

Syllabus

IN THE MATTER OF

MAURICE SEIDEL AND CHARLES SEIDEL, TRADING AS
M. SEIDEL & SONCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3961. Complaint, Dec. 2, 1939—Decision, Mar. 7, 1940*

Where two partners engaged in sale and distribution of furs, fur coats and other fur products to purchasers in various other States and in the District of Columbia; in soliciting the sale of and in selling and distributing their said merchandise—

- (a) Furnished various devices and plans of merchandising which involved operation of games of chance, gift enterprises, or lottery schemes by which merchandise in question was sold and distributed to ultimate consumer thereof wholly by lot or chance, and involved distribution to purchasing public of certain literature and instructions, including push cards, order blanks, illustrations of goods and articles concerned, and circulars explaining their said plan of selling such merchandise and of allotting it as premiums or prizes to operators of such push cards under plan in accordance with which and card's explanatory legend, person securing by chance selection from list of feminine names displayed name corresponding with that concealed under card's master seal secured "a beautiful new fur cape," or other article being thus disposed of, and amount paid for chance was dependent upon number secured by chance as concealed under card's various discs, and under other sales plans or methods in connection with which they furnished various devices accompanied by order blanks, instructions and other printed matter for use in sale and distribution of their merchandise by means of game of chance, gift enterprise, or lottery scheme similar to plan or method above described and varying therefrom in detail only; and

Supplied thereby to and placed in the hands of others the means of conducting lotteries in the sale of their merchandise in accordance with plan above described, under which facts as to whether purchaser received article or nothing for amount of money paid and amount to be paid were determined wholly by lot or chance, and involving game of chance or sale of chance to procure an article of merchandise at price much less than normal retail price thereof, contrary to an established public policy of the United States Government and in violation of criminal laws, and in competition with many who are unwilling to adopt and use said or any sales plan or method involving game of chance or sale of chance to win something by chance or any other method contrary to public policy and refrain therefrom;

With the result that many persons were attracted by their said sales plan or method employed in sale and distribution of their merchandise and element of chance involved therein, and were thereby induced to buy and sell their said merchandise in preference to that offered and sold by their said competitors who do not use such or equivalent sales plan or method, and with result, through use of such plan or method and because of such game of chance, of unfairly diverting trade in commerce from their competitors aforesaid who do not use such or equivalent sales plan or method, to the substantial injury of competition in commerce.

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- (b) Represented, through advertisements in magazines, circulars, and other printed or written matter, that the possible and average earnings of their salesmen and representatives in the ordinary course of business was \$1,300.00 a week or more, and that an investment of \$12.00 would bring such amount, facts being possible average earnings of salesmen and representatives were not such amount, which was not a true representation of average net earnings or profits consistently made by their active, full-time salesmen or representatives in the ordinary course of business and under normal conditions and circumstances, their said salesmen or representatives earn only a small fraction of amount represented and none of them earned or had ever earned said amount, which had never been consistently earned by any representative in ordinary course of business under normal conditions and circumstances, and investment of \$12.00 would not bring \$1,300.00, and no representative by such investment had earned such profits or any sum other than a very small fraction thereof; and
- (c) Made use in various advertising in periodicals, circulars, and other printed and written matter, and on labels and tags, of such false and misleading references and designations to describe certain women's fur garments dealt in by them and made from rabbit peltries so dressed and dyed as to resemble fur products from peltries of seal, beaver, leopard, ermine, mink, squirrel, sable or caracul sheep, and true zoological names of which they failed to disclose, as "Seal," "Black Seal," "Full Skin Seal," "Pieced Seal," "Pieced Sealine," "Mendoza Beaver," "Pieced Beaver," "Leopardine," "Erminette," "Ermine Coney," "Pieced Marmink," "Striped Minkolette," "Squirrelette," "Cocoa Squirrel," "Dark Sable Coney," "Golden Sable Coney," and "Broad-tail";

