of said representations are

true. As a direct result of this erroneous and mistaken belief, a number of the consuming public have purchased substantial numbers of respondents' work with the result that trade has been diverted unfairly to respondent from competitors likewise engaged in the business of publishing and selling similar books or articles, and who truthfully advertise the same. As a consequence thereof injury has been done, and is now 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. 9. The aforesaid acts and practices of respondents as herein alleged are all to the prejudice of the public and of respondents' competitors and constitute unfair methods of competition 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 July 30, 1938, issued its complaint in the above-entitled proceeding and caused same to be served on the respondents, Steven V. Gimino and Anthony V. Gimino, carrying on business under the name and style of Elite Publishing Co., charging them with violation of the provisions of said act. After the issuance of said complaint and the filing of the answer thereto by respondents, a stipulation as to the facts was made and entered into by and between W. T. Kelley, Chief Counsel for the Federal Trade Commission, and the respondents, which stipulation provided that the facts set out therein may be made a part of the record herein and may be taken as the facts in this proceeding in lieu of testimony in support of the charges stated in the complaint herein or in opposition thereto, and that said Commission may proceed upon said facts (and from inferences it may draw therefrom) to make its report stating its findings as to the facts and its conclusion based thereon and enter its order disposing of the proceeding without the presentation of arguments or the filing of briefs, and said stipulation has been accepted and approved by the Commission. Thereafter the matter came on for final hearing before the Commission on the said complaint, the answer thereto, and the said stipulation as to the facts and the Commission having duly considered the matter and being now fully advised in the premises finds that said 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 said respondents, Steven V. Gimino and Anthony V. Gimino, individuals trading and doing business under the name and style of Elite Publishing Co., have their office and principal place of business at 214 Grand Street, New York City, State of New York. They are now and for more than 2 years last past have been engaged in the business of publishing and selling a certain book variously known as "Collection of Successful Business Plans" and "The Elite Collection of Successful Business Plans," and have caused copies of this book, when sold, to be transported from their place of business in the State of New York to purchasers thereof located in States of the United States other than the State of New York and in the District of Columbia. 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 various persons and corporations and other partnerships engaged in the publication, sale, and distribution or in the sale and distribution of similar books and articles of 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 their business, as set out in paragraph 1 hereof, and for the purpose of inducing members of the public to purchase the books offered for sale by them, respondents have caused advertisements to be published in magazines and other periodicals of general circulation in various States of the United States. The following are typical excerpts from such advertisements:

Free booklet describes 107 plans for making \$20.00-\$100.00 weekly in home or office, business of your own.

Free booklet describes 87 plans for making \$20.00-\$100.00 weekly in home or office, business of your own.

107 plans for making \$20.00-\$100.00 weekly in home or office business of your own. Descriptive booklet free.

NEED MONEY—Write for free booklet describing "107 plans for operating a successful business of your own." Make from \$20.00-\$100.00 a week starting in spare time at home. No peddling or house-to-house selling. Booklet sent free and without obligation. Write for your copy today.

FREE BOOK

Write for booklet describing "107 plans for operating a successful business of your own."

Advertising in these identical or substantially similar forms was continued until the service of the complaint.

The "free booklet" to which these advertisements refer was, in fact, sent to inquirers entirely free of any charge, either in money, services, or otherwise. This booklet, however, did not describe the

plans themselves in any practical detail, but was merely suggestive of the general nature of each plan and some of its salient features.

Respondents did, in fact, publish the collection of plans referred to above, which did, in fact, contain at different times the number of plans claimed in the foregoing advertisements.

At the time the said representations with respect to possible weekly earnings of "\$20-\$100" were made, respondents had no knowledge or information to the effect that the average net earnings or profits consistently made by purchasers of said books in following one or more of the said plans in the ordinary and usual course of business and under ordinary and usual conditions and circumstances amounted to from \$20 to \$100, and had no reasonable grounds for belief that such earnings or profits amounted to such sums.

All of the plans involve the sale of articles or services. Many of them are adapted essentially to peddling or house-to-house sales. As to these, respondents in substantially all cases suggest methods of sale by mail or through agents or salesmen, in lieu of house-to-house or office-to-office selling by the operator of the plan. Although, by following respondents' proposals, personal direct selling by the operator of the plan may be avoided, in many cases such selling is necessary.

PAR. 3. In the course and conduct of their said business, and for the purpose of inducing the purchase of the said books, respondents have caused to be sent, by means of the United States mails and otherwise, to prospective purchasers, letters and circulars containing statements relative to the said books and plans, of which the following, indicated by quotation marks, are typical:

107 plans for starting a business * * * No risk; start the plans which require no investment.

