

Syllabus

IN THE MATTER OF
SCIENTIFIC MANUFACTURING COMPANY, INC., AND
HOWARD J. FORCE, INDIVIDUALLY AND AS PRESIDENT THEREOF

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

Docket 3874. Complaint, Aug. 18, 1939—Decision, Jan. 23, 1941

Where a corporation, which was a closed one wholly owned by a certain individual and family, and said individual, who was its president and controlled and directed its activities, practices, and policies, and used same as an instrumentality and means whereby and through which he conducted the business and performed and caused to be performed the acts and things below described, engaged in writing and publishing, for sale and distribution, two pamphlets which were designated and entitled by them "Poisons Formed By Aluminum Cooking Utensils" and "Are You Heading For 'The Last Round-Up'?" and which were devoted to an exposition of the claimed dangers attendant in use of aluminum utensils for preparation and storage of foods for human consumption, and the claimed deleterious effects which result from eating foods prepared or stored in such utensils, and which pamphlets, offered, sold, and distributed by them through and by the mails and otherwise to the public and to various manufacturers, distributors, dealers, and salesmen of cooking and storage utensils made of materials other than, and competitive with, utensils made of aluminum, as used and distributed to public by them and parties referred to, had induced and were likely to induce prospective purchasers and purchasers to buy cooking and storage utensils made of materials other than and competitive with aluminum utensils—

- (a) Represented and caused to be represented, among other things, that aluminum is a poisonous metal and that use of aluminum utensils for preparation, cooking, or storage of foods is unsafe, deleterious, disease producing, poisonous, death dealing, and otherwise dangerous to health because of the aluminum imparted to foods during such processes and resulting absorption and accumulation of such metal in the system of the consumer of foods so prepared, cooked or stored;
- (b) Represented, further, as aforesaid, that aluminum utensils are manufactured of a soft metal, that such utensils easily become corroded and pitted when used for cooking and tend to provide lodgment for food particles which operate as culture media for bacteria and spores, both poisonous and otherwise; and
- (c) Represented, as aforesaid, that the consumption of food prepared, cooked or stored in aluminum utensils will cause cancer, Bright's Disease, diabetes, liver trouble, indigestion, constipation, ulcers, carbuncles, nervousness, and death from poisoning;

Facts being extensive scientific investigations have failed to disclose any evidence, that food prepared or stored in aluminum utensils is unsafe, deleterious, disease producing, poisonous or otherwise dangerous to health, substance in

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question is most abundant of earth's metallic elements, found in practically all animal and vegetable tissue and in all foods and ordinary drinking water, and, in many instances, in greater amounts than that found in foods after being cooked or stored in such utensils, and neither small quantities of aluminum which may be absorbed in food from being cooked or stored in such utensils and ingested into the system by consumption of such food, nor any of its compounds which may be formed thereby, are toxic in effect or injurious to health, and aluminum thus ingested has no cumulative effect in system, but is readily eliminated by normal processes of the body, consumption of food prepared or kept in said utensils will not cause diseases, ailments, or conditions above set forth, or any other disease or ailment, and corrosion or pitting of such utensils, where properly used, is not sufficient to impair their chemical integrity for long periods of time, aluminum used therein, not being soft, but rather very hard, metal developed to be resistant to chemical abuse or corrosion through cooking or storing of foods, such utensils are used daily by many of nation's leading hospitals, Army and Navy, Veterans' hospitals, Civilian Conservation Camps, and millions of American homes, and studies by public health authorities and scientists in Germany, France, England, Scotland, and Switzerland as well, have failed to discover any scientific basis for belief that food prepared, cooked, or stored in aluminum utensils is harmful because of such procedure;

With effect, through use of such false, misleading, and disparaging statements and representations made by said corporation and individual in their pamphlets, as above set forth, of misleading and deceiving substantial portion of purchasing public into false and erroneous belief that cooking utensils made from aluminum are undesirable and harmful and dangerous to consumers of food prepared or stored therein, and that all of said statements and representations with reference to said aluminum utensils are true, and with result, through sale of such pamphlets to manufacturers, distributors, dealers, and salesmen of cooking utensils made from materials other than aluminum, of placing in the hands of such persons a means and instrumentality by which uninformed or unscrupulous manufacturers, distributors, dealers, and salesmen might deceive or mislead members of purchasing public and induce them to purchase utensils made from materials other than aluminum:

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.