With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that large earnings and profits could be made by salesmen and representatives selling their products, and that the fur garments designated and described as above set forth were composed in fact of the peltries of seal, beaver, leopard, ermine, mink, squirrel, sable or caracul sheep, preferred on part of purchasing public to peltries made of rabbit because of their superior qualities such as pliability, durability, and luster, and, by reason of such mistaken and erroneous beliefs induced as above set forth, into purchase of substantial quantities of their said products:

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

Mr. D. C. Daniel 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 Maurice Seidel and Charles Seidel, individuals and copartners, trading under the name of M. Seidel & Son, hereinafter referred to as 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 interest of the public, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondents, Maurice Seidel and Charles Seidel, are individuals doing business as copartners under the name of M. Seidel & Son, with their principal office and place of business located at 243 West 30th Street, in the city of New York, in the State of New York. Respondents are now, and for some time last past have been, engaged in the sale and distribution of furs, fur coats, and other fur products in commerce between and among the various States of the United States, and in the District of Columbia. Respondents cause and have caused said products, when sold, to be transported from their afore-said place of business in the State of New York to purchasers thereof at their respective points of location in the various States of the United States other than the State of New York, and in the District of Columbia. There is now and has been for some time last past a course of trade by respondents in such products in commerce between and among the various States of the United States and in the District of Columbia. Respondents are and have been in competition with other partnerships, and with individuals, firms, and corporations engaged in the sale and distribution of like or similar products in 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 hereinabove described, respondents, in soliciting the sale of and in selling and distributing their said merchandise, furnish and have furnished various devices and plans of merchandising which involve the operation of games of chance, gift enterprises, or lottery schemes by which said merchandise is and has been sold and distributed to the ultimate consumer thereof wholly by lot or chance. The method or sales plan adopted and used by respondents was and is substantially as follows:

Respondents distribute and have distributed to the purchasing public certain literature and instructions, including, among other things, push cards, order blanks, illustrations of their said merchandise, and circulars explaining respondents' said plan of selling said merchandise and of allotting it as premiums or prizes to the operators of said push cards. One of respondents' push cards bears 63 small partially perforated discs, on the face of which is printed the word "push" and immediately below each of said discs is printed a feminine name. Concealed within each disc is a number which is disclosed when the disc is pushed or separated from the card. The push card also has a large master seal and concealed within the master seal is one of the feminine names appearing below said discs. On the reverse side of said push

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card is a place for the recording of the name of each purchaser opposite the name selected. The push card bears legends or instructions as follows:

Name Under Seal Receives

A BEAUTIFUL NEW FUR CAPE

LATEST STYLE

as illustrated

SIZES: 12-40

(Picture of lady
wearing fur cape)

No. 1-25

Pay what you draw—
over 25 pays only 25¢

Do not
remove seal
until entire
card is sold

Choice of Cape in Light or Dark Brown

Sales of respondents' merchandise by means of said push cards are made in accordance with the above-described legends or instructions. Said prizes or premiums are allotted to customers or purchasers in accordance with the above legends or instructions. The facts as to whether a purchaser receives an article of merchandise or nothing for the amount of money paid and the amount to be paid therefor, are thus determined wholly by lot or chance.

Respondents furnish and have furnished various devices accompanied by said order blanks, instructions, and other printed matter for use in the sale and distribution of their merchandise by means of a game of chance, gift enterprise, or lottery scheme. The sales plan or method involved in connection with the sale of all of said merchandise by means of said devices is the same as that hereinabove described, varying only in detail.

PAR. 3. The persons to whom respondents furnish the said push cards use the same in purchasing, selling, and distributing respondents' merchandise in accordance with the aforesaid sales plan. Respondents thus supply to and place in the hands of others the means of conducting lotteries in the sale of their merchandise in accordance with the sales plan hereinabove described. The use by respondents of said sales plan or method in the sale of their merchandise and the sale of said merchandise by and through the use thereof and by the aid of said sales plan or method is a practice of a sort which is contrary to an established public policy of the Government of the United States and in violation of criminal laws.