There is no plan for engaging in any independent business which does not involve risk through the possibility of loss of either time or money.

Statistics prove that the man or woman who starts an independent business, however small, has sixteen times the chance to become a marked success as the man who accepts a position on a salary.

At the time the said representation was made, respondents had no knowledge of reliable and authentic statistics to the effect stated.

These plans are different * * * We could point out hundreds of examples of men and women who have started with nothing but a dollar or two and the right plan who are now independently wealthy.

Plan One * * * \$5,000 in one year is the earnings reported by one operator of this unique idea.

Findings

28 F. T. C.

Q. I want to run a big business; I want the opportunity to make \$10,000 a year or more; can I do it with your plans?

A. Earnings in any business are usually in proportion to the effort given, and there are many of our plans which are earning more than the amount you mention for the operators. If you are a hard worker you should find it just as easy to make big money with these plans as to "hold down" a \$25 a week job for somebody else.

At the time said representations with respect to the possible attainment of independent wealth or earnings of \$5,000 or \$10,000 were made, respondents were without knowledge or information or reasonable grounds for belief that any purchasers of the said books had attained such wealth or earnings by following one or more of the said plans in the ordinary course of business and under normal conditions and circumstances.

The plans are bound together in a handsome leatherette covered book.

The binding of the book is not composed of leather. This statement was deleted from the "free booklet" shortly after April 28, 1936.

Approved plans for securing additional incomes.

The plans have not been approved by any reliable or independent person or agency, or organization, qualified to pass judgment on such matters.

Our plans are proved winners. All you have to do is "follow instructions." The plans outlined in greater or less detail are projects which may result in profits to some degree, dependent upon the industry and capability of the operator, the locality and other usual facts that enter into the success of any business enterprise. However, in no case is financial success in the particular enterprise assured simply by following the directions given.

The plans are guaranteed to be practical and legitimate.

Certain of the plans are not legitimate in the accepted sense of the word, nor legal if carried on in interstate commerce in the manner proposed.

PAR. 4. In the "free booklet," respondents include as to the financial rewards to be gained from the operation of a number of their different plans, statements of which the following are typical:

It is an ideal mail order item and several people we know of are making handsome incomes selling it through the mails.

An ambitious worker can secure independence and an income equal to his fondest hopes.

If full time and earnest attention is given to it, the earnings may be made as high as \$3.00 or more per hour.

1680

Conclusion

If you handle it the way we tell you, a sizable business can be built from a "shoe-string" start.

People we know of who are today working this plan are making incomes ranging from \$100.00 to \$200.00 a month.

A plan good for \$10.00 to \$15.00 a day in any fair sized town or city.

Nevertheless, it can be made to pay \$6,000.00 or more in local operation, and the risk involved is trifling.

* * * paying no less than \$20.00 a week for easy work.

This pays from \$150.00 to \$300.00 per month, or possibly a little more.

A permanent business, paying up to \$200.00 a month or more, can be developed.

If the profits are reinvested the operator can soon be making thousands of dollars yearly.

Although men and women everywhere are earning literally thousands of dollars a year in this plan, the field is not one-tenth covered.

At the time said representations were made respondents had no knowledge or information to the effect that the average net earnings or profits consistently made in the ordinary and usual course of business and under normal conditions and circumstances by purchasers of said books in following the said various plans to which the foregoing statements apply, amounted to the varying sums represented, and had no reasonable grounds for belief that such earnings and profits amounted to such sums.

PAR. 5. There are, among respondents' competitors, many who do not in any way misrepresent the content of their said books or the earnings which may be derived from the operation of the plans described therein.

PAR. 6. The above and foregoing representations and implications, and others of like character, so made by the respondents in connection with the offering for sale and sale of their books, are misleading and deceptive, and have the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that said representations and implications are true, and to cause a substantial portion of the purchasing public, because of said erroneous belief, to purchase respondents' books; and as a result, trade has been diverted to respondents from competitors who have not made use of similar representations concerning books sold by them.

CONCLUSION

The acts and practices of the respondents herein, as set out in the foregoing findings, are all to the prejudice and injury of the public and of competitors of respondent, and constitute unfair methods of competition in commerce within the intent and meaning of the provisions of the Federal Trade Commission Act.