Before *Mr. John W. Addison*, trial examiner.

Mr. Wilbur N. Baughman and *Mr. E. P. Schrup* for the Commission.

Mr. Howard J. Force, of Scranton, Pa., for respondents.

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 Scientific Manufacturing Co., Inc., a corporation, and Howard J. Force, individually, and as

president of Scientific Manufacturing Co., Inc., hereinafter referred to as respondents, have 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. Respondent, Scientific Manufacturing Co., Inc., is a corporation created by, and existing under the laws of the State of Pennsylvania, with its principal office and place of business located at 426 Prescott Avenue, Scranton, Pa.

Respondent, Howard J. Force of 1724 Vine Street, Scranton, Pa., is the president of respondent Scientific Manufacturing Co., Inc., a corporation, and controls and directs the activities, practices, and policies of said corporate respondent in the course and conduct of its business, and in doing the acts and things hereinafter described. Respondent, Howard J. Force, uses the respondent Scientific Manufacturing Co., Inc., as an instrumentality and means through which he conducts the business and does the acts and things hereinafter described.

PAR. 2. Respondents are now, and for more than one year last past have been, engaged in the writing and publishing, and in the sale and distribution of certain pamphlets designated (a) "Poisons Formed by Aluminum Cooking Utensils," and (b) "Are You Heading for the Last Round Up." Both of said pamphlets are devoted to an exposition of the claimed dangers in the use of aluminum utensils in the preparation and storage of foods for human consumption, and in the claimed deleterious effects which result from eating foods prepared or stored in aluminum utensils. Respondents sell said pamphlets principally to manufacturers, distributors, dealers, and salesmen of cooking utensils made from materials other than and competitive with aluminum, and said pamphlets are used by such manufacturers, distributors, dealers, and salesmen in connection with the sale of said cooking utensils. Respondents cause said pamphlets, when sold, to be transported from their place of business in the State of Pennsylvania to the purchasers thereof located at various points in the several States of the United States and in the District of Columbia.

There is now, and has been at all times mentioned herein, a course of trade in commerce in said pamphlets among and between the several States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their aforesaid business, and through the aforesaid pamphlets, the respondents have disseminated, and are now disseminating, and have caused, and are now causing, the dissemination of false and misleading statements and representations concerning aluminum cooking utensils, for the purpose of inducing,

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and which are likely to induce, directly or indirectly, the purchasing of cooking utensils made from materials other than aluminum.

Among and typical, but not all inclusive, of the false and misleading statements and representations contained in said pamphlets disseminated and caused to be disseminated, as aforesaid, are the following:

People often say that they have used aluminum for years and it has not poisoned them. Many people have taken large doses of various poisons, trying to commit suicide, but in some cases the poisons did not produce. Never-the-less, they were poisonous compounds just the same.

Various books on medicine and the U. S. Dispensatory state that arsenic, mercury, carbolic acid, oxalic acid, aluminum lead, strychnine, etc. are poisonous. None of these recommendations as to their poisonous properties would be questioned in a court at law, although many will admit they have serious stomach trouble, often ulcers of the stomach, cancers, liver troubles, skin affections, etc. Most of these conditions improve when aluminum wares are discontinued.

A friend of mine after having 17 carbuncles, threw out his fancy aluminum ware. The carbuncles disappeared.

Another fed his dog from an aluminum dish; the dog died from a cancer of the face.

