

IN THE MATTER OF
FAIRFIELD ENGINEERING COMPANY

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

Docket 3850. Complaint, July 14, 1939—Decision, Aug. 14, 1939

Where a corporation engaged in manufacture, sale, and distribution of its "Fairfield Coal Distributors" and "Fairfield NON-SEGREGATING Coal Distributors," for distribution of coal to stoker hoppers in large steam boilers; in advertisements in catalogs, circulars and other printed or written matter distributed to members of purchasing public in various States and in the District of Columbia—

Represented, through use of terms "nonsegregating", and such statements and representations as "FAIRFIELD NONSEGREGATING COAL DISTRIBUTORS," "Fairfield distributors * * *. Coal is delivered across the entire grate surface of the stoker just as it comes from the bunkers, assuring a uniform fuel bed," and "Uniform distribution of coarse and fine coal will result in higher boiler efficiency," that its said coal distributor was a nonsegregating one, within meaning of term as used and understood in trade by heating experts and by purchasing public, notwithstanding fact its said products were not completely nonsegregating distributors or mechanisms which, as used and understood as aforesaid from said term, caused uniform layer of fine and coarse coal to be delivered across entire surface of fire boxes or boilers in same proportionate mixture as that in which coals left the bunkers, with resulting uniform fire bed and even flame over entire surface of fire box;

With tendency and capacity to mislead and deceive members of purchasing public into erroneous and mistaken belief that its said statements and representations were literally true, and into purchase of substantial quantities of said coal distributors, because of such erroneous belief, as and for nonsegregating mechanisms as above described, for purchase of which there is preference on the part of purchasers and prospective purchasers as providing economy and efficiency in operation of large steam boilers:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public and constituted unfair and deceptive acts and practices in commerce.

Mr. Robert Mathis, Jr. 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 Fairfield Engineering Co., a corporation, hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public

interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Fairfield Engineering Co., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Ohio, and having its principal office and place of business at 324 Barnhardt Street, in the city of Marion, State of Ohio.

PAR. 2. Respondent is now, and for more than 1 year last past has been, engaged in the manufacture, sale, and distribution of coal distributors, designated "Fairfield Coal Distributors" and "Fairfield NON-SEGREGATING Coal Distributors," which are designed to distribute coal to stoker hoppers in large steam boilers. Respondent causes said coal distributors, when sold by it, to be transported from its place of business in the State of Ohio to the purchasers thereof at their respective points of location in various States of the United States other than the State of Ohio and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said coal distributors 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 its aforesaid business and for the purpose of inducing the purchase of its said coal distributors, respondent has caused various statements and representations relative to said coal distributors to be inserted in advertisements in catalogs, circulars, and other printed or written matter, all of which are distributed to members of the purchasing public situated in various States of the United States and in the District of Columbia. Among and typical of the statements and representations by respondent used and disseminated as aforesaid are the following:

FAIRFIELD NON-SEGREGATING COAL DISTRIBUTORS

Fairfield distributors * * *. Coal is delivered across the entire grate surface of the stoker just as it comes from the bunkers, assuring a uniform fuel bed.

Uniform distribution of coarse and fine coal will result in higher boiler efficiency.

Through the use of the aforesaid statements and representations, and others of similar import or meaning not herein set out, the respondent has represented that its said coal distributor is a non-segregating coal distributor within the meaning of the term non-segregating coal distributors as it is used and understood in the trade and by heating experts and the purchasing public.

PAR. 4. Various types of distributors are used to deliver coal into the fire boxes of large steam boilers. The term "nonsegregating"

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when applied to coal distributors is used and understood in the trade and by heating experts and members of the purchasing public to mean a distributor which causes a uniform layer of fine and coarse coal to be delivered across the entire surface of the fire boxes of boilers. The coarse and fine coals are not segregated in this process of distribution, but are delivered to the surface of the fire box in the same proportionate mixture as when the coals leave the bunkers. The distribution of fine and coarse coal in this manner results in a uniform fire bed and an even flame over the entire surface of the fire box. There is now, and has been at all times mentioned herein, a preference on the part of purchasers and prospective purchasers of coal distributors for nonsegregating coal distributors because of their belief that economy and efficiency in the operation of large steam boilers can be obtained by reason of the use of such distributors.

PAR. 5. In truth and in fact the coal distributors which the respondent represents as aforesaid as being nonsegregating coal distributors are not nonsegregating coal distributors within the meaning of that term as it is used and understood in the trade and by heating engineers and the purchasing public as hereinabove described.

PAR. 6. The use by the respondent of the aforesaid false, deceptive, and misleading statements and representations has had, and now has, the capacity and tendency to, and does, mislead and deceive members of the purchasing public into the erroneous and mistaken belief that such false, deceptive, and misleading statements and representations are true, and into the purchase of substantial quantities of respondent's said coal distributors because of said erroneous and mistaken belief.

PAR. 7. The aforesaid acts and practices of the respondent, as herein alleged, are all to the prejudice and injury of the public, and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on the 14th day of July 1939, issued and served its complaint in this proceeding upon respondent Fairfield Engineering Co., a corporation, charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On the 27th day of July, 1939, the respondent filed its answer, in which answer it admitted all the material allegations of fact set forth in said complaint and waived all intervening

procedure and further hearing as to said facts. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint and the answer thereto, and the Commission, having duly considered the matter, and being now fully advised in the premises finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Fairfield Engineering Co., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Ohio, and having its principal office and place of business at 324 Barnhardt Street, in the city of Marion, State of Ohio.

