

IN THE MATTER OF
W. K. HONBAUM, DOING BUSINESS AS MONARCH STOVE
TOP COMPANY

COMPLAINT, 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.

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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 W. K. Honbaum, an individual, doing business as Monarch Stove Top Co., hereinafter referred to as respondent, has 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. W. K. Honbaum is an individual doing business under the trade name of Monarch Stove Top Co., and his principal place of business is located in Hamburg, Mich., and his business address is Box 77, Hamburg, Mich.

PAR. 2. Respondent is now, and has been for a number of years last past, engaged in the manufacture, transportation, sale, and distribution between and among the various States of the United States, of an appliance to be used on open top gas ranges, or open top gas stoves, and designated "Monarch Stove Tops." Respondent causes said appliances, when sold, to be shipped and transported in commerce from respondent's place of business, in Hamburg, Mich., to purchasers thereof located at various points in States of the United States other than the State of Michigan and in the District of Columbia. Respondent maintains, and has maintained, a course of trade in the sale and distribution of said appliances in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. Respondent, in the course and conduct of his said business, is now, and at all times herein referred to has been, in substantial competition with other individuals and with firms, corporations, and partnerships likewise engaged in the sale and distribution of tops for open top gas ranges and open top gas stoves, and other appliances to be used for the same and similar purpose as the appliance which respondent sells in commerce among and between the various States of the United States and in the District of Columbia. These competitors do not in any way misrepresent the quality or efficacy of their products, or resort to unfair methods of competition in offering for sale and selling their respective products in such commerce.

PAR. 4. Respondent, W. K. Honbaum, in the course and conduct of his business in selling and offering for sale said stove tops, has employed agents or salesmen, to sell said product, and these agents or salesmen contact the general public by house-to-house canvass. Respondent equips said agents or salesmen with circulars and printed

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advertisements, on which is printed matter purporting to be descriptive of respondent's product and the efficacy of said product. In describing the quality and efficacy of his product on said circulars and printed matter the respondent represents; among other things:

A perfect sanitary system for the gas range, warranted not to warp or crack.
Reduce your gas bill.

Increases cooking capacity.

Eliminates unsanitary grates.

Prevents soiling of walls, windows, and curtains.

The ventilated section at the rear is elevated so that the heated air will escape, after it has traveled the full length of the top, thus giving abundant circulation of air, and complete combustion.

In addition to such representations in his pamphlets, circulars, and other advertising literature, respondent's salesmen, in the course of their employment, and in the scope of their employment, represent to the prospective purchaser that said stove tops will reduce the users' gas bills, and will increase the cooking capacity of a stove or range to a considerable extent.

PAR. 5. All of said representations, as above set out, and many other similar representations not specifically mentioned herein, made directly by respondent and his authorized agents, are highly exaggerated, false and misleading, and had, and now have, the capacity and tendency to mislead and deceive the purchasing public and did, and do now, lead a substantial portion of the purchasing public into the false and erroneous belief that when said appliance is used on an open top gas range or stove; (1) It will reduce the amount of gas consumed to a substantial extent; (2) It will increase the cooking capacity of a stove or range to a substantial extent; (3) It will prevent soiling of walls, windows and curtains; (4) It is properly ventilated to insure proper combustion; (5) It is entirely safe to use.

PAR. 6. In truth and in fact, the said appliance, when used, will not lessen the consumption of gas in any respect. It will not increase the cooking capacity of an open top gas stove or range to any appreciable degree. It will not prevent the walls, windows, and curtains of kitchens from becoming soiled from steam, grease, and other matters. Said appliance is not ventilated sufficiently to insure proper combustion, but is so constructed that there is a grave danger of escape of carbon monoxide gas, which renders the use of said appliance highly hazardous.

PAR. 7. In addition to the false and misleading representations and unfair acts and practices above set out on the part of respondent, respondent's salesmen in soliciting orders and securing contracts for said stove tops, for the purpose of securing the initial payment, make representation that said stove tops will be delivered to the pur-

chaser, and be delivered on a specified date. The truth is the stove tops are not delivered on the date promised, and in many cases are never delivered, and in such cases, the respondent refuses to refund the amount deposited.