Two others each gave a dozen young ducks water in aluminum pans and all the ducks died in less than two weeks.

. But aluminum is different. It acts more in the nature of a cumulative poison. In a number of cases where people have died under hospital care and where aluminum was used almost exclusively, autopsies have shown that aluminum was present in the brain, kidneys and liver in sufficient quantity in my judgment to cause death.

The combination of aluminum chloride with aluminum acetate would make an ideal disinfectant and embalming fluid. This combination could easily be brought about by adding salt to pickles when they are prepared in aluminum.

Many cases of poisoning have resulted from sauerkraut being cooked in aluminum, and some deaths.

Are you eating rat poison?

Large doses of aluminum compounds are often fatal. Small quantities may be taken daily with little or no effect. But sooner or later, indigestions, constipation, Bright's disease, or diabetes may develop as a result of the continued use of aluminum ware, due to its solubility.

From the Dispensatory and various Materia Medicas, it is apparent that the nation is being poisoned (by aluminum). There never was so much sickness and complaining, never so much stomach disorder, etc. Cancer has jumped from the tenth place to the second place as the cause of death * * *

Cancer has increased in Austria in proportion to the increased use of aluminum ware.

The information which has been given in this circular, and from a most reliable source, should justify us in never allowing any aluminum under any circumstances to enter our bodies from artificial sources. Why, even the suspicion that it might be poisonous ought alone to be sufficient.

Many people have the impression that poisons should have a bitter or very unpleasant taste. This is true in some cases, such as strychnine, but with

aluminum compounds there is little or no taste. That is one reason why some believe aluminum is not poisonous.

From our investigation we recommend: iron, steel and stainless steel utensils, also agate, enamel and earthenware. You will notice that foods have a different taste when they are not cooked in aluminum.

Remember, the continued use of aluminum wares will finally produce results which will be similar to leaving the foods standing in them for some time. It is the small quantities, as the Dispensatory points out, which are absorbed from the foods, which may produce indigestion, nervousness, constipation, cancer, etc.

My circular, "Are You Heading For The Last Round Up," shows the possibility of poisonous bacteria remaining and developing in pitted aluminum utensils.

Did you ever find maggots in your aluminum pans?

Almost daily you read in the press of hundreds being poisoned by eating food cooked in aluminum.

It is well known that many cases of food poisoning can be traced to various kinds of food prepared in aluminum.

Three men from the Navy poisoned by eating fried oysters. One dies * * * The oysters may have been kept in aluminum.

I have been told that the government is throwing all aluminum utensils out of the Navy.

Some doctors think infantile paralysis may start from a throat condition, others that it starts in the intestinal tract. How could you expect a child to keep well if fed daily from aluminum pans * * *

Some have died soon after eating food from aluminum utensils.

Laws should be passed prohibiting the manufacture of aluminum ware for use in preparing any kind of food products and medical preparations.

A doctor wrote me that he had a cancer on his face. He stopped using aluminum, and in a few months the cancer nearly disappeared. Then he ate squash, cooked in aluminum. In 48 hours it was like a raging volcano.

Two well-known cancer surgeons died last year from cancer. They said they used aluminum.

Cancer patients should avoid all kinds of aluminum wares; also all food products which may be prepared in aluminum.

A doctor here in Scranton told me he had aluminum poisoning. He died three weeks later.

I would caution against eating in hotels and restaurant where aluminum utensils are used.

The representations hereinbefore set out, and other representations similar thereto but not set out herein, appearing in respondents' aforesaid pamphlets are false, misleading and untrue, and unfairly defame and disparage cooking utensils made from aluminum. Aluminum cooking utensils are not unsafe, poisonous, nor deleterious to mankind when properly used in the preparation or keeping of foods for human consumption. Nor will the proper use thereof cause ulcers, diabetes, cancer, and the various other ailments, afflictions, and diseases of mankind named by the respondents in said pamphlets; nor will the proper use thereof cause the death of the user.

