

IN THE MATTER OF
UNITED FACTORIES, INC.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914

Docket 4379. Complaint, Nov. 16, 1940—Decision, Jan. 8, 1941

Where a corporation engaged in interstate sale and distribution of oil burners for installation and use in stoves and furnaces; in advertisements of its said products with respect to nature and effectiveness thereof in magazines and newspapers and in circulars, folders, and sales literature circulated among prospective purchasers in the various States and in said district—

- (a) Represented and implied that it had invented a new type oil burner which it was offering and that said burner furnished more heat at smaller cost than did others on the market and burned cheaper oil and was automatic and furnished quick heat at the turn of a valve;

Facts being it was not a new type invention or new type oil burner and did not in its operation in any way involve any new principle, did not furnish more heat at smaller cost or accomplish other results attributed to or claimed for it, was not automatic but needed to be lighted each time used and did not furnish quick heat at the turn of a valve;

- (b) Represented and implied through use of word "guarantee" that if performance of its said product was not as indicated through representations made by it as above set forth defective parts would be replaced or purchase money refunded without cost and unconditionally;

Facts being it required purchaser to conduct experimental tests over a definite period of time after it had received notice from him that burner was not operating as represented or in a satisfactory manner, and time used to make tests required before it would refund purchase price and time consumed in exchange of correspondence in such a manner were usually so great that period of time fixed by it within which burner must be returned to secure refund had expired and purchaser was not entitled thereto under terms and conditions of said guarantee, which was not, as represented, unconditional; and

- (c) Represented and implied through statement "Write Immediately for FREE BURNER OFFER TO AGENTS who will demonstrate and take orders," that agents would be furnished burners without cost to them for making demonstrations in connection with solicitation of orders therefor;

Facts being it did not supply agents with burner without cost and unconditionally for their use as aforesaid but furnished them burners for said purposes only upon payment to it of \$15 regular retail price thereof or after agent had sold burners and such consideration either in services or money was required of each agent before burner was delivered to him;

With effect through use of such acts, practices, and methods of misleading and deceiving substantial portions of purchasing public into erroneous and mistaken belief that said statements and implications were true and of caus-

Complaint

ing members of the public because of such belief thus engendered to purchase its burners:

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. W. T. Chantland for the Commission.

Mr. Henry Junge, of Chicago, Ill., for respondent.

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 United Factories, Inc., hereinafter referred to as respondent, has violated the provisions of 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. Respondent, United Factories, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business at Thirteenth and McGee Streets, Kansas City, Mo. Respondent is now, and for more than 2 years last past has been, engaged in the sale and distribution of oil burners for installation and use in stoves and furnaces.

In the course and conduct of its business, respondent causes its said products, when sold, to be transported from its place of business in the State of Missouri 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 its said products 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 said business and for the purpose of inducing the purchase of its said products, respondent has made false and misleading representations with respect to the nature and effectiveness in use of its said oil burners. Such representations have been, and are being, made by means of advertisements in magazines and newspapers, and in circulars, folders, and sales literature circulated among prospective purchasers located in the various States of the United States and in the District of Columbia. Among and typical of such false and misleading representations are the following:

Complaint

32 F. T. C.

New-TYPE Cheap

OIL BURNER

INVENTED

Sweeping the Country!

COOK and HEAT Without Coal or Wood

In your Present Stove or Furnace—

HOTTER—No Drudgery, Dirt or Ashes—More Heat

Quick at SMALL COST.

OVER 40,000 SOLD

GUARANTEED

Beats any cheap burner ever gotten out for low cost, perfect performance. Burns cheap oil a new way, without pre-generating or clogging up. Quick intense heat by *Simple Turn of Valve*.

* * *

Quick HEAT At

Turn of Valve!

* * *

Write Immediately for

FREE BURNER

OFFER TO AGENTS

who will demonstrate and take orders.

Through the use of the foregoing representations and others of similar import and meaning not set out herein, respondent represents and implies that it has invented a new-type oil burner and the burner offered for sale is this new-type invention; that said burner furnishes more heat at a smaller cost than do other burners on the market; that said burner burns cheap oil in a new way; that it performs perfectly, without pre-generating the oil and without clogging up; and that said burner furnishes quick heat at the turn of a valve. Through the use of the word "guaranteed," respondent represents and implies that, if the performance of said burners is not as indicated through the representations made by respondent, defective parts will be replaced, or purchase money refunded, without cost and unconditionally. Respondent represents and implies that agents will be furnished burners without any cost to them for use in making demonstrations in connection with solicitation of orders.

