

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,"

Order

30 F. T. C.

and the Commission having, on April 30, 1935, entered and issued its order requiring the respondent, Morton Salt Co., its officers, agents, employees, and representatives, in connection with offering for sale or selling salt in interstate commerce or in the District of Columbia, to cease and desist, on brands or labels, and in magazines, trade journals, newspapers or other periodicals, or in house organs, pamphlets, radio broadcasting, or in any other form of advertisement, directly or indirectly, expressly or impliedly, from using the word "smoked" or 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 its process of combustion sufficiently to acquire from such source alone all of its smoke or smoke effects for use in curing, preserving, smoking, or flavoring meats, and further ordering said respondent to file within 60 days from the service of said order a report in writing setting forth the manner and form of its compliance therewith; and by order duly entered herein on June 28, 1935, having extended the time for filing report of compliance with said order from July 31, 1935, to August 30, 1935; and by order duly entered hereon on June 17, 1936, having stayed said proceeding until final decision by the Commission in the matters of Smoke Products Company, et al., Docket 2783, and Pennsylvania Salt Manufacturing Company, et al., Docket 2784; and by order duly entered hereon on April 21, 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 the matters of 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;

It is ordered, That respondent, Morton Salt Co., its officers, agents, employees, and representatives in connection with offering for sale, sale or distribution of salt in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from using the word "smoked" or 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 its process of combustion sufficiently to

acquire from such source alone all of its smoke or smoke effects for use in curing, preserving, smoking, or flavoring meats.

Nothing in this order shall prohibit the respondent from using the terms "wood smoke" and "refined condensed smoke" in enumerating or stating the ingredients of such salt when such salt has been directly subjected to the action and effect of the smoke of burning wood during its process of combustion and there has been added thereto a refined concentrate resulting from the destructive distillation of wood, and where the application of each of such products is in sufficient quantity to impart to such salt the flavor of smoke.

It is further ordered, That the respondent shall, within 60 days after service upon it of this modified 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
**MONROE CHEMICAL COMPANY AND MARY T. GOLDMAN
COMPANY**

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

Docket 3274. Complaint, Nov. 26, 1937—Decision, Mar. 8, 1940

Where a corporation, and a second concern, which acquired controlling interest therein and controlled business policies thereof, engaged, as aforesaid, directly and indirectly, in manufacture and sale of various preparations, including said corporation's "Mary T. Goldman's Gray Hair Color Restorer," to purchasers in various other States and in the District of Columbia, in substantial competition with others engaged in distribution and sale, in commerce as aforesaid, of hair tonics, hair dyes, or other products for treating various conditions of hair and scalp, and for coloring or dyeing gray hair, and including many who distribute and sell such hair tonics and other preparations and who do not in any way misrepresent quality or character or effectiveness thereof; in advertising their said "Color Restorer" in newspapers and periodicals of general circulation and in advertising folders distributed to members of the purchasing public in various States—

- (a) Represented, directly or by implication, that use of product in question would restore original or youthful color to gray, streaked or faded hair and would erase or remove all trace of gray hair, through use of word "restorer" in designation of product in question, and through such statements as "Just comb colorless liquid through hair—youthful color comes—nothing to wash or rub off on clothing," and "Gray Hair Gone," and "We will show you how to bring youthful color in every hair in your head", facts being product in question does not restore original color to gray, faded or streaked hair of user, but acts as dye or stain, color produced by use thereof is artificial and it will not color or restore color to hair as aforesaid, except in the sense that it may dye the same, all trace of such hair is not removed or erased, as repeated applications are required in order to prevent new growth showing gray, faded or streaked above scalp line, and preparation acts, as above set forth, as dye or stain on that portion exposed above such line; and
- (b) Represented that originator of preparation in question was a living person, personally recommending use of such product and personally corresponding with users and prospective users thereof with respect thereto and effectiveness thereof, through displaying, in advertisements and other literature disseminated by them, purported facsimile signature of one Mary T. Goldman, notwithstanding fact individual in question, and originator of formula for producing so-called "restorer," and their predecessor in sale of preparation in question, had long since deceased and was not living at times letter and advertisements concerned were published and used by corporation and concern aforesaid;