

Modified Order

31 F. T. C.

IN THE MATTER OF
CENTURY METALCRAFT CORPORATION

MODIFIED CEASE AND DESIST ORDER

Docket 3601. Order, Sept. 25, 1940

Modified order, pursuant to provisions of Section 5 (i) of Federal Trade Commission Act, in proceeding in question, in which original order issued on April 29, 1939, 28 F. T. C. 1526, and in which Circuit Court of Appeals for the Seventh Circuit on May 18, 1940, in *Century Metalcraft Corporation v. Federal Trade Commission*, 112 F. (2d) 443, 30 F. T. C. 1676, rendered its opinion, and on June 15, 1940, issued its decree modifying order in question in certain particulars and affirming same in other particulars—

Requiring respondent, its officers, etc., in connection with offer, etc., in commerce, of kitchen utensils, to forthwith cease and desist from representing that doctors or hospitals have endorsed and recommended its said utensils, or that it manufactures same, or circulating, etc., unfair or disparaging statements concerning competitors or their products, or representing that food cooked in granite or aluminum utensils is dangerous, or that the usefulness, etc., of its utensils, sold under trade name "Silver Seal", is enhanced or affected by reason of silver therein contained, or that its said utensils contain no aluminum, etc., or are more durable and easily cleaned, etc., involve new or revolutionary method, insure improved health, or were used generally by the Army during the World War, as in said order below in detail specified.

Mr. Donovan Divet for the Commission.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding coming on for further hearing before the Federal Trade Commission and it appearing that on April 29, 1939, the Commission made its findings as to the facts herein and concluded therefrom that respondent had violated the provisions of the Federal Trade Commission Act and issued and subsequently served its order to cease and desist; and it further appearing that on May 18, 1940, the United States Circuit Court of Appeals for the Seventh Circuit rendered its opinion and on June 15, 1940, issued its decree modifying the aforesaid order of the Commission in certain particulars and affirming said order in other particulars.

Now therefore, Pursuant to the provisions of subsection (i) of Section 5 of the Federal Trade Commission Act, the Commission issues this its modified order to cease and desist in conformity with said decree.

It is ordered, That the respondent Century Metalcraft Corporation, 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 kitchen utensils in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that doctors or hospitals have endorsed and recommended petitioner's utensils unless and until such recommendation and endorsement has been made by doctors who are dietary experts or by hospitals acting by and through their dietary experts.

2. Representing that petitioner manufactures said utensils unless and until it owns and operates or directly and absolutely controls the factory or factories wherein the same are manufactured by it.

3. Circulating or publishing unfair or disparaging statements concerning the business status or the quality of the products of the competitors of the petitioner.

4. Representing that food cooked in granite or aluminum utensils is dangerous to the health of the consumers of such food.

5. Representing by statements or in any other manner that the usefulness, durability or value of the utensils offered for sale and sold under the trade name "Silver Seal", or any other term or terms of similar import or meaning as a trade name for said utensils, is enhanced or affected by reason of silver metal contained in such utensils.

6. Representing that the utensils now designated as "Silver Seal" contain no aluminum or are not aluminum.

7. Representing that the utensils now designated as "Silver Seal" are more durable or more easily cleaned than are aluminum or granite utensils manufactured by competitors; that said utensils will not pit; that the method of cooking made possible by said utensils is new or revolutionary; that the use of food cooked in said utensils will insure improved health; or that said utensils were used generally by the United States Army during the World War.

It is further ordered, That respondent shall within 30 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.

IN THE MATTER OF
ANHEUSER-BUSCH, INC.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SUBSEC. (a) OF SEC. 2 OF AN ACT OF CONGRESS APPROVED OCT. 15, 1914,
AS AMENDED BY AN ACT OF CONGRESS APPROVED JUNE 19, 1936

Docket 3798. Complaint, June 1, 1939—Decision, Sept. 25, 1940

Where a corporation engaged in manufacture of glucose or corn syrup unmixed, and in distribution and sale thereof to, mostly, manufacturers of candy who were competitively engaged in sale to various customers, including chain stores, wholesalers, and retailers in the various States and in the District of Columbia, of said product, in most kinds of which such syrup is used as an ingredient to some extent, and in production of many varieties of which it is one of major raw materials, with cost thereof to candy manufacturer purchasers constituting (1) a substantial part of cost of raw materials used in particular candies, having relatively high syrup content and of total cost of manufacturing extensive line of candies having wide range of syrup contents, and (2) a significant and possibly determinative factor in competitive sale to customers and especially chain store and other large quantity purchasers of many candies containing substantial quantity of syrup ingredient, priced at few cents a pound, and bearing no differentiating name or brand, and in sale of which candy sellers attract customers by selling at small fraction per pound lower than competitor—

- (a) Sold its said syrup at certain delivered prices and during certain period to purchasers in cities of Chicago and Danville, Ill., while contemporaneously selling such syrup of like grade and quality to purchasers in various other cities, and in accordance with particular city in which particular customer was located, at higher prices;
- (b) Sold its said syrup thereafter to purchasers in City of Chicago at certain delivered prices, while contemporaneously selling such syrup of like grade and quality to purchasers in Danville and in various other cities and in accordance with particular city in which located, at higher prices; and
- (c) Sold its said syrup for delivery in containers different in type and smaller in size than tank cars, at higher prices to some purchasers than prices at which it sold such syrup for delivery in same type and size of container to other purchasers;

With result that

(1) It discriminated through said varying prices, differences between which, not justified by it, made more than due allowance for differences in cost of delivery, in price between said purchasers who had paid the various different prices for its said product, and unfavored purchaser manufacturers of candies, containing substantial quantity of such syrup, priced at few cents per pound only, and sold competitively on basis of a small fraction of a cent per pound, and particularly to chain stores and other purchasers of large quantities, as above set forth, were compelled to decrease their profit to extent necessary to absorb higher cost imposed as aforesaid, and, in event of such impairment to any material degree, to make only selective sales at non-