PAR. 3. The above and foregoing representations and implications are grossly exaggerated, false, and misleading. In truth and in fact, respondent's said burner is not a new-type invention, it is not a new-type oil burner, and its operation does not in any way involve any new principle. Respondent's said burner does not furnish more heat at a smaller cost than do any other burners on the market. It does not burn cheap oil in a new way nor does it perform perfectly and without clogging up. Respondent's said burner is not automatic, as implied through the representation that it furnishes quick heat at the turn of a valve, but must be relighted each time it is used.

In truth and in fact, respondent's said burner is not unconditionally "guaranteed" as represented in said advertising matter, for respondent requires purchasers thereof to conduct experimental tests over a definite period of time after it has received notice from such purchasers that said burner is not operating in a satisfactory manner, and respondent places a time limit within which said burner must be returned to it before any refund will be made. The period of time used to make the tests required by respondent before refunding the purchase price for said burner and the time consumed in an exchange of correspondence between the purchaser and the respondent with regard to said burner are usually so great that the period of time fixed by respondent within which the burner must be returned to secure a refund has expired and the purchaser is not entitled to a refund under the terms and conditions of respondent's so-called "guarantee."

In truth and in fact, respondent does not supply to agents burners without cost and unconditionally for use in making demonstrations in connection with the solicitation of orders for said burners, but furnishes such agents a burner for demonstration purposes only upon payment of \$15, the regular retail price of such burner, or after an agent has sold five of said burners. Each agent is required to pay for said burner before it is delivered to him either in money or in services.

PAR. 4. The use by the respondent of the aforesaid acts, practices, and methods in connection with the sale and distribution of its said burners in said commerce has the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said representations and implications are true, and causes many members of the purchasing public, because of said erroneous and mistaken belief engendered as aforesaid, to purchase respondent's said burners.

PAR. 5. The aforesaid acts and practices of 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 16, 1940, issued, and on November 18, 1940, served, its complaint in this proceeding upon respondent, United Factories, Inc., charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On December 6, 1940, the respondent filed its answer, in which answer it admitted all the material allegations of

Findings

32 F. T. C.

fact set forth in said complaint and waived all intervening procedure and further hearing as to said facts. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint and the answer thereto, 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, United Factories, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business at Thirteenth and McGee Streets, Kansas City, Mo. Respondent is now, and for more than two years last past has been, engaged in the sale and distribution of oil burners for installation and use in stoves and furnaces. In the course and conduct of its business, respondent causes its said product, when sold, to be transported from its place of business in the State of Missouri to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent now maintains, and at all times mentioned herein has maintained, a course of trade in its said products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. The respondent, in the course and conduct of its said business and for the purpose of inducing the purchase of its said products, has made false and misleading representations with respect to the nature and effectiveness in use of its said oil burners. Such representations have been, and are being, made by means of advertisements in magazines and newspapers, and in circulars, folders, and sales literature circulated among prospective purchasers located in the various States of the United States and in the District of Columbia. Among and typical of the false and misleading representations so made and circulated are the following:

New-TYPE Cheap
OIL BURNER
INVENTED
Sweeping the Country!
COOK and HEAT Without Coal
or Wood
In Your Present Stove or Furnace—
HOTTER—No Drudgery, Dirt or Ashes—More Heat
Quick at SMALL COST
OVER 40,000 SOLD
GUARANTEED

Beats any cheap burner ever gotten out for low cost, perfect performance. Burns cheap oil a new way, * * *. Quick intense heat *by Simple Turn of Valve*.

* * *

Quick Heat At
Turn of Valve!

* * *

Write Immediately for

FREE BURNER

OFFER TO AGENTS

who will demonstrate and take orders.

PAR. 3. The respondent, through the use of the foregoing representations and others of similar import and meaning not set-out herein, represents and implies that it has invented a new-type oil burner; that the burner offered for sale is this new-type invention; that said burner furnishes more heat at a smaller cost than do other burners on the market; that said burner burns cheap oil in a new way; that it performs perfectly; and that said burner is automatic and furnishes quick heat at the turn of a valve.

PAR. 4. The above and foregoing representations and implications are grossly exaggerated, false, and misleading. In truth and in fact, respondent's said burner is not a new-type invention or a new-type oil burner and its operation does not in any way involve any new principle. Respondent's said burner does not furnish more heat at a smaller cost than do any other burners on the market. It does not burn cheap oil in a new way nor does it perform perfectly. Respondent's said burner is not automatic nor does it furnish quick heat at the turn of a valve. It must be lighted each time it is used.

PAR. 5. Respondent, through the use of the word "guaranteed," represents and implies that if the performance of said burner is not as indicated through the representations made and used by the respondent as hereinabove set forth, defective parts will be replaced or purchase money refunded without cost and unconditionally.

