

Order

29 F. T. C.

IN THE MATTER OF
CAREY SALT COMPANY

CEASE AND DESIST ORDER

Docket 2516. Order, Oct. 17, 1939

Order requiring respondent, its officers, etc., in instant proceeding (following Commission's complaint, etc., findings, and order of December 3, 1936, 24 F. T. C. 42, placement of matter *in fieri* pending decisions in related salt cases, and the making of such decisions therein) to cease and desist from using the word "smoke" to designate, etc., salt offered and sold by it and which had not been directly subjected to action and effect of smoke from burning wood, etc., for curing, preserving, smoking, or flavoring meats, and from representing that its so-called "smoke" salt cures and smoke-flavors meat in one operation, or cures and smokes meat at all, or that treatment of meat with its product is a thousand times better than the old smoke house, or as good, or that meat thereby acquires same taste or flavor, etc., as it acquires from treatment with salt and subsequent exposure to smoke from burning wood, etc., as in said original proceeding required, and in said cease and desist order below set forth.

Before *Mr. Robert S. Hall*, trial examiner.

Mr. Jay L. Jackson for the Commission.

Williams, Martindell, Carey & Brown, of Hutchinson, Kans., for respondent.

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 respondent, the stipulation as to certain facts and testimony and evidence in support of the allegations of the complaint and in opposition thereto, briefs filed herein by counsel for the Commission and counsel for the respondent, and the Commission having made its report in writing stating its findings as to the facts and its conclusion that said respondent has violated the provisions of an act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and the Commission having, on December 3, 1936 issued an order requiring the respondent, Carey Salt Co., its officers, representatives, agents, and employees, in connection with the offering for sale, sale, and distribution of salt in interstate commerce or in the District of Columbia, do forthwith cease and desist from certain practices, and further ordering said respondent to file within 60 days from and after the service of said order a report in writing setting forth in detail the manner and form of its compliance therewith, and

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Order

by order duly entered herein on March 5, 1937 having extended the time for filing report of compliance with said order until such time as the Commission rendered its final decision in the matters of Smoke Products Co., et al, Docket 2783, and Pennsylvania Salt Manufacturing Co., et al., Docket 2784; and by order duly entered herein on May 20, 1938 having directed that this matter remain *in fieri* without prejudice to the right of the Commission forthwith to enter such final order as seems just at or after the Commission's final decision in Dockets 2783 and 2784, and the Commission having made its final decision in the matters of Dockets 2783 and 2784, and having duly entered and issued its findings as to the facts and conclusions and orders to cease and desist in these matters, and having duly considered the record herein;¹

It is ordered, That the respondent, Carey Salt Company, its officers, representatives, agents and employees, in connection with the offering for sale, sale, and distribution of salt in interstate commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "smoke," or any other word or words signifying smoke or implying use of smoke, to designate or describe salt offered for sale, or sold, for curing, preserving, smoking, or flavoring meats, unless the salt so described or designated has been or is directly subjected to the action and effect of the smoke from burning wood during the process and course of its combustion sufficiently to acquire from such source alone all of its smoke or smoke effects for use in curing, preserving, smoking, or flavoring meats.

2. Representing that its so-called smoke salt cures and smoke-flavors meat in one operation or that it cures and smokes meat at all or that treatment of meat with its said product is a thousand times better than the old smokehouse or as good or that meat by treatment with such product acquires therefrom the same taste or flavor or other properties or effects, as meat acquires from treatment with salt and subsequent exposure to the smoke from burning wood during the process and course of its combustion.

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.

¹ See, for said decisions, pp. 1136 and 1143, *infra*.

Complaint

29 F. T. C.

IN THE MATTER OF
SMOKED PRODUCTS COMPANY AND THE SMOKED SALT
COMPANY, INC.

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

Docket 2783. Complaint, Apr. 24, 1936—Decision, Oct. 18, 1939

Where two corporations engaged in manufacture, offer and sale of their "smoked salt"; in advertising their said products through magazines, newspapers, booklets, pamphlets, and radio broadcasts—

Represented that meat cured or treated with "smoked salt" would be or was thereby subjected to smoke, and that "smoked salt" accomplished and did and could do all or everything that an old smokehouse could do in the curing or smoking of meat, through such statements, among others, as "The curing salt that puts actual hickory smoke into your meats," "* * * prepared by a patented process which coats each grain of salt with genuine hickory wood smoke," "* * * the salt is exposed to hickory wood smoke just like meat is exposed to smoke in the old-fashioned smoke-house * * *," "* * * gets the smoke farther and faster into the meat than when meat is smoked in a smokehouse," and "* * * sugar-cures and actually puts genuine hickory wood smoke into meats in one operation," and "All that a smokehouse can do is put hickory smoke into your meats—Old Hickory Brand Smoked Salt does the same thing";

Facts being when meat was cured and treated with their product it would not be and was not thereby subjected to smoke as such, and said product did not and could not do all or everything that the old smokehouse can and did do with respect to curing and smoking of meats;

With effect of misleading and deceiving members of purchasing public into the belief that said representations were true, and into purchase of their said products in reliance upon such belief, and of diverting trade to them from competitors who do not misrepresent the efficacy of their products:

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

Before *Mr. Robert S. Hall*, trial examiner.

Mr. Jay L. Jackson for the Commission.

Cushman, Darby & Cushman, of Washington, D. C., and *Kunkel & Kunkel*, of Cincinnati, Ohio, for respondents.

COMPLAINT¹

Pursuant to the provisions of an act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Com-

¹ By stipulation of the parties approved by the Commission on October 13, 1939, it was stipulated and agreed that the complaint be considered as amended by alleging, in addition