PAR. 2. Respondent is now, and for more than 1 year last past has been, engaged in the manufacture, sale, and distribution of coal distributors, designated "Fairfield Coal Distributors" and "Fairfield Non-Segregating Coal Distributors," which are designed to distribute coal to stoker hoppers in large steam boilers. Respondent causes said coal distributors, when sold by it, to be transported from its place of business in the State of Ohio to the purchasers thereof at their respective points of location in various States of the United States other than the State of Ohio and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said coal distributors 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 its aforesaid business and for the purpose of inducing the purchase of its said coal distributors, respondent has caused various statements and representations relative to said coal distributors to be inserted in advertisements in catalogs, circulars, and other printed or written matter, all of which are distributed to members of the purchasing public situated in various States of the United States and in the District of Columbia. Among and typical of the statements and representations by respondent used and disseminated as aforesaid are the following:

FAIRFIELD NON-SEGREGATING COAL DISTRIBUTORS.

Fairfield distributors * * *. Coal is delivered across the entire grate surface of the stoker just as it comes from the bunkers, assuring a uniform fuel bed.

Uniform distribution of coarse and fine coal will result in higher boiler efficiency.

Through the use of the aforesaid statements and representations, and others of similar import or meaning not herein set out, the re-

spondent has represented that its said coal distributor is a non-segregating coal distributor within the meaning of the term non-segregating coal distributors as it is used and understood in the trade and by heating experts and the purchasing public.

PAR. 4. Various types of distributors are used to deliver coal into the fire boxes of large steam boilers. The term "nonsegregating" when applied to coal distributors is used and understood in the trade and by heating experts and members of the purchasing public to mean a distributor which causes a uniform layer of fine and coarse coal to be delivered across the entire surface of the fire boxes of boilers. The coarse and fine coals are not segregated in this process of distribution, but are delivered to the surface of the fire box in the same proportionate mixture as when the coals leave the bunkers. The distribution of fine and coarse coal in this manner results in a uniform fire bed and an even flame over the entire surface of the fire box. There is now, and has been at all times mentioned herein, a preference on the part of purchasers and prospective purchasers of coal distributors for non-segregating coal distributors because of their belief that economy and efficiency in the operation of large steam boilers can be obtained by reason of the use of such distributors.

PAR. 5. In truth and in fact the coal distributors which the respondent represents as aforesaid as being nonsegregating coal distributors are not completely nonsegregating distributors.

PAR. 6. The use by the respondent of the aforesaid statements and representations has the tendency and capacity to mislead and deceive members of the purchasing public into the erroneous and mistaken belief that such statements and representations are literally true and into the purchase of substantial quantities of respondent's said coal distributors because of said erroneous and mistaken belief.

CONCLUSION

The aforesaid acts and practices of the respondent, as herein found, are all to the prejudice and injury of the public, and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and 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 the respondent, Fairfield Engineering Co., a corporation, 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 coal distributors now designated as "Fairfield Coal Distributors" and "Fairfield Non-Segregating Coal Distributors" or any other coal distributors of substantially similar design, in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, through the use of the term "nonsegregating," or any other term of similar import or meaning, or in any other manner, that such coal distributors are nonsegregating coal distributors or are distributors which cause an uniform layer of fine and coarse coal to be delivered across the entire surface of the fire boxes of the boilers.

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
DEARBORN SUPPLY COMPANY

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

Docket 3593. Complaint, Sept. 17, 1938—Decision, Aug. 15, 1939

Where a corporation engaged in manufacture, sale, and distribution of line of cosmetics under various names, and including its "Mercolized Wax," "Parker-Belmont Beauty Cream," "Powdered Saxolite," "Powdered Tarkroot," and "Phelactine," to purchasers in other States and in the District of Columbia, in active and substantial competition with others likewise engaged in sale and distribution of cosmetics in commerce as aforesaid; in advertising its said products through circulars and folders distributed to prospective purchasers thereof in various States and through magazines of general circulation—

- (a) Represented, directly and by inference, that its said "Mercolized Wax" absorbed surface skin and surface discolorations, blemishes, and impurities, and removed all coarseness, blackheads, tan, etc., therefrom, and cleansed, softened, bleached, lubricated, and protected the skin, nourishing it and helping it renew itself, and constituted natural way to make it beautiful, and all-in-one cleansing, softening, and beautifying cream and all-purpose beauty aid, facts being said "Mercolized Wax" did not absorb surface skin or surface discolorations, etc., remove coarseness, blackheads, etc., or cleanse and otherwise affect the skin and accomplish the results above set out and claimed, and did not constitute an all-in-one cream or all-purpose beauty aid as above described, but, by virtue of amount of ammoniated mercury contained therein, possessed bleaching qualities and constituted skin bleach which, as below set forth, might be injurious;
- (b) Failed to reveal, in advertisements which it thus disseminated, and which were intended and calculated to induce purchase of its said products, that said "Mercolized Wax" contained ammoniated mercury as aforesaid, and that said preparation could not be used safely by all persons and might be injurious when used by some, due to said content, and might cause injurious effects when applied to cut, bruised, irritated, or damaged skin or to large area of the body;
- (c) Represented that its said "Parker-Belmont Beauty Cream" was a skillful scientific blend of creams for pore-deep cleansing, clearing, softening, lubricating, and all-around beautifying of the skin, and an oxygen cream which bleached skin, making it lighter by two or three shades, and a blend of all creams required by skin, and which normalized either dry or oily skin, facts being it was not a skillful or scientific blend of creams or efficacious for pore-deep cleansing or for other results above set forth, and was not an oxygen cream or blend as above claimed, and would not accomplish other results above represented;
- (d) Represented that its said "Saxolite Astringent" was a skin tonic which smoothed out wrinkles and age lines, refined coarse pores, eliminated oils and gave skin fresh, clean, lively appearance, facts being it would not accomplish results aforesaid and was not skin tonic;