In truth and in fact, respondent's said burner is not unconditionally "guaranteed" as represented by the respondent in its advertising matter, for respondent requires a purchaser thereof to conduct experimental tests over a definite period of time after respondent has received notice from such a purchaser that said burner is not operating as represented or in a satisfactory manner, and respondent places a time limit within which a burner must be returned to it before any refund will be made. The time used to make the tests required by respondent before it will refund the purchase price of a burner and the time consumed in an exchange of correspondence between the purchaser and the respondent with regard to an unsatisfactory

Order

32 F. T. C.

burner are usually so great that the period of time fixed by the respondent within which a burner must be returned to it in order to secure a refund has expired and the purchaser is not entitled to a refund under the terms and conditions of respondent's so-called "guarantee."

PAR. 6. Through the use of the statement "Write immediately for free burner offer to agents who will demonstrate and take orders," respondent represents and implies that agents will be furnished burners without any cost to them for use in making demonstrations in connection with the solicitation of orders for such burners.

In truth and in fact, respondent does not supply agents with burners without cost and unconditionally for use in making demonstrations in connection with the solicitation of orders for said burners. Respondent furnishes agents a burner for demonstration purposes only upon the payment to it of the sum of \$15, the regular retail price of a burner, or after an agent has sold five burners. Each agent is required to pay for the burner before it is delivered to him, either in services or in money.

PAR. 7. The use by the respondent of the aforesaid acts, practices and methods in connection with the sale and distribution of its said burners in said commerce has the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said representations and implications are true, and causes members of the purchasing public, because of said erroneous and mistaken belief, engendered as aforesaid, to purchase respondent's said burners.

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.

It is ordered, That the respondent, United Factories, Inc., 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 oil burners in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, in any manner, that its oil burner is a new type invention, or a new type oil burner, or that its operation involves any new principle or that it furnishes more heat at smaller cost than other similar burners on the market, or that it burns cheap oil in a new way, or that it performs perfectly, or that it is automatic, or that it furnishes quick, intense heat at the turn of a valve.

2. Representing, in any manner, that said burner is "guaranteed," unless the terms and conditions of such "guarantee" are set out in immediate conjunction with the word "guarantee" or any reference to such "guarantee," and such terms and conditions are such that they may reasonably be complied with.

3. Representing, in any manner, that its said oil burners are furnished to agents without cost and unconditionally for use in making demonstrations in connection with the solicitation of orders therefor.

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.

IN THE MATTER OF
WHITE KING SOAP COMPANY

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

Docket 3928. Complaint, Oct. 14, 1939—Decision, Jan. 10, 1941

Where a corporation engaged as subsidiary of manufacturing consumer in interstate sale and distribution of various soaps in active competition with others also engaged in sale and distribution of laundry and toilet soaps and other products used for similar purposes in commerce as aforesaid; in advertising certain of its said products in newspapers and other publications circulated among the various States and in folders, circulars, and other printed matter distributed to members of the purchasing public as aforesaid and in continuities broadcast from radio stations of extrastate audience—

- (a) Representing that its White King Granulated Soap was the only soap with which fabrics could be satisfactorily washed in cool water and that washing of fabrics in cool water caused them to be brighter and whiter than if done in hot water and that washing of fabrics in latter caused them to shrink and fade whereas, through use of its said soap with cool water such fading and shrinking would be prevented;

Facts being its said soap was not the only one permitting satisfactory use of cool water for purposes aforesaid, certain fabrics are preferably washed in cool water while best results for others are obtained with hot water, and its statements aforesaid with respect to consequences of use of cool or hot water as case might be were false and misleading, question of fastness of colors depending largely upon dye used and question of shrinking being dependent largely upon nature and quality of fabric, and action of water and soap used having no actual effect on fading or shrinkage;

- (b) Represented that the use of its said soap in washing textiles made it unnecessary to use bleaching and bluing and that through application of a jelly made from soap, all spots and stains on fabric treated would be removed and that such soap was superior in quality and effectiveness to all others;

Facts being said statements were false and misleading, use of said soap does not make unnecessary bleaching and bluing, which, regardless of soap used, are necessary in washing certain types of fabrics, and, while use of jelly made of soap in question would remove certain spots, there were others including mildew and indelible ink which could not be so removed, as soap in question contained no ingredients which rendered same superior in quality or effectiveness in use to others of similar general character on the market; and

- (c) Represented that its White King Toilet Soap would keep the skin fresh and supple and use thereof would remove and prevent wrinkles in skin of users;

Facts being said product would not accomplish such results and contained no ingredients which rendered it substantially different from other toilet soaps of the same general character;