PAR. 4. The sale of merchandise to the purchasing public in the manner above alleged involves a game of chance or the sale of a chance to procure an article of merchandise at a price much less than the normal retail price thereof. Many persons, firms, and corporations who sell or distribute merchandise in competition with the respondents, as above alleged, are unwilling to adopt and use said sales plan or method or any sales plan or method involving a game of chance or the sale of a chance to win something by chance or any other method that is contrary to the public policy and such competitors refrain therefrom. Many persons are attracted by said sales plan or method employed by respondents in the sale and distribution of their merchandise and the element of chance involved therein and are thereby induced to buy and sell respondents' merchandise in preference to merchandise offered for sale and sold by said competitors of respondents who do not use the same or an equivalent sales plan or method. The use of said sales plan or method by respondents because of said game of chance has a tendency and capacity to, and does, unfairly divert trade in commerce between and among the various States of the United States and in the District of Columbia to respondents from their said competitors who do not use the same or an equivalent sales plan or method. As a result thereof, substantial injury is being, and has been, done by respondents to competition in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 5. In the course and conduct of their business, and for the purpose of inducing salesmen or representatives to sell their products by means of the said push cards, respondents represent that the possible and average earnings of salesmen and representatives in the ordinary course of business is \$1,300.00 a week or more, and that an investment of \$12.00 would bring \$1,300.00. Such representations are made by means of advertisements placed in magazines, circulars, and other printed or written matter. Among and typical of the statements and representations so made by the respondents are the following:

You can make for yourself \$1300 a week or more.
\$12 can bring you \$1300.

In truth and in fact, the possible average earnings of salesmen and representatives are not \$1,300.00 a week or more, and said sum is not a true representation of the average net earnings or profits consistently made by respondents' active full-time salesmen or representatives in the ordinary course of business and under normal conditions and circumstances. In fact, such salesmen and representatives earn

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only a small fraction of the amount represented. Furthermore, none of the respondents' representatives have earned or now earn \$1,300.00 a week, and said sum so represented has never been consistently earned by any representative in the ordinary course of business and under normal conditions and circumstances. Furthermore, the investment of \$12.00 will not bring \$1,300.00, nor has any representative of the respondents by such an investment earned profits of \$1,300.00 or any sum other than a very small fraction of said amount.

PAR. 6. In the course and conduct of their business as aforesaid, the respondents are engaged in the sale and distribution of women's fur garments made from rabbit peltries which peltries are so dressed and dyed as to resemble fur products made from the peltries of seal, beaver, leopard, ermine, mink, squirrel, sable, or karakul sheep. The respondents fail to disclose the true zoological names of such furs and fur products so sold and distributed by them but instead misrepresent such products by means of misleading and deceptive designations designed to influence purchasers and prospective purchasers of such products. Typical of the false and misleading representations made by the respondents in their various advertising material appearing in magazines, circulars and other printed and written matter, and on labels and tags, is the use of the following terms to designate or describe the furs or fur products sold and distributed by respondents: "Seal," "Black Seal," "Full Skin Seal," "Pieced Seal," "Pieced Sealine," "Mendoza Beaver," "Pieced Beaver," "Leopardine," "Erminette," "Ermine Coney," "Pieced Marmink," "Striped Minkolette," "Squirrelette," "Cocoa Squirrel," "Dark Sable Coney," "Golden Sable Coney," and "Broadtail."

PAR. 7. There is a preference on the part of the purchasing public for fur products made from the peltries of Seal, Beaver, Leopard, Ermine, Mink, Squirrel, Sable, and Karakul Sheep over peltries made from rabbit because of their superior qualities, such as pliability, durability and luster.