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In truth and in fact, aluminum is the most abundant metallic element in nature and is found in all foods and ordinary drinking water. Aluminum in contact with foods causes no deleterious contamination. In the quantities in which aluminum is absorbed in food from being cooked or stored in aluminum utensils and ingested into the human system by the consumption of such food, neither aluminum nor any of its compounds which may be formed thereby, are toxic in effect or deleterious to the health, nor do they cause cancer, cancerous growths, ulcers, or any other disease or ailment, nor the death of the user. There is no scientific evidence that aluminum as ingested into the human system in food causes cancer or contributes to the cause of cancer, or aggravates or increases the rate of growth of cancer. The amounts of aluminum found in foodstuffs, under conditions most favorable for its accumulation, are inadequate to account for any of the irritations preceding cancer. Aluminum utensils are extensively used in hospitals without deleterious effects in the preparation of foods for patients suffering from cancer, ulcers, diabetes, and other ailments, afflictions, and diseases mentioned by the respondents in said advertising matter. None of the known underlying causes of cancer, ulcers, diabetes, and the various other ailments, afflictions, and diseases mentioned by the respondents' said advertising matter have any relationship or connection with aluminum or its ingestion into the human system in food.

PAR. 4. The respondents, through the sale of said pamphlets to manufacturers, distributors, dealers, and salesmen of cooking utensils made from materials other than aluminum, place in the hands of others an instrumentality through which the public is misled and deceived into the erroneous and mistaken belief that the aforesaid statements and representations are true, and through such instrumentality a substantial portion of the purchasing public, because of the erroneous and mistaken belief engendered thereby, is induced to purchase cooking utensils made from materials other than aluminum.

PAR. 5. The aforesaid acts and practices of respondents, 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 the 18th day of October 1939, issued and subsequently served its complaint in this proceeding upon respondents, Scientific Manufacturing Co., Inc., a corporation, and Howard J. Force, individually, and as president of Scientific Manufacturing Co., Inc., charging them with the use of unfair and decep-

tive 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 thereto, testimony and other evidence in support of the allegations of said complaint were introduced by Wilbur N. Baughman, attorney for the Commission, and in opposition to the allegations of the complaint by Howard J. Force, respondent, before John W. Addison, an examiner of the Commission theretofore duly designated by it, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint, the answer thereto, testimony and other evidence, and brief in support of the complaint, respondents not having filed brief and oral argument not having been requested; 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. Respondent, Scientific Manufacturing Co., Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 426 Prescott Avenue, in the city of Scranton, State of Pennsylvania.

Respondent, Scientific Manufacturing Co., Inc., is a closed corporation wholly owned by Howard J. Force and family, and respondent Howard J. Force, as its president, controls and directs the activities, practices, and policies of the said corporate respondent. Said respondent Howard J. Force uses the respondent Scientific Manufacturing Co., Inc., as an instrumentality and means whereby and through which he conducts the business and performs and causes to be performed the acts and things hereinafter described.

PAR. 2. Respondents, Scientific Manufacturing Co., Inc., and Howard J. Force, are now and for more than one year last past have been engaged in the business of writing and publishing for sale and distribution to the public certain pamphlets designated and entitled by respondents as:

- (a) POISONS FORMED BY ALUMINUM COOKING UTENSILS;
- (b) ARE YOU HEADING FOR "THE LAST ROUND-UP?"

Said pamphlets are devoted to an exposition of the claimed dangers attendant in the use of aluminum utensils for the preparation and

storage of foods for human consumption, and in the claimed deleterious effects which result from the eating of foods prepared or stored in such utensils.

Respondents in the course and conduct of their business as aforesaid have offered for sale, sold, and distributed many such pamphlets through and by means of the United States mails and otherwise, to the public and to various manufacturers, distributors, dealers, and salesmen of cooking and storage utensils made of materials other than and competitive with utensils made of aluminum. Said pamphlets as used and distributed to the public by respondents and said parties have induced and are likely to induce prospective purchasers and purchasers to buy cooking and storage utensils made of materials other than and competitive with utensils made of aluminum.