PAR. 8. As a direct consequence of the mistaken and erroneous beliefs induced by the acts and representations hereinabove set out, a substantial number of the purchasing public has purchased a substantial number of respondent's stove tops, with the result that trade has been diverted unfairly to the respondent from competitors who are engaged in selling and distributing closed top gas stoves, and from competitors who are engaged in selling appliances for the same purpose and use for which the respondent's product is manufactured, distributed and sold, and who in no way misrepresent the quality or efficacy of their respective products. As a result of the unfair acts and false and misleading representations of the respondent, injury has been, and is now being, done to competition in commerce among and between the various States of the United States and the District of Columbia.

PAR. 9. The aforesaid acts and practices of the respondent as herein alleged, are all to the prejudice of the public, and of respondent's competitors and constitute unfair methods of competition in commerce, within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on the 20th day of April 1938, issued and thereafter served its complaint in this proceeding upon respondent, W. K. Honbaum, an individual doing business under the trade name Monarch Stove Top Co., charging him with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer thereto, testimony and other evidence in support of the allegations of said complaint were introduced by Floyd O. Collins and Joseph C. Fehr, attorneys for the Commission, and in opposition to the allegations of the complaint by W. K. Honbaum, respondent, before Robert S. Hall and M. J. Furnas, examiners of the Commission, theretofore duly designated by it, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter the proceeding regularly came on for final hearing before the Commission on the said complaint, the answer thereto, testimony and other evidence and brief in support of complaint (respondent not having filed brief nor requested oral argument), and the Com-

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mission, having duly considered the matter, and being now fully advised in the premises, finds that the 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. W. K. Honbaum is an individual doing business under the trade name of Monarch Stove Top Co., with his principal place of business located in Hamburg, Mich. His business address is Box 77, Hamburg, Mich.

Respondent is now, and has been for a number of years last past, engaged in transportation, sale, and distribution between and among the various States of the United States, of an appliance to be used on open top gas ranges, or open top gas stoves, and designated "Monarch Stove Top." Respondent causes said appliances, when sold, to be shipped and transported in commerce from respondent's place of business; in Hamburg, Mich., to purchasers thereof located at various points in States of the United States other than the State of Michigan and in the District of Columbia. Respondent maintains, and has maintained, a course of trade in the sale and distribution of said appliances in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. The respondent, in the course and conduct of his said business, is now, and at all times herein referred to has been, in substantial competition, in commerce among and between the various States of the United States, with other individuals and with firms, corporations, and partnerships also engaged in the sale and distribution of tops for open top gas ranges and open top gas stoves, and other appliances to be used for the same and similar purpose as the appliance which respondent sells in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. To induce the purchase of his commodity by the purchasing public, respondent, W. K. Honbaum, in the course and conduct of his business in selling and offering for sale said stove tops, has employed agents or salesmen, to sell said product, and these agents or salesmen contact the general public by house-to-house canvass. Respondent equips said agents or salesmen with circulars and printed advertisements, on which is printed matter purporting to be descriptive of respondent's product and the efficacy of said product. In describing the quality and efficacy of his product on said circulars and printed matter the respondent represents; among other things:

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A perfect sanitary system for the gas range, warranted not to warp or crack.
Reduce your gas bill.

Increase your cooking capacity.

Eliminates unsanitary grates.

Prevents soiling of walls, windows, and curtains.

Reduces Gas Bills.

Will cook from two to four articles with one burner.

Will keep a whole meal hot until ready to serve, with one burner turned low.

Prevents the unsanitary grates and over-laps (does not set in) the place they occupy, thus eliminating all places for grease and dirt to accumulate.

The ventilated section at the rear is elevated so that the heated air will escape, after it has traveled the full length of the top, thus giving abundant circulation of air, and complete combustion.

PAR. 4. The National Bureau of Standards tested one of respondent's stove tops for the purpose of ascertaining the truth or falsity of respondent's claims as set out in paragraph 3 herein. The results of said test show and the Commission finds that the respondent's stove tops when used will not lessen the consumption of gas in any respect. Respondent's stove tops will not enable the user to cook from two to four articles with one burner lighted, neither will they increase the cooking capacity of a stove or range to any extent. Said stove tops are not ventilated sufficiently to insure proper combustion but are constructed so that there is a grave danger of carbon monoxide gas which renders their use unhealthy and dangerous. Said stove tops when used will not tend to lessen or prevent the escape of steam and grease from food when cooking and will not therefore prevent walls, windows, and curtains from soiling. Said stove tops will not prevent grease and food particles from depositing on the stove or range and are therefore not perfect sanitary systems for gas ranges and open top gas stoves.