PAR. 8. The use by the respondents of the foregoing false and misleading statements and representations has had, and now has, the tendency and capacity to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that large earnings and profits can be made by salesmen and representatives selling respondents' products and that the fur garments designated and described by respondents, as set out in paragraph 6 hereof, are composed in fact of the peltries of Seal, Beaver, Leopard, Ermine, Mink, Squirrel, Sable, or Karakul Sheep, and into the purchase of substantial quantities of respondents' products in

and on account of such mistaken and erroneous beliefs induced as aforesaid.

PAR. 9. The aforesaid acts and practices of the 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 December 2, 1939, issued and thereafter served its complaint in this proceeding upon respondents Maurice Seidel and Charles Seidel, individuals and copartners trading as M. Seidel & Son, 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 respondents' answer, the Commission, by order entered herein, granted respondents' motion 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 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. Respondents, Maurice Seidel and Charles Seidel, are individuals doing business as copartners under the name of M. Seidel & Son, with their principal office and place of business located at 243 West 30th Street, in the city of New York, in the State of New York. Respondents are now, and for some time last past have been, engaged in the sale and distribution of furs, fur coats, and other fur products in commerce between and among the various States of the United States, and in the District of Columbia. Respondents cause and have caused said products, when sold, to be transported from their aforesaid place of business in the State of New York to purchasers thereof at their respective points of location in the various States of the United States other than the State of New York, and in the District of Colum-

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bia. There is now and has been for sometime last past a course of trade by respondents in such products in commerce between and among the various States of the United States and in the District of Columbia. Respondents are and have been in competition with other partnerships, and with individuals, firms and corporations engaged in the sale and distribution of like or similar products in 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 hereinabove described, respondents, in soliciting the sale of and in selling and distributing their said merchandise, furnish and have furnished various devices and plans of merchandising which involve the operation of games of chance, gift enterprises, or lottery schemes by which said merchandise is and has been sold and distributed to the ultimate consumer thereof wholly by lot or chance. The method or sales plan adopted and used by respondents was and is substantially as follows:

Respondents distribute and have distributed to the purchasing public certain literature and instructions, including, among other things, push cards, order blanks, illustrations of their said merchandise, and circulars, explaining respondents' said plan of selling said merchandise and of allotting it as premiums or prizes to the operators of said push cards. One of respondents' push cards bears sixty-three small partially perforated discs, on the face of which is printed the word "push" and immediately below each of said discs is printed a feminine name. Concealed within each disc is a number which is disclosed when the disc is pushed or separated from the card. The push card also has a large master seal and concealed within the master seal is one of the feminine names appearing below said discs. On the reverse side of said push card is a place for the recording of the name of each purchaser opposite the name selected. The push card bears legends or instructions as follows:

Name Under Seal Receives
A BEAUTIFUL NEW FUR CAPE

LATEST STYLE
as illustrated
SIZES: 12-40

(Picture of lady
wearing fur cape)

No. 1-25
Pay what you draw—
over 25 pays only 25c

Do not
remove seal
until entire
card is sold.

Choice of Cape in Light or Dark Brown

Sales of respondents' merchandise by means of said push cards are made in accordance with the above described legends or instructions. Said prizes or premiums are allotted to customers or purchasers in accordance with the above legends or instructions. The facts as to whether a purchaser receives an article of merchandise or nothing for the amount of money paid and the amount to be paid therefor, are thus determined wholly by lot or chance.

Respondents furnish and have furnished various devices accompanied by said order blanks, instructions, and other printed matter for use in the sale and distribution of their merchandise by means of a game of chance, gift enterprise, or lottery scheme. The sales plan or method involved in connection with the sale of all of said merchandise by means of said devices is the same as that hereinabove described, varying only in detail.

PAR. 3. The persons to whom the respondents furnish the said push cards use the same in purchasing, selling, and distributing respondents' merchandise in accordance with the aforesaid sales plan. Respondents thus supply to and place in the hands of others the means of conducting lotteries in the sale of their merchandise in accordance with the sales plan hereinabove described. The use by respondent of said sales plan or method in the sale of their merchandise and the sale of said merchandise by and through the use thereof and by the aid of said sales plan or method is a practice of a sort which is contrary to an established public policy of the Government of the United States and in violation of criminal laws.