Respondents in the course and conduct of their business, as aforesaid, have caused and are causing said pamphlets when sold to be transported from their place of business in the State of Pennsylvania to the purchasers thereof located in various other States of the United States and in the District of Columbia.

Respondents, Scientific Manufacturing Co., Inc., and Howard J. Force, now maintain, and at all times mentioned herein have maintained, a course of trade in said pamphlets so sold and distributed in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. Respondents, in said pamphlets so offered for sale, sold, and distributed as aforesaid, represent and have caused to be represented, among other things, that aluminum is a poisonous metal and that the use of aluminum utensils for the preparation, cooking, or storage of foods is unsafe, deleterious, disease producing, poisonous, death dealing, and otherwise dangerous to health because of the aluminum imparted to foods during such processes and the resulting absorption and accumulation of such metal in the system of the consumer of foods so prepared, cooked, or stored; and further that aluminum utensils are manufactured of a soft metal, that such utensils easily become corroded and pitted when used for cooking, and tend to provide lodgment for food particles which operate as culture media for bacteria and spores, both poisonous and otherwise. By the same means the respondents represent that the consumption of food prepared, cooked, or stored in aluminum utensils will cause cancer, Bright's disease, diabetes, liver trouble, indigestion, constipation, ulcers, carbuncles, nervousness, and death from poisoning.

PAR. 4. In truth and in fact extensive scientific investigations have failed to disclose any evidence that food prepared or stored in

aluminum utensils is unsafe, deleterious, disease producing, poisonous or otherwise dangerous to health. Aluminum is the most abundant of the earth's metallic elements and is found in practically all animal and vegetable tissue and in all foods and ordinary drinking water, and in many instances in greater amounts than that found in foods after being cooked or stored in aluminum utensils. Neither the small quantities of aluminum which may be absorbed in food from being cooked or stored in aluminum utensils and ingested into the human system by the consumption of such food, nor any of its compounds which may be formed thereby, are toxic in effect or injurious to health. Aluminum so ingested has no cumulative effect in the system but is readily eliminated by the normal processes of the body. The consumption of food prepared or kept in aluminum utensils will not cause cancer, Bright's Disease, diabetes, liver trouble, indigestion, constipation, ulcers, carbuncles, nervousness, poisoning, or any other disease or ailment of the human body. Corrosion or pitting of aluminum cooking and storage utensils, where properly used, is not sufficient to impair their chemical integrity for long periods of time, as the aluminum as used in such utensils is not a soft metal but rather a very hard metal developed to be resistant to chemical abuse or corrosion by foods cooked or stored therein. Aluminum cooking and storage utensils are daily being used by many of the nation's leading hospitals, the Army and Navy, the United States Veterans' hospitals, Civilian Conservation Camps, and millions of American homes, and studies by public health authorities and scientists in Germany, France, England, Scotland and Switzerland as well have failed to discover any scientific basis for the belief that food prepared, cooked or stored in aluminum utensils is harmful because of such procedure.

PAR. 5. The aforesaid false, misleading, and disparaging statements and representations made by the respondents in their pamphlets, as hereinabove described, have had and now have the tendency and capacity to, and do, mislead and deceive a substantial portion of the purchasing public into the false and erroneous belief that cooking utensils made from aluminum are undesirable and harmful and are dangerous to the consumers of food prepared or stored in said aluminum utensils, and that all of said statements and representations with reference to said aluminum utensils are true.

The respondents, through the sale of said pamphlets to manufacturers, distributors, dealers and salesmen of cooking utensils made from materials other than aluminum place in the hands of such persons a means and instrumentality by means of which uninformed or

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unscrupulous manufacturers, distributors, dealers and salesmen may deceive or mislead members of the purchasing public and induce them to purchase utensils made from materials other than aluminum.

