

Complaint

30 F. T. C.

IN THE MATTER OF
W. H. MAZE COMPANY

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

Docket 3953. Complaint, Nov. 18, 1939—Decision, Mar. 8, 1940

Where a corporation engaged in manufacture, sale, and distribution of its Lead Head Anchor Shank (roofing) Nails, to purchasers in various other States and in the District of Columbia; in advertising its said product in periodicals and other publications of general circulation among the various States and in catalogs, circulars, price lists, and other printed and written matter distributed among prospective purchasers—

Represented that its said nails had two times the holding power under normal conditions of all other nails ordinarily used for roofing, and four times such power under certain conditions as some other nails used for said purpose, facts being they did not have any holding power approximating such amount, and such statements and representations were grossly exaggerated, misleading, and untrue;

With effect of misleading and deceiving substantial number of members of purchasing public into erroneous and mistaken belief that such statements and representations were true, and into purchase of substantial quantities of its said product:

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. Donovan R. Divet 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 W. H. Maze Co., a corporation, 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. The respondent, W. H. Maze Co., is a corporation organized and existing under and by virtue of the laws of the State of Illinois and having its office and principal place of business at Peru, in the State of Illinois.

Respondent is now and has been for several years last past engaged in the business of manufacturing, selling, and distributing roofing nails known as Maze Lead Head Anchor Shank Nails. Respondent causes said nails, when sold, to be transported from its aforesaid place of

business in the State of Illinois to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains and at all times mentioned herein has maintained a course of trade in said nails in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its aforesaid business and in furtherance of the sale of its said product, respondent has caused various statements and representations relative to said product to be inserted in periodicals and other publications having a general circulation among and between the various States of the United States and in catalogs, circulars, price lists, and other printed and written matter distributed among prospective purchasers. Among and typical of said representations are the following:

Maze Anchor Lead Heads hold two to four times better—conclusive tests prove it.

Sell Maze—the nails that stay put! Anchor Lead Heads hold two to four times better than ordinary lead head nails—tests prove it!

Through the use of the aforesaid statements and representations, and others of similar import or meaning, not herein set out, the respondent represents that its said Maze Lead Head Anchor Shank Nails have two times the holding power under normal conditions of all other nails ordinarily used for roofing, and four times the holding power under normal conditions of some other nails used for roofing.

PAR. 3. The aforesaid statements and representations by the respondent are grossly exaggerated, misleading, and untrue. In truth and in fact, respondent's said lead head anchor shank nails do not have two times the holding power under normal conditions of all other nails ordinarily used for roofing, nor do they have four times the holding power under normal conditions of any other nails used for roofing, or any holding power approximating such amount.

PAR. 4. The use by the respondent of the aforesaid false and misleading representations has the capacity and tendency to and does mislead and deceive a substantial number of members of the purchasing public into the erroneous and mistaken belief that such statements and representations are true and into the purchase of substantial quantities of respondent's said nails.

PAR. 5. 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 November 18, 1939, issued, and on November 22, 1939, served its complaint in this proceeding upon respondent W. H. Maze 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. After the issuance of said complaint and the filing of respondent's answer, the Commission by order entered herein granted respondent's 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 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. The respondent, W. H. Maze Co., is a corporation organized and existing under and by virtue of the laws of the State of Illinois and having its office and principal place of business at Peru, in the State of Illinois.

Respondent is now and has been for several years last past engaged in the business of manufacturing, selling, and distributing roofing nails known as Maze Lead Head Anchor Shank Nails. Respondent causes said nails, when sold, to be transported from its aforesaid place of business in the State of Illinois to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains and at all times mentioned herein has maintained a course of trade in said nails in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its aforesaid business and in furtherance of the sale of its said product, respondent has caused various statements and representations relative to said product to be inserted in periodicals and other publications having a general circulation among and between the various States of the United States and in catalogs, circulars, price lists, and other printed and written matter

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distributed among prospective purchasers. Among and typical of said representations are the following:

Maze Anchor Lead Heads hold two to four times better—conclusive tests prove it.

Sell Maze—the nails that stay put! Anchor Lead Heads hold two to four times better than ordinary lead head nails—tests prove it!

Through the use of the aforesaid statements and representations, and others of similar import or meaning, not herein set out, the respondent represents that its said Maze Lead Head Anchor Shank Nails have two times the holding power under normal conditions of all other nails ordinarily used for roofing, and four times the holding power under normal conditions of some other nails used for roofing.

PAR. 3. The aforesaid statements and representations by the respondent are grossly exaggerated, misleading and untrue. In truth and in fact, respondent's said lead head anchor shank nails do not have two times the holding power under normal conditions of all other nails ordinarily used for roofing, nor do they have four times the holding power under normal conditions of any other nails used for roofing, or any holding power approximating such amount.

PAR. 4. The use by the respondent of the aforesaid false and misleading representations has the capacity and tendency to and does mislead and deceive a substantial number of members of the purchasing public into the erroneous and mistaken belief that such statements and representations are true and into the purchase of substantial quantities of respondent's said nails.

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.

Order

30 F. T. C.

It is ordered, That respondent, W. H. Maze 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 its roofing nails in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that its said roofing nails have two to four times the holding power of other roofing nails.
2. Representing that its said roofing nails have any designated holding power in excess of that possessed by other roofing nails, when such is not the fact.

It is further ordered, That the respondent shall within 60 days after the 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.

Syllabus

IN THE MATTER OF

JESSIE F. SPRINGER, TRADING AS HARMONY CENTRE

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

Docket 3933. Complaint, Oct. 19, 1939—Decision, Mar. 9, 1940

Where an individual engaged in sale and distribution of "The Grape Cure" or, as formerly titled, "The Grape Cure (How I Cured Myself of Cancer)," to purchasers in other States and in the District of Columbia, in substantial competition with others engaged in sale and distribution of books pertaining to matters of health in commerce among the various States and in said District; in advertisements which she disseminated respecting said book and method or system of treatment outlined therein among prospective purchasers through the mails and through newspapers and periodicals of general circulation—

Represented, directly and by implication, that system or method of treatment outlined in such book constituted cure or remedy for, or competent or effective treatment for, constipation, cancer, heart and kidney trouble, rheumatism and other ailments and conditions therein set forth, and that grapes dissolved and were solvent of mucous, through statements to foregoing effect and such statements as that most diseases originated in intestines and were caused by poisons due to uneliminated waste, and that those who developed malignant growths in most cases had been suffering from constipation which system or method of treatment in question prevented, and that salt, inorganic drugs and patent medicines caused cancer, and that poisons resulted from using aluminum vessels, and that system or method in question would restore one's health;

Facts being most of diseases, ailments and conditions mentioned do not originate in intestines and are not caused by poisons, as above set forth, grapes do not have above effect or qualities, only in rare instances is there any connection between constipation and development of malignant growths, and other representations and statements as above made were false, and system or method of treatment in question did not constitute cure or remedy or competent or effective treatment for said various ailments and conditions set forth, and would not restore one's health;

With effect of misleading and deceiving substantial number of purchasing public into erroneous and mistaken belief that such false and misleading statements, representations and implications were true, and into purchase of substantial number of said books by reason of such belief, and with result that trade in commerce was thereby diverted unfairly to her from her competitors who do not falsely represent their books; to the injury of competition in commerce:

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.

Before *Mr. Lewis C. Russell*, trial examiner.

Mr. Karl Stecher for the Commission.

Mr. Harold Johnson, of New York City, for respondent.