PAR. 4. The sale of merchandise to the purchasing public in the manner above described involves a game of chance or the sale of a chance to procure an article of merchandise at a price much less than the normal retail price thereof. Many persons, firms, and corporations who sell or distribute merchandise in competition with the respondents, as above described, are unwilling to adopt and use said sales plan or method or any sales plan or method involving a game of chance or the sale of a chance to win something by chance or any other method that is contrary to the public policy and such competitors refrain therefrom. Many persons are attracted by said sales plan or method employed by respondents in the sale and distribution of their merchandise and the element of chance involved therein and are thereby induced to buy and sell respondents' merchandise in preference to merchandise offered for sale and sold by said competitors of respondents who do not use the same or an equivalent sales plan or method. The use of said sales plan or method by respondents because of said game of chance has a tendency and capacity to, and does, unfairly divert trade in commerce between and among the various States of the United States and the Dis-

trict of Columbia to respondents from their said competitors who do not use the same or an equivalent sales plan or method. As a result thereof, substantial injury is being, and has been, done by respondents to competition in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 5. In the course and conduct of their business, and for the purpose of inducing salesmen or representatives to sell their products by means of the said push cards, respondents represent that the possible and average earnings of salesmen and representatives in the ordinary course of business is \$1,300.00 a week or more, and that an investment of \$12.00 would bring \$1,300.00. Such representations are made by means of advertisements placed in magazines, circulars, and other printed or written matter. Among and typical of the statements and representations so made by the respondents are the following:

You can make for yourself \$1,300 a week or more.

\$12 can bring you \$1,300.

In truth and in fact, the possible average earnings of salesmen and representatives are not \$1,300 a week or more, and said sum is not a true representation of the average net earnings or profits consistently made by respondents' active full-time salesmen or representatives in the ordinary course of business and under normal conditions and circumstances. In fact, such salesmen and representatives earn only a small fraction of the amount represented. Furthermore, none of the respondents' representatives have earned or now earn \$1,300.00 a week, and said sum so represented has never been consistently earned by any representative in the ordinary course of business and under normal conditions and circumstances. Furthermore, the investment of \$12.00 will not bring \$1,300.00, nor has any representative of the respondents by such an investment earned profits of \$1,300.00, or any sum other than a very small fraction of said amount.

PAR. 6. In the course and conduct of their business as aforesaid, the respondents are engaged in the sale and distribution of women's fur garments made from rabbit peltries which peltries are so dressed and dyed as to resemble fur products made from the peltries of seal, beaver, leopard, ermine, mink, squirrel, sable, or karakul sheep. The respondents fail to disclose the true zoological names of such furs and fur products so sold and distributed by them but instead misrepresent such products by means of misleading and deceptive designations designed to influence purchasers and prospective purchasers of such products. Typical of the false and misleading representations made by the respondents in their various advertising material appearing in magazines, circulars and other printed and written mat-

ter, and on labels and tags, is the use of the following terms to designate or describe the furs or fur products sold and distributed by respondents: "Seal," "Black Seal," "Full Skin Seal," "Pieced Seal," "Pieced Sealine," "Mendoza Beaver," "Pieced Beaver," "Leopardine," "Erminette," "Ermine Coney," "Pieced Marmink," "Striped Minkollette," "Squirrelette," "Cocoa Squirrel," "Dark Sable Coney," "Golden Sable Coney," and "Broadtail."

PAR. 7. There is a preference on the part of the purchasing public for fur products made from the peltries of Seal, Beaver, Leopard, Ermine, Mink, Squirrel, Sable, and Karakul Sheep over peltries made from rabbit because of their superior qualities, such as pliability, durability, and lustre.