PAR. 5. All of the representations, as above set out, made directly by respondent and his authorized agents, are highly exaggerated, false, and misleading, and had, and now have, the capacity and tendency to mislead and deceive the purchasing public and did, and do now, lead a substantial portion of the purchasing public into the false and erroneous belief that when said appliance is used on an open top gas range or stove: (1) It will reduce the amount of gas consumed to a substantial extent; (2) it will increase the cooking capacity of a stove or range to a substantial extent; (3) it will prevent soiling of walls, windows, and curtains; (4) it is properly ventilated to insure proper combustion; (5) it is entirely safe to use.

PAR. 6. As a direct consequence of the mistaken and erroneous beliefs induced by the acts and representations hereinabove set out, a substantial number of the purchasing public has purchased a substantial number of respondent's stove tops, with the result that trade

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has been diverted unfairly to the respondent from competitors who are engaged in selling and distributing closed top gas stoves, and from competitors who are engaged in selling appliances for the same purpose and use for which the respondent's product is manufactured, distributed, and sold, and who in no way misrepresent the quality or efficacy of their respective products. As a result of the unfair acts and false and misleading representations of the respondent, injury has been, and is now being, done to competition in commerce among and between the various States of the United States and the District of Columbia.

CONCLUSION

The aforesaid acts and practices of the respondent, as herein found, are to the prejudice and injury of the public and of respondent's competitors and constitute unfair methods of competition 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, testimony and other evidence taken before Robert S. Hall and M. J. Furnas, examiners of the Commission, theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, and brief filed herein by Floyd O. Collins, counsel for the Commission (respondent not having filed brief and oral argument not having been requested), and the Commission having made its findings as to the facts and its conclusion that said respondent, W. K. Honbaum, an individual, doing business under the trade name of Monarch Stove Top Co., has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, W. K. Honbaum, individually and trading as the Monarch Stove Top Co. or under any other name or names, his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of appliances now designated as "Monarch Stove Tops," or any other appliances of substantially similar construction and design, in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that such appliances are properly ventilated or insure proper combustion.
2. Representing that the use of such appliances is safe or harmless.
3. Representing that the consumption of gas in stoves or ranges will be reduced by reason of the use of such appliances.

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4. Representing that the use of such appliances will increase the cooking capacity of a stove or range.

5. Representing that the soiling of walls, windows, or curtains by open top gas stoves or ranges will be prevented by reason of the use of such appliances.

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

IN THE MATTER OF
H. F. ALLEN, TRADING AS TECHNICAL LABORATORIES
AND AS TECHNICAL PRODUCTS COMPANY

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

· Docket 3435. Complaint, May 21, 1938—Decision, May 31, 1939

Where an individual engaged in sale of product, under names "Aratone" and "Sinozone," for use by consuming public afflicted with nasal catarrh, simple bronchial asthma and hay fever, and in distributing his said product through wholesale and retail druggists; in advertisements thereof issued, published, and circulated to and among the consuming public of the United States in various forms of printed matter, by radio broadcasts, and in other ways—

- (a) Represented that said product was a competent and safe remedy, cure or treatment for nasal catarrh, hay fever, asthma, and colds, and that it was healing and would prevent or cure nasal irritation and aid in preventing poisons from being carried from the nasal passage into the rest of the body, and would flush out impurities contained therein, and that use thereof was harmless, facts being it would not accomplish said various results, was not a competent treatment or safe and effective remedy for nasal catarrh, hay fever, asthma, or colds, and was no more than a palliative affording temporary relief from some of the symptoms or manifestations of such conditions, repeated use which for such relief might result in harm or serious injury to patient; and
- (b) Represented through use of word "Laboratories" in trade name employed by him, and in his said advertising, that he conducted, operated or maintained a laboratory for the purpose of manufacturing, testing or experimenting with preparation sold by him, facts being he neither owned nor controlled any laboratory for investigation or research in connection with preparation, sale and distribution of such products;

With effect of misleading and deceiving substantial portion of purchasing public into belief that all of said representations made by him, as above set forth and indicated, were true, and with result, as direct consequence of such mistaken and erroneous belief induced by said advertising and representations, of causing consuming public to purchase substantial volume of said preparation, and of thus diverting trade unfairly from others engaged in sale of like and similar products for like and similar purposes, and who truthfully advertise the same; to the substantial injury of competition in commerce:

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

Before *Mr. Charles P. Vicini*, trial examiner.

Mr. Reuben J. Martin 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