Order

28 F. T. C.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondents, and a stipulation as to the facts entered into between the respondents herein and W. T. Kelley, Chief Counsel for the Commission, which provides, among other things, that the Commission may proceed upon the facts stipulated to make its report, stating its findings as to the facts (including inferences which it may draw from the said stipulated facts) and its conclusion based thereon, and enter its order disposing of the proceeding without presentation of argument or the filing of briefs, 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, Steven V. Gimino and Anthony V. Gimino, their agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of certain books describing plans or methods of setting up businesses now known as "Collection of Successful Business Plans," and "The Elite Collection of Successful Business Plans," whether sold under those names or under any other names, in commerce as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing any specified sum of money as possible earnings or profits which might accrue to purchasers of respondents' books or publications by following one or more of the plans suggested therein, which is not a true representation of the average net earnings or profits consistently made by purchasers by said mean in the ordinary course of business and under normal conditions and circumstances.

2. Representing any specified sum of money as earnings or profits which have accrued to any purchaser of said books or publications, who has followed one or more of the plans suggested therein, which is not a true representation of the consistent net earnings by such purchasers by said means in the ordinary course of business and under normal conditions and circumstances.

3. Representing or holding out by the use of such expressions as "Independent Wealth," "Sizable Business," "Thousands of Dollars a Year," and words of like or similar import, that purchasers of said books will, by following one or more of respondents' plans, attain considerable financial worth unless such success has usually or customarily been attained by such purchasers under normal business conditions and in the due course of business.

1680

Order

4. Representing that any booklet, folder, circular, or the like, describes plans for independent business ventures, unless and until it does in fact describe such plans.

5. Representing that the chance of a person starting an independent business achieving success is greater than that of one who works for a salary, unless and until such fact is established by authentic and reliable statistics.

6. Representing that no peddling or house-to-house canvassing is necessary, if in fact either is normally involved in the conduct of respondents' plans.

7. Representing that the said plans are legitimate, unless all of them are legitimate in the generally accepted sense of the word.

8. Representing that the plans have been "approved," unless and until (a) they have been approved by a reputable independent person or agency or organization qualified to pass judgment on such matters, or (b) the name of the person by whom they have been "approved" is disclosed.

9. Representing that the use of the plans or any of them is certain to result in financial gain or may be undertaken without risk of loss.

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

IN THE MATTER OF

W. K. HONBAUM, DOING BUSINESS AS MONARCH STOVE
TOP COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3383. Complaint, Apr. 20, 1938—Decision, May 31, 1939*

Where an individual engaged in transportation, sale and distribution of his "Monarch Stove Top" for use on open top gas ranges or stoves, through agents or salesmen who contacted the general public by house-to-house canvass, and whom he equipped with circulars and printed advertisements containing matter purporting to be descriptive of his said product and efficacy thereof—

- (a) Represented thereby that his said appliances were properly ventilated to insure proper combustion, and that use thereof was safe and harmless, and that through such use consumption of gas would be reduced and cooking capacity of stove or range increased, facts being his said products would not lessen consumption of gas in any respect, enable user to cook from two to four articles with one burner, or increase stove's cooking capacity to any extent, and were not ventilated sufficiently to insure proper combustion, but were so constructed that there was grave danger of carbon monoxide gas, rendering use thereof unhealthy and dangerous; and
- (b) Represented that the soiling of walls, windows, or curtains by open top gas stoves or ranges would be prevented by use of such appliances, facts being their use did not tend to lessen or prevent escape of steam and grease from food when cooking, and would not, therefore, prevent walls, windows, and curtains from soiling, and did not, as represented, through failure to prevent grease and food particles from depositing on stove or range, constitute perfect sanitary systems for such product;

With capacity and tendency to mislead and deceive purchasing public and with effect of leading substantial portion thereof into a false and erroneous belief that said appliance would reduce amount of gas consumed to substantial extent, similarly increase cooking capacity, and prevent soiling of walls, etc., and was properly ventilated, as set forth, and entirely safe, and with result, as direct consequence of such beliefs, thus induced, that substantial number of said public purchased substantial number of its said tops, and trade was thus diverted unfairly to it from competitors engaged in selling and distributing closed top gas stoves and competitors engaged in selling appliances for same purpose and use, and who in no way misrepresent the quality or efficacy of their respective products; to the injury of competition in commerce:

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

Before *Mr. Robert S. Hall* and *Mr. Miles J. Furnas*, trial examiners.

Mr. Floyd O. Collins and *Mr. Joseph C. Fehr* for the Commission.

Mr. T. Emmett McKenzie, of Washington, D. C., for respondent.