PAR. 8. The use by the respondents of the foregoing false and misleading statements and representations has had, and now has, the tendency and capacity to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that large earnings and profits can be made by salesmen and representatives selling respondents' products and that the fur garments designated and described by respondents, as set out in paragraph 6 hereof, are composed in fact of the peltries of Seal, Beaver, Leopard, Ermine, Mink, Squirrel, Sable, or Karakul Sheep, and into the purchase of substantial quantities of respondents' products in and on account of such mistaken and erroneous beliefs induced as aforesaid.

CONCLUSION

The aforesaid acts and practices of the respondents, as herein found, 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.

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 respondents, in which answer respondents admit all the material allegations of fact set forth in said complaint and state that they waive 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 respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, Maurice Seidel and Charles Seidel, individually and as copartners, trading under the name of M.

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Seidel & Son, their representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale and distribution of furs, fur garments or other merchandise in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Supplying to, or placing in the hands of, others, push or pull cards, punchboards, or other lottery devices, which said push or pull cards, punchboards, or other lottery devices are to be used, or may be used, in selling and distributing any merchandise by the use thereof.

2. Mailing, shipping, or transporting to agents or distributors, or to members of the public, push or pull cards, punchboards, or other lottery devices, which said push or pull cards, punchboards, or other lottery devices are so prepared and printed that said devices are to be used, or may be used, in selling and distributing any merchandise by the use thereof.

3. Selling, or otherwise disposing of, any merchandise by the use of push or pull cards, punchboards, or other lottery devices.

4. Representing any specified sum of money as possible earnings or profits of agents, salesmen, representatives, or distributors, for any given period of time which is not a true representation of the average net earnings or profits consistently made by their active full-time agents, salesmen, representatives, or distributors in the ordinary course of business under normal conditions and circumstances.

5. Representing any specified sum of money as earnings or profits of any specified agent, salesman, representative, or distributor for any given period of time which has not in fact been consistently earned net by such agent, salesman, representative, or distributor in the ordinary course of business under normal conditions and circumstances.

6. Describing furs or fur garments in any other way than by the use of the true name of the fur as a last word of the description or designation thereof.

7. Describing furs or fur garments wherein the fur has been dyed or processed to simulate another fur without using the true name of the fur as a last word of the description or designation thereof immediately preceded by the word "dyed" or "processed," as the case may be, compounded with the name of the simulated fur.

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.

Order

IN THE MATTER OF
MORTON SALT COMPANY
MODIFIED CEASE AND DESIST ORDER

Docket 2150. Order, Mar. 8, 1940

Order clarifying and modifying prior cease and desist order, issued on October 17, 1939, 29 F. T. C. 1128, requiring respondent, its officers, etc., in instant proceeding (following Commission's complaint, etc., findings, and order of April 30, 1935, 20 F. T. C. 309, 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 words "smoked" or "smoke," etc., 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, as in said original proceeding required and in cease and desist order below set forth; but subject to permitted use of terms "wood smoke" and "refined condensed smoke" in enumerating or stating ingredients, when salt has been directly subjected to action and effect of smoke of burning wood during process of combustion, etc., as in added proviso below specified.

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

Mr. Jay L. Jackson for the Commission.

Mr. H. H. Shelton and *Sanders, Gravelle, Whitlock & Howry*, of Washington, D. C., and *Stearns & Jones*, of Chicago, Ill., for respondent.

MODIFIED ORDER TO CEASE AND DESIST

Whereas, The Commission, on October 17, 1939, issued in this proceeding its order to cease and desist, and

Whereas, It now appears to the Commission desirable to clarify said order to cease and desist in certain respects,

It is therefore ordered, That the order to cease and desist issued in this proceeding on the 17th day of October, A. D., 1939, be modified so that as modified it will read as follows:

This proceeding having been heard upon the complaint issued and served upon respondent, Morton Salt Co., and its answer thereto, testimony, evidence, briefs, and arguments of counsel for the Commission and counsel for respondent, and the Federal Trade Commission having made its report in writing stating its findings as to the facts and its conclusion drawn therefrom that the respondent has been and is violating 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,"