CONCLUSION

The acts and practices of respondents 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, the answers of the respondents, testimony and other evidence taken before John W. Addison, an examiner of the Commission, theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, brief in support of the complaint, respondents not having filed brief and oral argument not having been requested, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, Scientific Manufacturing Co., Inc., and its officers, and Howard J. Force, individually and as president of the Scientific Manufacturing Co., Inc., and their respective representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of pamphlets in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that the use of food prepared or kept in aluminum utensils is dangerous to the health of the consumer.

2. Representing that the preparation or storage of food in aluminum utensils causes the formation of poisons.

3. Representing that the preparation, cooking or storage of food in aluminum utensils imparts aluminum in quantities sufficient to cause injury to the health of the consumer, or that the aluminum so imparted has a cumulative effect upon the system of the consumer.

4. Representing that aluminum utensils easily corrode or pit and thereby provide lodgment for bacteria and spores, both poisonous and otherwise.

5. Representing that the consumption of food prepared or stored in aluminum containers will cause cancer, Bright's Disease, diabetes, liver trouble, indigestion, constipation, ulcers, carbuncles, nervousness, poisoning, or any other disease or ailment of the human body.

6. Making or causing the making of any false statements or representations with respect to the effect that the consumption of food prepared, cooked or stored in such utensils might have, or has had, on the health of the consumer or consumers of such foods, which statements unfairly disparage the quality, value or use of aluminum cooking or storage utensils.

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.

IN THE MATTER OF
WALLACE BROWN, INC.

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

Docket 4312. Complaint, Sept. 12, 1940—Decision, Jan. 23, 1941

Where a corporation engaged in sale and distribution of greeting cards to purchasers in various other States and in the District of Columbia, and, as thus engaged, in contacting prospective agents to market such cards through advertisements in various newspapers and magazines of national circulation which were placed, as far as possible, under such classifications as "Sales Help Wanted" and bore such captions, among others, as "CHRISTMAS CARDS FASTEST SELLING LINE IN 18 YEARS," "Saleswomen CHRISTMAS CARDS MIRACLE LINE," etc., and in sending to those answering and requesting samples, sample illustrative portfolio and also salable merchandise consisting of, usually, its so-called "Golden Value" 21-card box assortment retailing at \$1.00, together with so-called "Statement" from it, which, following its address, read "For 1 'Golden Value' Christmas Card Box Assortment (Retail Value \$1.00) * * * 50¢," followed by words "THIS IS NOT A BILL—Please Read: * * * is sent to you on approval * * *," and advice to reader that by order of 12 boxes of any kind of it at its regular wholesale prices, assortment in question became reader's property, and request, in event he should be unable to sell such box, to return same to it or, if he wished to keep it, to send 50 cents "in payment of this statement"—

Made use of such words as "SAMPLES FREE" in such contact advertisements as above referred to, facts being said 21-card "Golden Value" assortment sent on approval by it as above set out, was not in fact "free" or a "free sample," since consideration either in payment of money or rendering of services was required of person receiving such merchandise which, thus, was not delivered without cost or unconditionally;

With tendency and capacity to deceive some members of public and induce them, not anticipating or intending to obligate themselves either to pay for merchandise or to perform services in lieu thereof or return such merchandise, to request sending of such "free samples," and with result that many members of public, and especially those who had not previously acted as agents for it, replied to its said advertisements by requesting the shipment of the "free samples" mentioned therein, and there was imposed thereon, through shipment of unwanted merchandise in delivery thereto of said 21-card box assortments as above described, constraint either to pay for the goods thus shipped or return same or perform services in lieu thereof, and many members of public to whom said assortments were shipped in response to inquiries as above set forth, and without their permission and knowledge on their part as to terms and conditions imposed by it as above described, paid to it sum of money indicated as purchase price, and some